



Llywodraeth Cymru
Welsh Government

Local Government (Wales) Bill

Explanatory Memorandum
incorporating the Regulatory Impact
Assessment and Explanatory Notes

September 2015

LOCAL GOVERNMENT (WALES) BILL

Explanatory Memorandum to the Local Government (Wales) Bill

This Explanatory Memorandum has been prepared by the Department for Education and Public Services of the Welsh Government and is laid before the National Assembly for Wales.

The Explanatory Memorandum was originally prepared and laid in accordance with Standing Order 26.6 in January 2015. A revised Memorandum is now laid in accordance with Standing Order 26.28, following completion of Stage 2 Assembly proceedings.

Member's Declaration

In my view the provisions of the Local Government (Wales) Bill, introduced by me on 26 January 2015, would be within the legislative competence of the National Assembly for Wales.

Leighton Andrews AM

Minister for Public Services
Assembly Member in charge of the Bill

22 September 2015

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ANNEX 1 – Explanatory Notes

PART 1

1. Description

1. The provisions of the Local Government (Wales) Bill are intended to allow for certain preparatory work to enable a programme of local government mergers and reform and includes provisions to facilitate the voluntary early merger of two or more Principal Local Authorities by April 2018. The Bill also amends existing legislative provision in the Local Government (Wales) Measure 2011 (relating to the Independent Remuneration Panel for Wales and the survey of councillors and unsuccessful candidates) and the Local Government (Democracy) (Wales) Act 2013 (relating to electoral reviews).

2. Legislative background

2. The National Assembly for Wales (“the Assembly”) has the legislative competence to make provisions in the Local Government (Wales) Bill under Part 4 of the Government of Wales Act 2006 (GOWA 2006). The relevant provisions of GOWA 2006 are set out in section 108 and Schedule 7.
3. Paragraphs 7 and 12 of Part 1 of Schedule 7 to GOWA 2006 set out the relevant subjects which give the Assembly legislative competence to make the provisions in this Bill. The relevant paragraphs are reproduced below:

7 Fire and rescue services and fire safety

Fire and rescue services. Provision of automatic fire suppression systems in newly constructed and newly converted residential premises. Promotion of fire safety otherwise than by prohibition or regulation.

12 Local Government

Constitution, structure and areas of local authorities. Electoral arrangements for local authorities. Powers and duties of local authorities and their members and officers. Local government finance.

“Local authorities” does not include police authorities.

Exceptions —

Local government franchise.

Electoral registration and administration.

Registration of births, marriages, civil partnerships and deaths.

Licensing of sale and supply of alcohol, provision of entertainment and late night refreshment.

Orders to protect people from behaviour that causes or is likely to cause harassment, alarm or distress.

Local land charges, apart from fees.

Sunday trading.

Provision of advice and assistance overseas by local authorities in connection with carrying on there of local government activities.

4. None of the provisions of the Bill fall within any of the exceptions specified in Part 1 of Schedule 7 to GOWA 2006, or apply otherwise than in relation to Wales, or confer, impose, modify or remove (or give power to confer, impose, modify or remove) functions exercisable other than in relation to Wales, or breach any restrictions in Part 2 of Schedule 7, having regard to any exception in Part 3 of that Schedule from those restrictions.

3. Purpose and intended effect of the legislation

5. The overarching objective of the Bill is to enable preparations to be made for a programme of local government mergers and reform and to allow Principal Local Authorities to merge voluntarily by April 2018. The Bill will also put in place safeguards to discourage and counter activities by existing Principal Local Authorities which might bring reputational or financial harm on any new Principal Local Authority created by future merger. The Bill also amends provisions of the Local Government (Wales) Measure 2011 (relating to the Independent Remuneration Panel for Wales and the survey of councillors and unsuccessful candidates) and the Local Government (Democracy) (Wales) Act 2013 (relating to electoral reviews) to ensure the effective operation of those statutes.

Local Government Reform

6. The Programme for Government sets out the Welsh Government's Action Plan for the fourth Assembly term. Chapter 2 of the Programme for Government introduced commitments which aim to support continuous improvement in public services.
7. One of these commitments was to establish the Commission on Public Service Governance and Delivery. The Commission, established in April 2013, was asked to produce an honest, independent and robust report on how public services in Wales are governed and delivered now, how this needs to change in order to meet the needs of people today, and how to build a sustainable basis for the future.
8. The Commission's report, published in January 2014¹, contained a series of recommendations for action. The Commission's report made a compelling argument for radical change to improve the ability of public services to respond to the growing challenges they face. Its recommendations were presented as a package, covering a range of areas including action to:
 - Streamline delivery arrangements and reduce complexity;
 - Generate the scale and capability to sustain and improve services;
 - Strengthen the governance, scrutiny and delivery of services;
 - Develop the right leadership, culture and values for public services; and
 - Improve the performance and performance management of services.
9. In making its recommendations, the Commission concluded the public sector in Wales was too crowded and many public organisations were too small. In reaching this conclusion, the Commission found there were too

¹ <http://wales.gov.uk/topics/improving-services/public-service-governance-and-delivery/report/?lang=en>

many public organisations and their interrelationships were too complex. This was true both of formal structures and their interrelationships and of less formal partnerships and collaborative arrangements. Whilst some small public organisations in Wales may perform well (and some large organisations may perform badly), the smaller ones faced multiple and severe risks to governance and delivery which were likely to get worse in the medium term. Among its recommendations, the Commission stated the current 22 Principal Local Authorities should be combined by merging existing Principal Local Authorities to create new Authorities and not by re-drawing boundaries. The Commission presented four options for merger, creating 12, 11 or 10 new Principal Local Authorities.

10. In July 2014, the Welsh Government responded formally to the Commission on Public Service Governance and Delivery's report through publication of 'Devolution, Democracy and Delivery – Improving public services for people in Wales', which sets out the new agenda to transform public services in Wales. A key element of this reform agenda is acceptance by the Welsh Ministers of the Commission's recommendation for a reduction in the number of Principal Local Authorities in Wales through a process of merger.
11. In July 2014, the Welsh Ministers also published the 'Devolution, Democracy and Delivery White Paper – Reforming Local Government', which stated the Welsh Ministers' intention to introduce legislation into the National Assembly for Wales to deliver Local Government reform in Wales.
12. The White Paper indicated the Welsh Government preferred Option 1 of the Commission's recommendations for Local Authority mergers i.e. to reduce the number of Principal Local Authorities from 22 to 12.
13. Within the Paper, the Welsh Ministers noted the Commission's powerful argument of the principles for merger: that the boundaries of merged Principal Local Authorities should support integrated service delivery through aligning with health board and police force boundaries and that the reforms should be based on mergers to avoid the upheaval involved in splitting existing Authorities. The Welsh Ministers, in keeping with these principles, stated their intention that any new Principal Area should be based upon the merger of two or more whole existing Principal Areas.
14. The White Paper, however, acknowledged that some Principal Local Authorities had suggested they might prefer alternative merger configurations. The Welsh Ministers indicated they remained open to possible alternatives, but any alternative proposal would need to be backed by evidence and supported by all the existing Principal Local Authorities directly and indirectly affected.
15. In addition to outlining the Welsh Ministers' preferred option for mergers, the White Paper provided details of the plan to deliver the full programme of mergers.

16. The White Paper acknowledged that reducing the number of Principal Authorities through a process of mergers avoids many of the complexities and challenges which would be associated with a redrawing of boundaries, but nonetheless represents a significant undertaking. The Welsh Ministers consider there is insufficient time to develop, plan and legislate for a full programme of mergers before the next National Assembly elections in May 2016. The White Paper, therefore, detailed the Welsh Government's intention to publish a draft Bill for consultation in the autumn of 2015, which will set out the intentions for merging Principal Local Authorities and the wider reform of Local Government. This will provide the public, local authorities and others with the opportunity to comment on the proposals, presenting the Welsh Government which takes office after May 2016 with the opportunity to make an early decision on how it wishes to proceed, with the benefit of a developed legislative proposition, assisted by a full understanding of the views of stakeholders.
17. The White Paper also outlined the Welsh Government's commitment to support and facilitate those Principal Local Authorities who wish to begin a voluntary early process for merger, through making specific legislative provision, by way of a first Local Government Bill to be introduced before the Assembly elections in 2016.
18. In September 2014, the Welsh Ministers issued an 'Invitation to Principal Local Authorities in Wales to submit proposals for voluntary merger' ("the Prospectus"). Authorities wishing to merge voluntarily were invited to submit detailed expressions of interest by November 2014 and fully developed cases for merger by June 2015.
19. Three expressions of interest were received from Local Authorities. These were considered against set criteria detailed in the Prospectus. On 25 January 2015, the Minister for Public Services confirmed the decision not to pursue any of the Expressions of Interest.
20. To date, no further Expressions of Interest or cases for merger have been submitted by any Local Authorities in Wales. The Welsh Government remains open to further discussion with Local Authorities wishing to merge voluntarily.

