

Explanatory Memorandum to the Local Election Survey (Wales) (Amendment) Regulations 2022

This Explanatory Memorandum has been prepared by the Local Government Democracy Division of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Elections Survey (Wales) (Amendment) Regulations 2022. I am satisfied that the benefits justify the likely costs.

Rebecca Evans MS,
Minister for Finance and Local Government

7 March 2022

PART 1

1. Description

- 1.1 The Local Elections Survey (Wales) Regulations 2012 (“the 2012 Regulations”) prescribe the questions which must be asked when conducting a survey of councillors and unsuccessful candidates at each ordinary election to county and county borough councils and town and community councils.
- 1.2 The Local Election Survey (Wales) (Amendment) Regulations 2022 (“the 2022 Regulations”) amend the questions which must be asked by replacing the survey set out in the schedule to the 2012 Regulations with a revised survey.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 None.

3. Legislative background

- 3.1 The 2022 Regulations are made in exercise of the powers conferred upon the Welsh Ministers by section 1(3)(a) of the Local Government (Wales) Measure 2011 (“the Measure”), which requires a survey to be conducted by asking prescribed questions in any prescribed form or manner. “Prescribed” is defined in section 175 of the Measure as “prescribed in regulations made by the Welsh Ministers”.
- 3.2 This instrument is subject to the negative procedure.
- 3.3 Part 1 of the Measure introduces a duty on local authorities to monitor the equality and diversity of candidates in ordinary elections to principal and town and community councils.
- 3.4 Section 1(1) and (2) provide that in accordance with regulations, a local authority must conduct a survey of councillors and unsuccessful candidates at ordinary elections to a county or county borough and to a town and community council. Alternatively, local authorities may arrange for a third party to conduct the survey on their behalf.
- 3.5 Section 1(3)(a) and (b) provide that the questions asked, the manner in which they are asked and how the information is collated is as prescribed in regulations.
- 3.6 Section 1(4) sets out the fields of questions, which may be asked in the survey. The fields are - gender, sexual orientation, language, race, age, disability, religion or belief, health, education or qualification, employment and work as a councillor.

- 3.7 Section 1(5) provides that there is no duty on any individual to provide any information, so participation is voluntary.
- 3.8 Parts 2 and 3 of the Schedule provide two alternative sets of questions for use before or after the election. If a survey is being conducted before the election, the survey must include the questions contained in Parts 1, 2, and 4 of the Schedule. If a survey is being conducted after the election, the survey must include the questions contained Parts 1, 3, and 4 of the Schedule.
- 3.9 Regulation 4 of the 2012 Regulations provides that the information must be collated in an electronic spreadsheet and provided to Welsh Ministers within six months of the date of the ordinary election.
- 3.10 Section 2(5) and (6) provide that the Welsh Ministers may publish and share the information in an anonymous format. The information must be published by the Welsh Ministers within 12 months of the ordinary election to which it relates.

4. Purpose & intended effect of the legislation

- 4.1 The 2022 Regulations make minor amendments to the survey questions set out in the 2012 Regulations (as amended by the Local Election Survey (Wales) (Amendment) Regulations 2016), The changes address two main issues: the first of which is the evolution of language relating to equalities and diversity agenda and will allow a greater degree of granulation in terms of the analysis of the data collated during the survey process, and secondly, to make the wording of the questions easier to understand and therefore to answer. The scope of the existing questions are not being changed. The revisions are summarised as follows:
- Changes to the wording of questions 4A, 4B and 4C to identify if an individual was successful in previous Community, Town Council, County or County Borough elections.
 - Additional question 9, which relates to gender and asks, 'Is the gender you identify with the same as your sex registered at birth?'
 - Question 11 - Adding 'caring responsibilities' as opposed to 'parental responsibilities.'
 - Question 13 – Ethnic group – optional responses added.
 - Question 14 – Religion - optional response added ("prefer not to say").
 - Question 15 – Sexual orientation – optional response added ("prefer not to say").
 - Question 18 – Education – question re-worded to reflect the National Survey and added reference to professional qualifications.
 - Question 19 – Employment status – additional optional response "parental leave" and "semi-retired".

- Question 20 – Current employment sector – reduced number of optional responses but “Armed Forces” added.
 - Question 22 – Question reworded to reflect current equality and diversity language.
 - Question 22A – The following question removed ‘Do any of your conditions or illnesses reduce your ability to carry out day to-day activities’.
 - Question 23 - Question reworded to reflect current equality and diversity language.
- 4.2 The revised survey in the 2022 Regulations also raises additional questions with regard to awareness of the ‘Contribution towards Costs of Care and Personal Assistance’ available to councillors and the ‘Access to Elected Office Fund Wales’. These are permitted additional questions to the list of question headings in section 1(4) of the Measure, and are included as a result of the consultation responses. The purpose of these questions is to provide information about the success or otherwise of initiatives aimed at supporting diversity of local councillors.
- 4.3 The Welsh Government wishes to encourage a more diverse range of candidates to stand for election to local government. The 2022 Regulations aim to compile reliable data on the profile of candidates and councillors in local government. This will enable the Welsh Government to design policy to improve diversity in council membership and assess their effectiveness.