Local Government Structure

21. Structural change involving the merger of Local Authorities will require thorough planning and comprehensive preparatory work. Accordingly, to maximise the time available for such work, the Welsh Ministers have decided the first Bill for Local Government reform, the Local Government (Wales) Bill ("the Bill"), should include measures which anticipate the reform programme and make provision to:
 - enable certain preparatory work for mergers to start at the earliest opportunity; and

- put in place safeguards to discourage and counter activities by existing Local Authorities which might bring reputational or financial harm on a new Principal Authority created by a future merger.
22. The Bill was introduced into the National Assembly for Wales on 26 January 2015. The General Principles of the Bill and the associated Financial Resolution were agreed by the Assembly on 19 May and Stage 2 proceedings took place in the Communities, Equality and Local Government Committee meeting on 24 June.
 23. Throughout the scrutiny of the Bill, the Welsh Government has maintained its openness to considering alternatives to the Williams Option 1 map. On 17 June 2015, the Minister for Public Services announced the Welsh Government's preference for the future configuration of Local Government in Wales, which saw a refinement to the previously stated preferred Williams Option 1.
 24. Formal consultation on the preferred configuration will occur as part of the consultation on the draft Local Government Bill (the second of the two Local Government Reform Bills), to be published in Autumn 2015.
 25. The following sections outline the changes to be made by this Bill to allow the work on Local Government Reform to be taken forward.

Voluntary Mergers of Local Authorities – Proposals for Merger (Sections 3-10)

26. In line with the Welsh Ministers' commitment to assist Principal Local Authorities wishing to merge voluntarily, the Bill makes provision for voluntary early merger.
27. The Bill provides for the Welsh Ministers, through regulations, to abolish two or more Principal Areas and their respective County/County Borough Councils and establish a new Principal Area and Authority in their place, where the Principal Local Authorities concerned have submitted a joint application for voluntary early merger.
28. The Bill also makes provision in respect of the requirements upon Principal Local Authorities relating to the submission of a joint application for merger.
29. It is the Welsh Government's vision for Local Government in Wales to put accountability and effective engagement with the public centre stage. In support of this vision the Welsh Government considers that all voluntary mergers must proceed with full consultation and engagement with people and communities. The Bill, therefore, requires Principal Local Authorities looking to submit an application for voluntary merger to consult with a range of stakeholders including members of the public, every trade union recognised by one or more of the Principal Local Authorities, members of the Principal Local Authorities and Town and Community Councils of an area affected by the potential merger, other key public service

organisations within the affected areas, and any other persons which the Principal Local Authorities consider appropriate.

30. To inform and guide Principal Local Authorities which aspire to work together to merge early and voluntarily, Ministers indicated in the White Paper, that they intended to issue guidance. The Bill, therefore, provides the Welsh Ministers with a power to issue guidance about applications and requires Principal Local Authorities to have regard to such guidance in developing and submitting a joint application for voluntary merger.
31. This work has already commenced. The Prospectus issued in September 2014 set out the information Principal Local Authorities would need to provide to evidence their merger proposal. The Prospectus requires Principal Local Authorities to set out what the proposed early merger would seek to achieve and identifies the matters which must be addressed by the merging authorities in formulating their proposal.
32. Subject to Assembly approval, it is anticipated that the Bill will receive Royal Assent in November 2015. The Welsh Ministers will then be empowered to formally process applications from Local Authorities wishing to merge early.
33. The Welsh Ministers have committed to making subordinate legislation ahead of the next Assembly elections in 2016 to enable Principal Local Authorities wishing to merge voluntarily to do so at pace, enabling the new Authorities to be in place by April 2018. The timings in terms of the introduction and passing of the Bill, and the making and approval of merger regulations before the Assembly rises at the end of March 2016 for the May 2016 Assembly elections, is extremely tight.
34. Consequently, the Bill enables Principal Local Authorities to make applications for voluntary merger after the Bill is introduced, but before its provisions are commenced, and provides for those applications to be treated as though they were submitted post commencement. The Bill also provides that any guidance issued by the Welsh Ministers relating to applications for voluntary merger regulations before commencement of the relevant provision (i.e. the Prospectus) is to be treated as though it had been issued post commencement. Similarly, consultation undertaken by Principal Local Authorities as part of the application for voluntary merger is also to be treated as though it had been carried out post commencement.

Power to Make Merger Regulations (Section 6)

35. It is the policy intention that where an application for voluntary merger is made to the Welsh Government, the new Principal Area will be created from 1 April 2018 with the abolition of the existing Areas from 31 March 2018. The Bill, therefore, provides the Welsh Ministers with the power to make regulations to bring together Principal Local Authorities through merger, where a joint application is made to Ministers from Principal Local Authorities seeking to merge voluntarily. The regulations will create a new Principal Area, determine its status (as a County or County Borough) and

create a council for the new Area. The regulations will also provide for the dissolution and winding up of the existing Principal Areas and their Councils and the transfer of functions to the new Authority.

36. The Bill also enables the merger regulations to address all the issues which will arise in the transition period in the run-up to the new merged Authority coming into being from the 1 April 2018. This includes provision within the merger regulations for:

- the establishment, composition and functions of Shadow Authorities and executives;
- elections to new Authorities;
- a referendum to be held where one or more merging Authority operates a mayor and cabinet executive; and
- for any necessary supplementary, incidental, consequential, transitional or saving provision.

Shadow Authorities (*Section 7*)

37. Important decisions will need to be taken in advance of the new merged Authority coming into being to enable the new Authority to function effectively and legally from the first day of its existence. The key decisions include appointment of senior staff for the new Authority, agreeing initial service delivery plans and, setting the first year's budget and council tax.

38. The practice in England and Wales during previous structural changes of Local Government has been for a Shadow Authority to be established or elected for the whole of the new Area in the year before the new Principal Local Authority assumes the full range of service delivery responsibilities. The Shadow Authority provides a representative body, accountable to Local Government electors across the whole of the new area and charged with taking key decisions in the name of the new Authority. The Shadow Authority will exercise specified functions and work alongside a joint transition committee and the predecessor Authorities to ensure the transition to the new structure is as smooth and effective as possible.

39. In previous reorganisations, the Shadow Authority has usually been elected in the year before the date (1 April) on which the new Authority has assumed the full range of functions. In the circumstances of voluntary mergers, the new Principal Local Authority will assume the full range of functions from 1 April 2018. Arrangements for the electoral warding of the new Principal Local Authority would need to be fully completed in advance of elections to the Shadow Authority. Such elections would be held in May 2017, which would require the electoral warding work to be completed by September 2016. This will not be possible.

40. The Bill, therefore, requires the merger regulations to provide for the establishment of a Shadow Authority, consisting of all members of the merging Principal Local Authorities. The Bill enables the Shadow Authority to be established in advance of vesting day for any new Authority (the day on which the new Authority assumes the full range of functions), and

merger regulations will make provision for the appointment of a Shadow Executive by the Shadow Authority.

Elections and Councillors (Section 8)

41. Under current legislation, ordinary elections to all Principal Councils and Community Councils in Wales are scheduled to be held every four years after 2004, with councillors serving a four year term. At each election all seats on a Principal Council are up for election. Ordinary elections were held for all Principal Councils and Community Councils in 2008 and for all Principal and Community Councils, apart from Anglesey, in 2012. Elections in Anglesey took place in 2013. Councillors in Anglesey were elected for a four year term with the next elections scheduled for 2017.
42. Under the current arrangements, the next ordinary elections in all Local Authorities, except Anglesey, would be held in 2016. However, elections to the UK Parliament are now fixed to a 5 year statutory cycle, with the last elections having taken place in May 2015. In order to avoid a clash of UK Parliament elections and elections to the National Assembly for Wales, the Assembly elections originally scheduled for 2015 will now take place in 2016. Consequently, to avoid the Assembly elections being held at the same time as the next ordinary Local Government elections, the Welsh Ministers have made an Order under section 87 of the Local Government Act 2000 to postpone the ordinary elections scheduled for 2016 to 2017, re-aligning elections to all 22 Local Authorities. The Order was laid before the Assembly on 14 November 2014 and came into force on 10 December 2014.
43. Under the proposed timetable for the delivery of the Local Government reform legislation, it is anticipated this Bill will receive Royal Assent in November 2015, with ordinary elections to Local Authorities scheduled 17 months later in May 2017. Under the Local Government (Democracy) (Wales) Act 2013, the Local Democracy and Boundary Commission for Wales (LDBCW) is required to review all local government areas in Wales and the electoral arrangements for the Principal Areas.
44. The current timetable for the voluntary merger legislation would provide insufficient time for the LDBCW to undertake the work required to make recommendations in relation to the electoral arrangements for the new Areas established by way of merger regulations, prior to the first elections of the new councillors for the new Principal Local Authorities to take place in May 2017. The Bill, therefore, makes provision to allow the Welsh Ministers, as part of the merger regulations, to alter the scheduling of elections to Authorities merging voluntarily.
45. The Bill provides the Welsh Ministers with the power to cancel ordinary elections to Authorities merging voluntarily and to extend the terms of office of existing members; to disapply, for a limited period, the requirement to fill casual vacancies arising in merging Authorities; to set the date for the first ordinary elections of councillors to the new Principal Local Authority created through voluntary merger and their terms of office;

and to postpone elections for Community Councils within Principal Areas merging voluntarily. The latter will enable elections to Community Councils to coincide with ordinary elections to the new Principal Local Authority, as is usually the case. It is intended that first elections to Authorities created by voluntary merger will be held in May 2018.

Mayor and cabinet executive model Authorities (Section 9)

46. The Local Government Act 2000 requires Councils of Principal Areas in Wales to operate one of two executive models, either a council leader with executive model (known as a leader and cabinet executive), or a (directly) elected mayor with executive model (known as a mayor and cabinet executive). Currently, all 22 Local Authorities operate a leader and cabinet form of executive arrangement. However, the 2000 Act provides scope for Principal Local Authorities to alter their executive arrangements, within an electoral term, to acquire a directly Elected Mayor. If one of the Authorities involved in a prospective voluntary merger is already operating, or has made proposals to operate, a mayor and cabinet executive model, the Bill makes provision to require the Shadow Authority for the new Principal Local Authority to hold a referendum across the whole of the new area on whether the new Principal Local Authority should operate a mayor and cabinet executive.

47. The Bill also makes provision for the Welsh Ministers to include provision in merger regulations preventing a merging Authority drawing up and approving proposals to operate a mayor and cabinet executive, for example, where this might cause delay to the merger process.

Other consequential etc. provisions (Section 10)

48. In undertaking a merger there will be a number of detailed considerations, such as the transfer of assets, transfer of staff, continuation of rights and liabilities, staff matters, facilitating the preservation of city status and other ancient civic privileges and dignities, etc. The Bill, therefore, provides the Welsh Ministers with the power to include, within merger regulations, any supplementary, incidental, consequential, transitional and saving provision which the Welsh Ministers consider appropriate.

Fire and Rescue Authorities, consequential implications (Section 10(10))

49. Under the Fire and Rescue Services Act 2004 ("the 2004 Act"), a Principal Authority is the Fire and Rescue Authority (FRA) for an area.

50. In Wales, three regionally combined FRAs (made up of combinations of the 22 Principal Local Authorities) have been established, pursuant to powers in the Fire Services Act 1947. Consequently, if Principal Local Authorities in Wales merge voluntarily, the corresponding Fire and Rescue combination scheme order will need to be amended to reflect the change. If voluntarily merging Principal Local Authorities fell within the same FRA area, then the changes to the combination scheme would merely replace the names of the old Local Authorities with the name of the merged one. Such changes would make no substantive difference to the provision of fire and rescue services.

51. If, however, merging Principal Local Authorities crossed an FRA boundary then the whole of the new area would need to be placed in one FRA area or the other: It is neither possible nor sensible for one Local Authority to be served by two FRAs. The Welsh Minister's powers under the 2004 Act to vary or revoke existing combination scheme orders are subject to prior consultation with those Principal Local Authorities and FRAs which would be affected. The 2004 Act also requires the Welsh Ministers to cause a local inquiry into the proposed variation to a combination scheme order to be held, where the Principal Local Authorities and the FRAs affected do not agree with the proposed variation. It is possible that a neighbouring Authority which may be indirectly affected by the change could object and an inquiry would need to be held. Any such inquiry could significantly delay amendments to the combination order and thus the delivery of the mergers themselves. It is possible that those Authorities declining to agree the variations could do so with the intention of obstructing and delaying the merger programme.
52. To remove these risks the Bill makes provision to suspend the requirement on the Welsh Ministers to hold an inquiry to revoke or amend a Fire and Rescue combination scheme order where the proposed changes are a consequence of a voluntary merger. However, the duty to consult on such changes will still apply.

Transition Committees (*Sections 11-15*)

53. Previous Local Government reorganisations in Wales have required the establishment of statutory joint transition committees to consider and advise merging Principal Local Authorities on transitional matters. Previous experience indicates that these committees did valuable work, but they could have been more useful if they had been established on a statutory basis earlier in the process.
54. The Bill, therefore, requires the Welsh Ministers, by regulations, to require the Principal Local Authorities which have been identified for merger, whether voluntarily or otherwise, to establish a transition committee (one for each proposed new Principal Area). The role of the transition committee is to prepare for the establishment of the new Authorities by undertaking preparatory activities (to be detailed in guidance), as well as considering anything else the committees consider expedient to ensure that the new Principal Local Authority will be able to function effectively from the day it assumes the full range of Local Government responsibilities.
55. To enable the Welsh Ministers to ensure that any matters which arise during the transition period are appropriately prepared for, the Bill also provides the Welsh Ministers with the power to issue directions to a transition committee or committees, and a transition committee must comply with such directions.

56. The Bill also provides for the general purpose, membership, composition and functions of a transition committee. Merging Authorities are required to meet the costs of a transition committee in the proportions which they agree or, in default of agreement, which are determined by the Welsh Ministers. Merging Authorities must also provide the facilities and resources (including staff) and information reasonably requested by a transition committee in order to undertake its functions. The provisions about transition committees apply to all mergers, whether to be achieved by the voluntary merger regulations or identified by provision in the proposed second Bill to be introduced in 2016.

Electoral arrangements etc. for new Principal areas (Sections 16-24)

57. The structure and functions of the LDBCW are set out in the Local Government (Democracy) (Wales) Act 2013.

58. The role of the LDBCW is to keep all Local Government areas in Wales and the electoral arrangements for the Principal Areas under review.

59. As part of this role, the LDBCW is required to conduct a review of the electoral arrangements of each Principal Area in Wales at least once every ten years. For each review undertaken, the LDBCW is required to submit recommendations to the Welsh Ministers as it considers appropriate, and the Welsh Ministers must consider whether or not to implement those recommendations. If the Welsh Ministers choose to implement the recommendations, with or without modification, they must do so by way of electoral arrangements orders. If the Welsh Ministers choose not to action the LDBCW recommendations the existing electoral arrangements for the area remain unchanged.

60. As part of any electoral arrangements review the LDBCW considers and makes recommendations on the total number of councillors to be elected to the Council for a Principal Area; the number and boundaries of the electoral wards a Principal Area is to be divided into for the purposes of electing councillors; whether the electoral wards are to be single or multi-member wards (including the number of members for each multi-member ward); and the name of each electoral ward.

61. As part of the proposed programme for Local Government Reform, the LDBCW will be required to undertake electoral arrangements reviews for each of the new Principal Areas created through merger. The practicalities of the LDBCW undertaking such reviews, which involves undertaking research, consulting on draft proposals and finalising recommendations, together with the implementation of any recommendations by the Welsh Ministers, mean that the standard timescale for the completion of the entire review process can be at least 27 months.

62. As legislation currently stands, the LDBCW can only undertake reviews of Principal Areas already established by statute. This means the LDBCW would not be able to start conducting electoral arrangements reviews of

new Principal Areas until the legislation to establish the new areas had been passed by the Assembly.

63. This, along with the time needed to complete reviews, means the Welsh Ministers would need to allow for some 2 years between the making of the legislation for the creation of the new Principal Local Authorities and the first elections to these Authorities being held. Under the current timeline, it is envisaged that the first elections to new Principal Local Authorities created by voluntary merger will take place in May 2018, a timeline which would not be met under current legislative arrangements for the LDBCW.
64. To enable all new Councils created by the merger programme to be launched on the basis of electoral arrangements devised by the body established for the purpose, the Bill provides the Welsh Ministers with new powers to require the LDBCW, through direction, to review and make recommendations in respect of electoral arrangements for a proposed new Principal Area that will be established via subsequent legislation (either merger regulations or a further Act of the National Assembly for Wales).
65. The Bill makes provision for the timing and procedure of a review; the matters to which the Commission is to have regard; and for reporting its recommendations to the Welsh Ministers. The Bill provides for the Welsh Ministers, by regulations, to implement the recommendations contained in the LDBCW's report of the review, with or without modification.
66. The Bill also enables the LDBCW in undertaking a review to make recommendations for certain changes at a community level, but only where such changes are entirely consequential upon the recommendations for the electoral arrangements for the proposed new Principal Area. Consideration of any other changes at community level would have to wait for the next community review.
67. In certain circumstances the LDBCW may not be in a position to provide the Welsh Ministers with a report and recommendations within the timeline given by the Welsh Ministers through their direction. Such a situation could cause delays to the merger programme. The Bill, therefore, enables the Welsh Ministers, by regulations, to make provision for the electoral arrangements for a proposed Principal Area. In such circumstances, the LDBCW is required to provide the Welsh Ministers with any relevant information it holds which may inform the making of such regulations. If the Welsh Ministers make regulations in exercise of these powers, the LDBCW must conduct its first review of the new Principal Area, under section 29 of the Local Government (Democracy) (Wales) Act 2013, as soon as possible after the first ordinary elections to the new Principal Local Authority.
68. Under the Local Government (Democracy) (Wales) Act 2013, the LDBCW is required to conduct electoral arrangements reviews for all Principal Local Authorities within a ten year review cycle, beginning in 2013. However, the proposed programme for Local Government mergers will

necessitate the LDBCW to conduct initial electoral arrangements reviews for each of the proposed new Principal Areas so that all first elections to the new Principal Local Authorities will have taken place by May 2019. The next ten-year cycle of reviews should start once the initial reviews for the new Principal Local Authorities have been completed and the arrangements are in place. The Bill, therefore, enables the Welsh Ministers to amend, by regulations, the Local Government (Democracy) (Wales) Act 2013 to change (i.e. reset) the timing of the review period.

Remuneration etc. arrangements for New Principal Local Authorities (Sections 25-27)

69. The Independent Remuneration Panel for Wales (“the Panel”) was established in 2007 initially to determine the range and level of allowances payable by County and County Borough Councils to their elected members, and co-opted members with voting rights. The Local Government (Wales) Measure 2011 provided for the continued existence of the Panel, extended its remit to include members of National Park Authorities, Fire and Rescue Authorities and Community and Town Councils, and set out the Panel’s responsibilities and functions.