5. Consultation

- 5.1 Local authorities are required to undertake a survey of candidates in respect of the May 2022 local elections. It was important the survey questions (as prescribed by the 2012 Regulations) were reviewed in order to establish whether they remained relevant in respect of the May 2022 elections.
- 5.2 The 2022 Regulations will come into force on 28th March 2022, in time for official candidates standing in the May 2022 election to be able to access and complete the survey either prior to the election or following the election.
- 5.3 Initially, key stakeholders were approached to establish whether the existing survey was appropriate. Feedback from these discussions suggested a need to change the wording of some questions largely to reflect updated language in relation to equality and diversity. It was also felt to be important to consider changes to the approach to personal information in line with the UK GDPR.
- 5.4 On this basis, the Welsh Government considered there to be limited merit in engaging more widely on the contents of a revised survey. A full public consultation was therefore not undertaken, as the suggested

changes to the survey from initial consultation with stakeholders were limited and technical in nature.

- 5.5 Following this initial feedback, the Welsh Government invited a targeted group of individuals to provide feedback on the revised survey through written responses and offered an opportunity for group members to attend a virtual event during February. Stakeholders considered and commented on the revised survey and associated guidance at and following the event.
- 5.6 The suggested amendments put forward by stakeholders during discussions and in written responses have been, where possible, included in the revised survey, and the group has been updated as to the reasons why some of the suggestions could not be included under this review.

PART 2

6. Regulatory Impact Assessment (RIA)

6.1 For the purposes of the RIA, the costs/resources involved in drafting the survey and guidance are 'sunk costs'.

6.2 Options for achieving the policy objectives in relation to the revised survey, as discussed in Sections 3 and 4 above, are:

- Option 1 – Keep the status quo i.e. do not make any amendments to the existing survey.

or

- Option 2 – Introduce amended Regulations. Amending the Local Election Survey (Wales) Regulations 2012 to reflect the changes recommended by stakeholders in respect of updating the language used within the questions and to include additional questions in relation to the awareness and take up of the 'Contribution towards Costs of Care and Personal Assistance' allowance and the 'Access to Elected Office Fund Wales'.

Option 1

6.3 Keep the Status Quo – this would result in a survey that would not incorporate changes suggested by stakeholders to reflect the updated changes in equality policy and terminology since 2016, or amend questions to make them easier to understand by the reader. Nevertheless, this option would enable a direct comparison with results from previous surveys. However, see paragraph 6.8 below.

6.4 Funding of £35,000 is required to support the delivery of the survey, which is being managed through Data Cymru on behalf of the 22 local authorities.

This option is not recommended

Option 2

6.5 The revised survey in the 2022 Regulation has been prepared with the involvement of Data Cymru, the Electoral Commission, the Electoral Reform Society, the WLGA, One Voice Wales and the targeted stakeholder group, which includes local authorities', heads of democratic services and monitoring officers, and relevant Welsh Government

departments. All parties agreed that it was necessary to update the survey for the 2022 local elections.

- 6.6 The 2022 survey and guidance is only being amended where necessary, as it will be subject to a wider review after the 2022 local elections. Where questions needed revising, we have where possible used similar questions from the 2021 Census and National Survey, which have already been the subject of extensive consultation. For other questions, we have benefited from the technical expertise of the stakeholder group and relevant Welsh Government departments.
- 6.7 The changes are aimed at improving the response rate to the survey, and improve the quality of the data received. This in turn will help establish the success or otherwise of initiatives to increase the diversity of local councillors. This will enable the Welsh Government to develop further initiatives to encourage a more diverse set of candidates to stand for election to local government.
- 6.8 As only minor changes are suggested with no changes being made to the scope of the questions, comparison between the data from the 2022 survey and the data from the previous survey following the 2017 local elections should be relatively straightforward.
- 6.9 There are no expected additional costs associated with undertaking the revised survey or collating and analysing the results of the survey. Funding of £35,000 to support the delivery of the survey through Data Cymru on behalf of all 22 local authorities is required.

This is the recommended and preferred option.

7. Competition Assessment

- 7.1 There are no market implications associated with the updating of the questionnaire and guidance. It has no impact on business, charities or the voluntary sector.

8. Other

- 8.1 The 2022 Regulations do not represent a change in the policy since the survey was first introduced in 2012, in that the policy intention is to encourage a more diverse range of candidates to stand for election and to stay on as councillors. Compilation of reliable data on the profile of candidates will enable policy-makers to design initiatives to improve diversity within councils, and to assess the effectiveness of existing initiatives, such as the 'Contribution towards Costs of Care and Personal

Assistance' available to councillors, and the 'Access to Elected Office Fund Wales'.

- 8.2 However the wording of some questions within the previous survey contained within the 2012 Regulations have been altered to reflect the current language and terminology used in questions relating to equality and diversity in the 2021 Census and the National Survey. Relevant Welsh Government departments (including the Knowledge and Analytical Services department), Disability Wales and stakeholder groups have been consulted with in developing the revised survey.

9. Post implementation review

- 9.1 Following analysis of the completed 2022 survey, an evaluation of the effectiveness of the survey will be undertaken to inform future developments.