70. The Panel has responsibility to identify the duties and responsibilities which qualify a council member to receive payments and to identify the types of payments to be made, for example basic salary payment to elected members or a range of senior salaries payable to council leaders. The Panel also has responsibility for stipulating either the actual amount of payment an Authority must make to a member, or the maximum level of payment that may be paid. The Panel can stipulate different payment amounts for different roles in different Authorities. For each financial year, the Panel is required to publish the details of various payments in an annual report. The Panel may also publish one or more supplementary reports which may vary provision made in the annual report. Before publishing an annual or supplementary report, a draft must be sent to the Welsh Ministers for consideration. The Welsh Ministers have the power to issue directions to reconsider a provision of the draft report and the Panel must consider them; if the Panel decides not to vary the draft in accordance with a direction, it must respond giving the reason for its decision.

71. As part of the proposal to establish new Principal Local Authorities the Panel will have responsibility for considering and determining the various payments to members of these new Authorities. However, under existing legislation, the Panel is limited to making decisions for Principal Areas and their Councils where the Principal Area and Council are already established by statute.

72. The Bill, therefore, provides that the Welsh Ministers may direct the Panel to consider and make determinations in respect of payments to members of a proposed new Principal Local Authority before that new Authority comes into existence under legislation. A direction given by the Welsh Ministers may at any time be varied or revoked by a subsequent direction.

The Welsh Ministers may issue guidance to which the Panel must have regard when performing its functions under the terms of the direction.

73. As detailed above, the Bill makes provision for the establishment of a Shadow Authority in respect of voluntarily merging Authorities. Provision will be made in the second Local Government Bill for the establishment of Shadow Authorities for Authorities merged under that Bill. The Shadow Authority will have responsibility for a number of key preparatory functions ahead of the new Principal Local Authority formally assuming the full range of Local Government functions on vesting day. Members of Shadow Authorities will have an important role to play in the process of merger. This Bill, therefore, looks ahead and makes provision, by direction, to enable the Panel to also make determinations in respect of any payments to members of Shadow Authorities, where they have taken on additional responsibility. These provisions will apply in respect of all Shadow Authorities, whether established in accordance with merger regulations under this Bill or in accordance with provision in the second Bill.
74. In order to ensure determinations of payments to councillors in a Shadow Authority are made sufficiently in advance of vesting day, and the day from which the payments will operate, the Bill makes provision requiring the Panel to publish its findings in an annual or supplementary report and provides the timelines within which these should be published.
75. In undertaking reviews and determinations of payments for members of Shadow Authorities, the Bill places the Panel under a duty to impose requirements for avoiding the duplication of payments relating to the official business of members. Thus, the Panel would have to make determinations for payments in respect of members of Shadow Authorities which took account of whether those members were also serving members of one of the existing Authorities involved in the prospective merger.

Pay Policy Statement (Section 28)

76. Experience of previous Local Government structural changes has led Ministers to put in place provisions to prevent Local Authorities from acting inappropriately in respect of pay policy and payments ahead of mergers.
77. Under the Localism Act 2011, Principal Local Authorities are required annually to prepare, approve and publish a Pay Policy Statement. A Pay Policy Statement must articulate a Council's own policies towards a range of issues relating to the pay of its workforce, particularly its chief officers and its lowest paid employees. The Pay Policy Statement of each Principal Local Authority is required to be considered and approved by a meeting of full Council which must be open to the public. Approved pay policy statements must be published on the Council's web-site and in any other manner the Council thinks appropriate.
78. The Bill requires a Shadow Authority to prepare and approve a Pay Policy Statement which is to apply to the Shadow Authority and to the new Principal Authority in its first year of operation. The Bill also requires the

transition committees, established by merging Authorities, to make and publish recommendations for the Shadow Authority as to the pay policy Statements to be prepared and approved by them. The appointment of chief officers by a Shadow Authority is prohibited until such time as a Pay Policy Statement has been approved. Section 28(4) of the Bill provides the definition of chief officer as being that given in the Localism Act 2011 and includes the Head of Paid Service, statutory and non-statutory chief officers and their deputies.

79. Extending procedures in relation to Pay Policy Statements should provide significant assurance that appointments of senior staff within the new principal authorities are appropriate.

Restraining Transactions and recruitment etc. by direction (Sections 29-36)

80. Previous Local Government structural changes witnessed opposition from several key stakeholders who, through various actions such as refusing to engage and share information and inappropriate use of resources, inhibited effective collective planning for the periods during and after the changes.

81. The Welsh Ministers want to ensure the run-up periods to all mergers are as smooth, constructive and productive as possible. The time during these periods can be put to very good use by the relevant stakeholders, to make comprehensive preparations for the transition to, and establishment of, the new Principal Local Authorities. As such, the Welsh Ministers want to encourage positive behaviour and guard against various potential negative behaviours which might disrupt the merger process.

82. The Bill, therefore, makes provision to ensure the potential for negative and damaging behaviour is minimised from as early as possible in the process. It introduces the ability for Ministers to specify, by direction, that a merging Principal Local Authority is required to seek the opinion or consent of a specified person, or persons, before it is able to:

- i. buy or sell land or buildings above certain values;
- ii. enter into contracts or agreements above certain values;
- iii. make capital acquisitions above certain values;
- iv. give a grant or other financial assistance or make a loan above certain values;
- v. employ the use of certain types or values of reserves in setting its budget; or
- vi. start the process of appointing non statutory chief officers and deputy chief officers.

The Bill also enables the Welsh Ministers to issue directions requiring a merging Principal Authority that is seeking to appoint or designate a head of paid service or statutory chief officers, to comply with specified requirements about the appointment or designation.

The Welsh Ministers may issue guidance on the operation of these provisions to which merging Authorities and the persons specified in directions must have regard.

Information Requirements (Sections 37-38)

83. In line with the recognised difficulties of previous structural changes and the potential for stakeholders to disrupt the merger process through withholding information, the Bill makes provision for the Welsh Ministers to require any merging Principal Local Authority to make available to the Welsh Ministers, any information which the Welsh Ministers consider relevant to a proposed merger involving the Authority in question.

84. To facilitate mergers through openness and transparency and information sharing, the Bill also provides the Welsh Ministers with a power to require a merging Principal Local Authority to make available any information relevant to a proposed merger to another Principal Local Authority involved in that merger, to the transition committee established in connection with the merger, and to the Shadow Authority for the new Principal Area.

Temporary Extension of functions of the Independent Remuneration Panel for Wales relating to Heads of Paid Service to Chief Officers (Section 39)

85. Under the Local Government (Wales) Measure 2011 (“the 2011 Measure”), the Panel may make recommendations in relation to any policy in a Council’s Pay Policy Statement which relates to the salary, or any proposed change of salary, of the head of paid service (Chief Executive) of a Principal Local Authority. The 2011 Measure also requires Principal Local Authorities to consult the Panel on any proposed change to the salary of its head of paid service which is not commensurate with a change in the salaries of its other staff, and to have regard to any recommendations by the Panel when deciding whether or not to proceed with the proposed change.

86. The existing legislation should provide significant protection to limit the risk that existing Councils could act inappropriately in respect of pay awards to heads of paid service ahead of mergers. However, the Bill provides extra safeguards by extending the existing responsibilities of the Panel in respect of determinations in relation to heads of paid services, to cover all chief officers of a Council until 31 March 2020. This extended responsibility applies to all Principal Local Authorities in Wales not just those identified for merger, voluntary or otherwise.

Changes to duty to have regard to Panel recommendations about salaries (Section 40)

87. Section 40 enables a Principal Local Authority to reduce the salary payable to a head of paid service in advance of receiving a recommendation from the Panel on an interim basis (in circumstances where the contract of employment allows for a variation in salary), without

prejudice to the need to have regard to the Panel's recommendation when they receive it. The Principal Local Authority must notify the Welsh Ministers of any decision they reach in relation to a recommendation from the Panel and the Welsh Ministers, if they feel the decision is not in keeping with the Panel's recommendation, may direct the authority to reconsider its decision.

Amendments to Other Legislation (Sections 41-43)

88. The Welsh Government is taking the opportunity presented by the Bill to bring forward a number of amendments to existing legislation that have been identified as being required to facilitate the effective operation of the relevant provisions concerned. These are described below.

Panel Membership (Section 41)

89. Schedule 2 of the Local Government (Wales) Measure 2011 gives detail and explanation of the role, function and make-up of the Independent Remuneration Panel. Section 41 of the Bill amends Paragraph 1 of Schedule 2 to the Local Government (Wales) Measure 2011 so that the Welsh Ministers may appoint no less than three and no more than seven members to the Panel at any time.

Survey of councillors and unsuccessful candidates for election as councillors (Section 42)

90. The 2011 Measure provides for a survey to enable monitoring of the diversity of Local Government councillors and unsuccessful candidates for election as councillors. The 2011 Measure requires a Principal Local Authority to conduct the survey after each ordinary election to the Council of the Principal Local Authority and Community Councils in its area and provides for Principal Local Authorities to allow councillors and unsuccessful candidates to provide information anonymously. Councillors are under no requirement to respond to the survey, however, Principal Local Authorities must provide the information collated from the survey to the Welsh Ministers within 6 months of the election and the Welsh Ministers must produce a report on the survey within a further 6 months.

91. In June 2013, the then Minister for Local Government and Government Business, Lesley Griffiths AM, established an Expert Group on Diversity in Local Government. The Group was charged with reviewing the results of the initial survey of candidates from the 2012 ordinary elections, and making recommendations for the improvement of the process. One such recommendation from the Group, accepted by the Welsh Ministers, was to allow for the survey to be distributed to candidates in advance of elections, and thus allowing for the survey to begin before the elections take place. The Bill, therefore, amends the 2011 Measure, in line with this recommendation, to remove the requirement on a Principal Local Authority to conduct the survey after every ordinary election. This will leave a Principal Local Authority free to conduct the survey either after an ordinary election, or by asking candidates to complete the survey before an election.

92. In consequence of this change, the Bill amends the 2011 Measure in respect of the anonymity provisions of the survey. The requirement under the 2011 Measure for there to be a survey of councillors and of unsuccessful candidates means that a separate analysis of unsuccessful candidates and successfully elected candidates is undertaken. Currently, in practice, different forms are provided to successful and unsuccessful candidates to differentiate between them, allowing this analysis to be undertaken and still allowing for responses to be anonymous. However, if candidates completing the survey ahead of the elections were able to provide an anonymous response, it would not be possible to differentiate between successful and unsuccessful candidates and provide such an analysis.
93. The Bill, therefore, makes provision to amend the 2011 Measure to remove the requirement to arrange for information to be provided anonymously. However, the requirement in the 2011 Measure remains that any information received must not be published or shared in any form that enables any individual to be identified, and it remains the intention of the Welsh Ministers to require anonymised information to be returned to them by Principal Local Authorities and for the results of the survey to be published on an anonymised basis.
94. The Expert Group on Diversity in Local Government also recommended that a Principal Local Authority should be able to discharge its duty to conduct a survey either by undertaking the survey itself or by arranging for the survey to be conducted on its behalf by another party. The Bill accordingly amends the 2011 Measure to provide that a Principal Local Authority may conduct the survey or arrange for the survey to be conducted on its behalf.

Proposals submitted before commencement of Part 3 of the Local Government (Democracy) (Wales) Act 2013 (Section 43)

95. The Local Government (Democracy) (Wales) Act 2013 re-named the Local Government Boundary Commission for Wales (LGBCW) as the Local Democracy and Boundary Commission for Wales (LDBCW). It was intended that section 74 of the 2013 Act would allow any reviews and reports already undertaken by the LGBCW before the passing of the Act to be saved, and the recommendations of those reviews to be implemented by Welsh Ministers through orders, to save the LDBCW having to recommence partly undertaken reviews, or to undertake concluded reviews again. However, it has been identified that the current wording of section 74 may give rise to difficulties in making orders to take forward recommendations of the LGBCW. The current wording limits the consideration of reports and subsequent implementation of regulations to those reports where reviews had commenced, but were not completed, by the time Part 3 of the 2013 Act came into force (30 September 2013), rather than including those reviews commenced and completed by this time.

96. Whilst the policy intention of the legislation was to allow for reviews partly or wholly completed by the LGBCW to be saved and recommendations implemented at a later stage, the wording of the provision may leave implementation of completed reviews open to challenge. The Bill, therefore, makes provision to amend Section 74(2) of the Local Government (Democracy) (Wales) Act 2013 to extend the savings provision to include reviews completed by 30 September 2013 to remove any legal uncertainty and put beyond doubt the ability of the Welsh Ministers to implement recommendations of commenced and completed reviews.

Other Provisions (*Sections 44-47*)

97. Other provisions of the Bill detail the procedures by which the regulations are to be made, the interpretations used and the commencement periods for provisions.

4. Consultation

98. The First Minister, in his Legislative Statement of July 2011, made a commitment to consult appropriately and engage meaningfully with our partners when developing legislation. In keeping with this commitment, the Department of Local Government and Communities published, on the 8 July 2014, a White Paper entitled “Reforming Local Government”. It can be accessed at:

<http://wales.gov.uk/consultations/localgovernment/white-paper-reforming-local-government/?lang=en>

99. The primary purpose of the Reforming Local Government White Paper was to set out proposals for a Bill (this Bill), to be introduced in January 2015, to prepare the ground for a programme of Local Authority mergers and reform. The White Paper began to set out a vision for Local Government in Wales which is fit for the 21st Century and beyond. In relation to this Bill, the White Paper set out proposals for the voluntary early merger of Principal Local Authorities in Wales. It also included proposals for the Local Democracy and Boundary Commission for Wales and the Independent Remuneration Panel for Wales to undertake their functions (ie the review of electoral arrangements and the pay and pensions of council members respectively) in relation to proposed new Authorities, whether created by voluntary merger or otherwise. The White Paper also set out proposals for safeguards to discourage and counter activities by existing Principal Local Authorities which might bring reputational or financial harm on any new Principal Local Authority created by future merger. Consultation took place during a 12 week consultation period ending on 1 October 2014. 170 responses were received, which came from the following types of organisation. Of these, 15 were received after the deadline, but the comments have, where possible, been considered.

Respondent Type	No.	%
Community and Town Council	62	36
Member of the Public	25	15
Government Agency / Other Public Sector	20	12
Professional Bodies and Associations	13	8
County / County Borough Council	11	6
Political Group / Party	8	5
Elected Member	7	4
Other	7	4
Third Sector	6	3.5
Trade Union	6	3.5
Local Government Representative Body	3	2
Business	2	1
All responses	170	100

100. Not all of the proposals discussed in the White Paper are being taken forward within this Bill. Many proposals related to policy which does not need new legislation to be implemented or which relates to proposed legislation for a second Bill which will make further provision for Local Authority mergers and reform, for which this Bill paves the way.
101. The section below outlines the proposals in the White Paper which have not been included in this Bill:
- Reforming Local Government – Strengthening democracy, sustaining and improving services;
 - How do we make Local Government more accountable and transparent? – Democracy and Scrutiny;
 - Scrutiny and Governance – Fire and Rescue Authorities;
 - How can we give people a stronger voice in decisions affecting them? – Community Governance;
 - Partnership Collaboration;
 - National Partnership arrangements;
 - How do we ensure Local Government performance is improving and continues to improve?
 - Disposal of property and assets;
 - Staffing matters; and
 - Local Government Funding.
102. A published summary report of the consultation responses received to the White Paper consultation can be found at:
- <http://wales.gov.uk/consultations/localgovernment/white-paper-reforming-local-government/?lang=en>
103. The consultation gave individuals the opportunity to comment on the Welsh Government's statement of intent about the future of Local Government in Wales. The White Paper sought views on the vision for the future of Local Government in Wales contained within it and how this vision could be further developed. Whilst there was an opportunity to comment on the proposals for legislation in this Bill, in the main, respondents commented on the wider merger and reform issues contained in the White Paper and those policy proposals which may be taken forward under the second Bill to be introduced in 2016.

5. Power to make subordinate legislation

104. The Local Government (Wales) Bill 2015 contains provisions to make subordinate legislation, directions and determinations and to issue guidance. Table 5.1 (subordinate legislation) and Table 5.2 (directions, determinations and guidance) set out in relation to these provisions:

- a. the person upon whom, or the body upon which, the power is conferred;
- b. the form in which the power is to be exercised;
- c. the appropriateness of the delegated power; and
- d. the applied Assembly procedure (affirmative or negative), if any, together with the reasons why it is considered appropriate.

105. To assist in understanding the Welsh Minister's intended use of these powers, a separate 'Statement of Policy Intent' has been published to accompany the Bill.

5.1 Summary of powers to make subordinate legislation

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 3(1)	Welsh Ministers	Regulation	Provides the Welsh Ministers with flexibility to set an alternative date for receipt of formal voluntary merger applications in future.	No Assembly procedure	The subject matter of the regulations is procedural detail. This is a discretionary power and if required, it is likely the power will need to be utilised swiftly to address, for example, a delay in the Bill receiving Royal Assent. Such applications for merger will be voluntary in nature and the procedure seeks to facilitate this voluntary process.
Section 6(1)	Welsh Ministers	Regulation	Enables the Welsh Ministers to respond quickly to applications by Principal Authorities wishing to merge early and voluntarily. Facilitates legislative provision tailored to the specific circumstances of a particular merger proposal.	Affirmative	The power to make merger regulations confers further significant powers on the Welsh Ministers and it is appropriate that the regulations are approved in plenary. Regulations will however, only be made to give effect to the will of the merging Principal Authorities and with the approval of their Councils. In addition, the formal application made by those Authorities will have been subject to extensive consultation.
Section 10(2)	Welsh Ministers	Regulation	Provides the Welsh Ministers with flexibility to make provision of general application for the purposes of merger regulations (under section 6) or to give effect to such regulations.	Affirmative	The power to make regulations of general application confers further significant powers on the Welsh Ministers and it is appropriate that the regulations are approved in plenary. However, any such regulations would be made in support of merger regulations which would only be made to give effect to the will of the merging

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					Principal Authorities and with the approval of their Councils.
Section 10(11)	Welsh Ministers	Regulation	Enables the Welsh Ministers to vary merger regulations (made under section 6) or to vary or revoke regulations of general application (made under section 10(2)) for the purpose of merger regulations or to give effect to such regulations.	Affirmative	The power to make regulations which vary merger regulations or which vary or revoke regulations of general application confers further significant powers on the Welsh Ministers. It is appropriate that the regulations follow the same procedure as the regulations which they would be varying / revoking and, thus, be approved in plenary. Such regulations would, however, only be made in support of merger regulations which, in turn, would only be made to give effect to the will of the merging Principal Local Authorities and with the approval of their Councils.
Section 11	Welsh Ministers	Regulation	Imposes an obligation on the Welsh Ministers to require the establishment of a transition committee (one for each proposed new Principal Area) by Principal Authorities merging under merger regulations or under provisions in a Bill introduced into, or an Act passed by, the National Assembly, to facilitate early preparation for merger.	Affirmative	This is a significant function of the Welsh Ministers and it is appropriate that the regulations are approved in plenary.
Section 22(1)	Welsh Ministers	Regulation	Enables the Welsh Ministers to implement (with or without modification) recommendations of the Local Democracy Boundary	No Assembly procedure	The procedure mirrors that already in place for the implementation of electoral arrangements reviews under the Local Government (Democracy)

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			Commission for Wales (LDBCW) in relation to electoral arrangements for proposed Principal Areas.		(Wales) Act 2013, which are regarded as “local orders”. As part of the review procedure, the matters to be addressed within the regulations and the recommendations of the LDBCW will be subject to a substantive degree of public consultation.
Section 22(5)	Welsh Ministers	Regulation	Enables the Welsh Ministers to revoke or vary any regulations made in respect of electoral arrangements for proposed Principal Areas.	No Assembly procedure	Regulations implementing the recommendations of the LDBCW are regarded as “local orders” and not subject to an Assembly procedure. It is considered appropriate that any regulations which amend or revoke the provisions of such regulations should also be regarded as local orders and should not, therefore, be subject to any Assembly procedure.
Section 23(2)	Welsh Ministers	Regulation	Enables the Welsh Ministers to make provision for electoral arrangements for proposed Principal Areas prior to the first elections of Councils for those areas where the LDBCW has not submitted final recommendations, so that the creation of new Principal Councils is not delayed.	No Assembly procedure	The procedure mirrors that already in place for the implementation of electoral arrangements reviews under the Local Government (Democracy) (Wales) Act 2013, which are regarded as “local orders”. As part of the review procedure, the matters to be addressed within the regulations and any recommendations of the LDBCW will be subject to a substantive degree of public consultation.
Section 23(5)	Welsh Ministers	Regulation	Enables the Welsh Ministers to revoke or vary any regulations made in respect of electoral arrangements for proposed Principal Areas where	No Assembly procedure	Regulations for the electoral arrangements for Principal Areas are regarded as “local orders” and not subject to an Assembly procedure. It is

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			the LDBCW has not submitted final recommendations.		considered appropriate that any regulations which amend or revoke the provisions of such regulations should also be regarded as local orders and should not, therefore, be subject to any Assembly procedure.
Section 24	Welsh Ministers	Regulation	Enables the Welsh Ministers to reset the start date for the LDBCW's next 10-year electoral arrangements review period, following the establishment of new merged Authorities.	Negative	The subject matter of these regulations is a relatively minor detail within the overall legislative scheme for the arrangements for local government under the Local Government (Democracy) (Wales) Act 2013, and is technical in nature. It merely re-sets the start date for the next 10-year review period, so it is consistent with the new structure of local government once the reform programme is completed.
Section 35(4)	Welsh Ministers	Regulation	Power for the Welsh Ministers to amend the specified threshold levels above which transactions and restricted activities may be subject to an opinion or consent regime by way of directions issued by the Welsh Ministers.	Negative	The subject matter of these regulations is a relatively minor detail within the overall legislative provisions for restraints on transactions by merging Authorities.

5.2 Summary of powers to make directions and determinations and to issue guidance

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 5(1)	Welsh Ministers	Guidance	Appropriate for guidance as it enables the Welsh Ministers to frame criteria and a process to assist Principal Authorities in formulating voluntary merger applications.	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, Assembly procedure is not appropriate.
Section 7(4)	Welsh Ministers	Guidance	Enables the Welsh Ministers to issue guidance to Shadow Authorities and executives on the exercise of functions in preparing for the establishment of new Authorities.	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, Assembly procedure is not appropriate.
Section 12(3)	Welsh Ministers	Determination	Enables the Welsh Ministers to determine the number of members of a transition committee, in default of agreement by merging Authorities, tailored to the circumstances of the particular merger.	No Assembly procedure	This is a limited power to facilitate implementation of the primary legislation. It is likely the Welsh Ministers will need to act swiftly so that the work of the transition committee is not hindered by genuine disagreement or potential administrative prevarication.
Section 13(1)(c)	Welsh Ministers	Direction	Enables the Welsh Ministers to add to the matters (relating to proposed merger) on which a transition committee should provide advice or recommendations to the merging Authorities or Shadow Authority.	No Assembly procedure	This is a limited power to facilitate implementation of the primary legislation. It is likely the Welsh Ministers will need to act swiftly so that the work of the transition committee is not hindered by potential administrative prevarication or uncertainty.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Section 13(2)	Welsh Ministers	Direction	Enables the Welsh Ministers to direct transition committees (individually, all or a group) to take specified action to prepare for merger (e.g. if they haven't drawn up a draft Welsh language plan or a draft Pay Policy Statement)	No Assembly procedure	This is a limited power to facilitate implementation of the primary legislation. It is likely the Welsh Ministers will need to act swiftly so that the work of the transition committee is not hindered by potential administrative prevarication.
Section 13(5)	Welsh Ministers	Guidance	Enables the Welsh Ministers to give guidance to transition committees on the exercise of their functions.	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, Assembly procedure is not appropriate.
Section 15(2)	Welsh Ministers	Determination	Enables the Welsh Ministers to determine the apportionment of transition committee costs in default of agreement by merging Authorities, tailored to the circumstances of the particular merger.	No Assembly procedure	This is a limited power to facilitate implementation of the primary legislation. It is likely the Welsh Ministers will need to act swiftly so that the work of the transition committee is not hindered by genuine disagreement or potential administrative prevarication.
Section 16(1)	Welsh Ministers	Direction	Enables the Welsh Ministers to direct the LDBCW to conduct initial reviews of the electoral arrangements for proposed new Principal Areas that will be established via subsequent legislation (either merger regulations or a further Act of the	No Assembly procedure.	The power to issue directions applies only to the LDBCW and will be utilised only in relation to specified proposed Principal Areas. The issuing of directions mirrors the procedure currently in place in connection with the work undertaken by the LDBCW in relation to local government arrangements under the Local

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			National Assembly for Wales), prior to the first elections of the Authorities for those areas.		Government (Democracy) (Wales) Act 2013.
Section 17(3)	Welsh Ministers	Direction	Enables the Welsh Ministers to give general directions to the LDBCW as to the order of initial reviews and matters to which it is to have regard.	No Assembly procedure. Subject to consultation with the LDBCW and Local Authority representative bodies.	This power to issue directions containing general provisions about the conduct of reviews (directed under section 16) will apply only to the LDBCW, and will facilitate those reviews. A requirement that the LDBCW be consulted before directions of this nature are issued is appropriate.
Section 17(8)	Welsh Ministers	Guidance	Enables the Welsh Ministers to give guidance to the LDBCW e.g. on general considerations to be taken into account in undertaking the initial reviews (e.g. community ties, Welsh language).	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with matters for which Assembly procedure is not appropriate.
Section 25(1)	Welsh Ministers	Direction	Enables the Welsh Ministers to direct the Independent Remuneration Panel to exercise its functions under the Local Government (Wales) Measure 2011 (as modified by the Bill) in relation to pay and pensions of members of shadow and merging Principal Authorities.	No Assembly procedure	This power to issue directions applies only to the Independent Remuneration Panel and will relate only to payments to members of specified shadow Authorities and newly merged Principal Authorities and will enable the Panel to do its work.
Section 27(3)	Welsh Ministers	Guidance	Enables the Welsh Ministers to issue guidance to the Independent	No Assembly	The power to issue guidance is intended to facilitate the application of

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			Remuneration Panel in relation to the exercise of its functions under the Bill.	procedure	the primary legislation. This guidance is largely concerned with matters for which Assembly procedure is not appropriate.
Section 28(6)	Welsh Ministers	Guidance	Enables the Welsh Ministers to issue guidance to transition committees and Shadow Authorities on the functions of preparing pay policy statements	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with matters for which Assembly procedure is not appropriate.
Section 29(1)	Welsh Ministers	Direction	Enables the Welsh Ministers to issue directions to merging authorities detailing an opinion and consent regime in respect of restricted activities.	No Assembly Procedure	The power to issue directions establishing an opinion and consent regime guards against the potential for negative and damaging behaviour by merging principal authorities. Welsh Ministers need to have the ability to act swiftly to prevent such behaviour therefore it is necessary for the Welsh Ministers to have the flexibility afforded by a direction making power to respond to specific circumstances as they arise.
Section 29(3)	Welsh Ministers	Direction	Enables the Welsh Ministers to direct a merging authority seeking to appoint or designate a person to a restricted post, as defined by section 29(4) of the Bill, to comply with specific requirements about the appointment or designation.	No Assembly Procedure	The power to issue directions requiring compliance with specific requirements regarding the appointment/designation to restricted posts guards against the potential for negative and damaging behaviour by merging principal authorities. Welsh Ministers need to be able to act swiftly to prevent such behaviour therefore it is necessary for

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					the Welsh Ministers to have the flexibility afforded by a direction making power to respond to specific circumstances as they arise
Section 36(1)	Welsh Ministers	Guidance	Enables the Welsh Ministers to issue guidance as to the operation of an opinion and consent regime in connection with the carrying out of restricted activities, and in connection with the appointment/designation of persons to restricted posts, as detailed in sections 29 to 35 of the Bill.	No Assembly Procedure	The power to issue guidance is intended to facilitate the application of the primary legislation.
Section 39(3)	Welsh Ministers	Guidance	Enables the Welsh Ministers to issue guidance to the Independent Remuneration Panel about the exercise of its new functions relating to the pay of chief officers.	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with matters for which Assembly procedure is not appropriate.
Section 40(4) (amends section 143A of the Local Government (Wales) Measure 2011 to insert a power of direction at section 143A(5B) of that Measure)	Welsh Ministers	Direction	Enables the Welsh Ministers to direct a local authority to reconsider the salary of its head of paid service, where a recommendation about a change in the salary has been received from the Independent Remuneration Panel, and the Welsh Ministers consider that the salary the Authority has determined to pay in response to the recommendation would be inconsistent with the recommendation.	No Assembly Procedure	This is a fall-back power, which would need to be used at very short notice, if required.

PART 2 - REGULATORY IMPACT ASSESSMENT

A regulatory impact assessment has been completed in accordance with Standing Order 26.6(vi) for the proposed Bill. There are no specific provisions in the Bill which charge expenditure on the Welsh Consolidated Fund.

6. Options appraisal

1. As set out above, the Bill's intended purpose is to enable preparatory work for a programme of local government mergers and reform and to allow Principal Local Authorities to merge voluntarily by April 2018.
2. The Bill aims to:
 1. Ensure a review is undertaken and recommendations are made to the Welsh Ministers for electoral arrangements for any proposed new Principal Areas which the Welsh Ministers have declared they propose to establish, prior to the first elections of the Local Authorities for those areas being held.
 2. Make determinations about payments for members of the proposed new Authorities and members of any Shadow Authority established in advance of new Principal Local Authorities coming into being.
 3. Ensure joint-working arrangements are established to facilitate effective forward planning with regards to the proposed new Authorities. This will include taking measures to discourage and counter negative behaviour by existing Authorities which would prejudice their successors.
 4. Make provision to enable the Welsh Ministers, by regulations, to merge two or more Principal Areas and their respective county/county borough councils and to establish a new Principal Area and council in their place.
 5. Ensure reviews already completed by the Local Government Boundary Commission for Wales ("LGBCW") (renamed the Local Democracy and Boundary Commission for Wales in 2013) between 2010 and 2012 on electoral arrangements for Local Authorities can be implemented by regulations.
 6. Enable the survey of Local Government councillors and unsuccessful candidates established by the Local Government (Wales) Measure 2011 to be conducted prior to elections, and to clarify that a Local Authority can arrange for a third party to conduct the survey on its behalf.
3. A number of policy options were considered in relation to the delivery of each of the above intentions. Each of the options identified have been examined in terms of how far they would achieve the Welsh Government's policy objectives. The options are outlined below and the costs and benefits of each can be found in Chapter 7. The benefits identified are largely discussed in qualitative terms, and have not been quantified or monetised, due to the nature of the provisions. Any costs included are forecasts. To reflect this, all of the costs presented in the RIA have been rounded to the nearest £1,000 to reduce the risk of spurious precision in the analysis. Appendix A includes a detailed explanation of how costs have been calculated.

Policy Intention 1: To ensure a review is undertaken and recommendations are made to the Welsh Ministers for electoral arrangements for any proposed new Principal Areas which the Welsh Ministers have declared they propose to establish, prior to the first elections of the Local Authorities for those areas being held.

4. Two options have been considered for achieving the policy intent. These are:

- Option 1. Do nothing: the LDBCW would continue with its existing work programmes and would not be able to undertake reviews of electoral arrangements for any proposed new Principal Areas until those new Areas have been established in legislation i.e. in regulations for early, voluntary merger or in a second Local Government (Wales) Bill to be introduced into the National Assembly for Wales in 2016.
- Option 2. Introduce legislation which enables the Welsh Ministers to issue directions to the LDBCW to start work early on the reviews of electoral arrangements for proposed new Principal Areas.

5. Each option is set out below.

Option 1 – Do nothing – the LDBCW would continue with its existing work programmes and would not be able to undertake reviews of electoral arrangements for any proposed new Principal Areas until those new Areas have been established in legislation i.e. in regulations for early, voluntary merger or in a second Local Government (Wales) Bill which, subject to National Assembly approval, is anticipated to receive Royal Assent in 2017.

6. The current role of the LDBCW includes keeping under review all local government areas in Wales and the electoral arrangements for those areas, and to make such proposals to the Welsh Ministers as seem desirable in the interests of effective and convenient local government.
7. Under existing legislation, the LDBCW may undertake reviews of electoral arrangements for Principal Areas only where the Principal Area is one which is already established by statute.
8. The LDBCW is required, under section 29 of the Local Government (Democracy) (Wales) Act 2013 (the “2013 Act”), to conduct a review of the electoral arrangements of each principal area in Wales at least once in every ten-year review period. The cycle of ten-year review periods started with the coming into force of section 29 of the 2013 Act, which was September 2013.
9. Under this option (Option 1), the LDBCW would continue with its other work programmes but would not be able to undertake reviews of electoral arrangements for proposed new Principal Areas until the new Authorities have been formed in legislation i.e. in the case of voluntary mergers, when the necessary regulations had been made (anticipated for Spring 2016) or, for all other mergers, in a second Local Government (Wales) Bill which would, subject to the will of the Assembly, be passed in 2017.
10. It would be impossible for the LDBCW to complete all the reviews for the new Areas and submit recommendations to the Welsh Ministers in good time for the first elections to the new Authorities following their creation in legislation (2018 for a new area established by regulations and 2019 for areas established by a second Bill). There would, therefore, be a delay in elections to new Areas. Under option 1, the loss of two or three months could endanger the LDBCW’s timetable to review electoral arrangements for such areas in time for the first elections to voluntarily merged Authorities, which are scheduled for May 2018.
11. Under the existing legislation, the LDBCW would still be under a statutory obligation to undertake electoral arrangements reviews of existing Principal Areas, even though some of those Areas would be scheduled for abolition. Such work would be nugatory once the new Areas were established and the old ones abolished.
12. Under this option existing ward arrangements for the current Local Authorities would remain as agreed by the Welsh Ministers from previously conducted reviews, as well as the total number of councillors, until the

LDBCW had completed all the reviews for the new areas and elections to new Authorities could take place.

Option 2 – Introduce legislation – LDBCW to conduct Reviews.

13. In accordance with this option (Option 2), legislation would be introduced which enables the Welsh Ministers to issue directions to the LDBCW to begin work early on reviews of electoral arrangements for proposed new Principal Areas and make recommendations to the Welsh Ministers for electoral arrangements for any new Principal Areas which the Welsh Ministers have declared they propose to establish.
14. Under this option, the LDBCW would start undertaking reviews of electoral arrangements for any proposed new Principal Area (whether to be merged voluntarily by regulations, or by a second Local Government (Wales) Bill) soon after this Bill is passed, in accordance with directions issued by the Welsh Ministers.
15. This option most sensibly achieves the policy intention. It ensures elections can take place within a timely period and with the benefit of full electoral arrangements reviews having been conducted by the LDBCW. This option provides clarity for stakeholders including the public, councillors and candidates and electoral officers and best meets the objective set out in the Local Democracy (Wales) Act 2013 of effective and convenient local government.
16. Work in relation to the review of the electoral arrangements of voluntarily merged areas would be prioritised and the direction power would provide for that.

Policy Intention 2: To make determinations about payments for members of the proposed new Authorities and members of any Shadow Authority established in advance of new Principal Local Authorities coming into being.

17. Two options have been considered for achieving the policy intent. These are:

- Option 1. Do nothing: Determinations about payments for elected members serving or holding senior office in a newly merged Authority, and on Shadow Authorities would be completed as part of the Independent Remuneration Panel's ("IRP") normal course of work, but could not be commenced until the new Authorities had been established in legislation, which would be Spring 2016 for a new area established by regulations and 2017 for areas established by a second Local Government (Wales) Bill.
- Option 2. Introduce legislation to enable the IRP to start work early and make determinations about payments for members of the proposed new Authorities and members of any Shadow Authority established in advance of a new Principal Local Authority coming into being.

18. Each option is set out below.

Option 1 – Do nothing – Determinations about payments for elected members serving or holding senior office in a newly merged Authority, and on Shadow Authorities, would be completed as part of the IRP’s normal course of work, but work could not be commenced until the new Authorities had been established by legislation, being Spring 2016 for a new area established by regulations and 2017 for areas established by a second Local Government (Wales) Bill.

19. The IRP was established initially to determine the range and levels of allowances payable by county and county borough councils to their elected members (“councillors”) and co-opted members with voting rights. The IRP is a statutory body, independent of Welsh Government and Local Government control.
20. The Local Government (Wales) Measure 2011 (“the 2011 Measure”) affirmed the IRP’s continued existence and, as amended by the 2013 Act, provides the basis for the IRP’s responsibilities and functions.
21. The 2011 Measure is expressed in terms of the IRP considering and making determinations about payments for members of “Local Authorities”, which includes “county borough councils or county councils in Wales” (“principal councils”). No other description of Local Authorities which the IRP can examine is offered within the Measure. The legal inference of the absence of any other description of Local Authorities is that the IRP may only consider and make determinations in relation to the members of Authorities which are already established by statute.
22. The IRP will become responsible for considering and making determinations in respect of any new Principal Local Authorities created by merger. That assumption of responsibility will flow automatically, provided the new Authorities are established within the existing statutory framework for Principal Local Authorities in Wales.
23. Under this option (Option 1), the IRP would not be able to conduct a review of appropriate payments to councillors of proposed new Principal Local Authorities until the new Authorities have been formed in legislation i.e. in the case of voluntary mergers, when the necessary regulations have been made (anticipated for Spring 2016) or, for all other mergers, in a second Local Government (Wales) Bill which would, subject to the will of the Assembly, be passed in 2017. This would not allow for determinations about payments for members of the proposed new Principal Local Authorities to be made early on, particularly in relation to prospective voluntary mergers and their Shadow Authorities.

Option 2 – Introduce legislation extending functions of the IRP to enable it to start work early and make determinations about payments for members of proposed new Principal Local Authorities and members of any Shadow Authority established in advance of a new Principal Local Authority coming into being.

24. In taking forward a programme of mergers, elected members serving or holding senior office in a newly merged Authority should be entitled to receive appropriate payments in respect of their responsibilities from the Vesting Day for the new Authority i.e. the day the new Authority assumes the full range of Local Government functions.
25. Elected members serving on Shadow Authorities may also be entitled to receive payments in respect of their responsibilities, albeit with recognition that the Shadow Authorities do not exercise the full range of Local Government functions.
26. The IRP would have insufficient time (from the passing of legislation establishing a new Principal Local Authority to the day the new Authority assumes the full range of Local Government functions (“Vesting Day”)) to consider properly and make determinations about payments for members of proposed new Principal Local Authorities and members of any Shadow Authorities. This is particularly the case if several new Authorities are created by the same legislation and progress along the same timeline to Vesting Day.
27. This option (Option 2) extends the functions of the IRP to enable it to start work on making determinations about payments for members of the proposed new Authorities and members of any Shadow Authority, once the proposed new Authorities have been identified by the Welsh Ministers and in advance of the legislation for their establishment having been formally approved by the National Assembly for Wales.
28. The geographic extent of such proposed new Principal Local Authorities would be communicated to the IRP in directions to be issued by the Welsh Ministers.
29. This option achieves the policy intention. It ensures elected members serving or holding senior office in a newly merged Authority would be entitled to receive appropriate payments in respect of their responsibilities from Vesting Day. It would also ensure elected members serving on Shadow Authorities could be entitled to receive payments in respect of their responsibilities, whilst enabling the IRP to impose requirements for avoiding the duplication of payments relating to the official business of members. It will also provide earlier clarity for the new Authorities and potential candidates. It will also ensure an open and transparent approach to setting councillors remuneration as regards the new Authorities.

Policy Intention 3: Ensure joint-working arrangements are established to facilitate effective forward planning with regards to the proposed new Authorities. This will include taking measures to discourage and counter negative behaviour by existing Principal Local Authorities which might bring financial and reputational damage on their successors.

30. Three options have been considered for achieving the above policy intention:

- Option 1: Do Nothing: Existing legislation allows Principal Local Authorities, acting on their own initiative, to establish joint committees to consider issues of shared interest or responsibility. Merging Authorities could establish a joint transition committee to prepare for proposed mergers, but they will not be required to establish such committees. Nor would there be anything in legislation to guide the work of such committees. There would be no proposed amendments to legislation to counter and discourage negative behaviour in the run up to merger.
- Option 2: Legislate to enable the Welsh Ministers to require Principal Local Authorities identified for future merger, including those coming forward voluntarily, to establish joint transition committees, and issue guidance and directions as to their operation and matters to address. Alongside this measure, make provision to discourage and counter various behaviours within Authorities in the run up to merger that might bring financial and reputational damage on the new Authorities.
- Option 3: Delay addressing the policy intention until a second Local Government (Wales) Bill, which will not be introduced into the Assembly before 2016. Principal Local Authorities merged by a second Bill could not be required to set up statutory joint transition committees to prepare for any identified merger until summer 2017 at the earliest. Any proposed legislation whose purpose is to counter and discourage negative behaviour would also be delayed until summer 2017. A second Bill could apply provisions regarding statutory transition committees and countering and discouraging negative behaviour in Authorities merging voluntarily, but this would be too late for such provisions to have practical effect.

31. Each option is set out below.

Option 1 – Do nothing – Existing legislation allows Principal Local Authorities, acting on their own initiative, to establish joint committees to consider issues of shared interest or responsibility. Merging Authorities could establish a joint transition committee to prepare for proposed mergers, but they will not be required to establish such committees. Nor would there be anything in legislation to guide the work of such committees. There would be no proposed amendments to legislation to counter and discourage negative behaviour in the run up to merger.

32. Existing legislation allows for Principal Local Authorities to establish joint transition committees, so there is scope for Authorities to establish one, acting on their own initiative, if they are involved in a proposed merger (whether it is voluntary or enacted through a second Local Government (Wales) Bill). However, whilst some Local Authorities may set up informal committees, other Local Authorities may not engage in the necessary preparatory work early enough to ensure effective planning takes place.
33. The purpose of statutory joint transition committees would be to provide advice to the incoming Shadow Authority about gaps, discrepancies and duplication between the two merging Authorities in relation to their functions, and to ensure the new Authority is able to function effectively from Vesting Day.
34. If a Local Authority did choose to set up a joint transition committee, there would not be any statutory guidance about what the remit of the committees might be, what they should consider, or what documents they should produce. There would also not be any statutory guidance on the size of the committees, who should attend and what staff resources should be allocated. The quality and consistency of preparatory work would therefore depend upon on the good faith and foresight of the existing Local Authorities.
35. The situation is likely to lead to haphazard planning arrangements in relation to the new Authorities. Local Authorities may conduct very thorough preparatory work in some matters, whilst other matters may be ignored altogether. If existing Local Authorities fail to provide adequate advice to Shadow Authorities, those Shadow Authorities will not be in a position to make timely and effective decisions on the future operation and planning of the new Authorities.
36. Amongst other implications, this could lead to rushed senior staff appointments. If timely advice on workforce planning is not completed, the new Authorities may be compromised in relation to due diligence procedures. If it came to public attention the appropriate decision-making processes were not adhered to, this would undermine public and official perceptions of the openness, fairness and transparency of the reform process. It may also have the effect of intensifying long-term public concern about decision-making procedures around senior officer's pay.

37. In addition, if efforts are not made to discourage and counter negative behaviour in the run up to merger, there is likely to be rumour and suspicion surrounding the Local Government reform programme.
38. In the run-up to merger, there would not be any official body charged with considering the impact of Local Authority decisions on the wider Local Government area post-merger. For instance, in the run-up to their abolition, existing Local Authorities may decide to enter into long-term contracts which might not be in the best interest of the new Local Authority.
39. There is also a risk that some Local Authorities may adopt a policy of non co-operation and non-negotiation in relation to providing essential information when faced with merging with another Authority. This will cause significant hindrance and disruption, delaying essential preparatory activities which need to take place beforehand.

Option 2 – Legislate to enable the Welsh Ministers to require Principal Local Authorities, which have been identified for future merger to establish joint transition committees and issue guidance and directions as to their operation. Alongside this measure, make provision to discourage and counter various behaviours within Principal Local Authorities in the run up to merger, which might bring financial and reputational damage on the new Authorities

40. In the case of a voluntary merger, the existing Principal Local Authorities will be required to establish a joint transition committee, one for each proposed new Principal Area, as soon as practicable, after the relevant merger regulations have been made in spring 2016.
41. In the case of merger as a result of a second Local Government (Wales) Bill, the Welsh Ministers will be able to require Local Authorities identified for prospective mergers to set up a joint transition committee from the point at which a second Bill is introduced into the Assembly (Autumn 2016).
42. Principal Local Authorities will be required to provide appropriate resources (including support staff) to the joint transition committee. They will have a minimum of 5 members per existing constituent Authority, with the overall size to be agreed by the Authorities themselves.
43. The main purpose of establishing statutory joint transition committees is to ensure a culture of joint working is established early in the transition process. The Welsh Ministers will issue guidance to set out their exact remit and activities. For example, the guidance is likely to make clear the committees will be required to examine service and organisational arrangements in the existing Authorities, compare such arrangements and present advice to the incoming Shadow Authority about gaps, discrepancies and duplication as is appropriate. It is also likely the guidance will require the Transition Committees to present proposals to the Shadow Authority about best practice in ensuring the Welsh Language is promoted both internally within the new Authority and as part of service design and delivery.
44. Transition Committees will also provide information and advice to enable the Shadow Authority and executive to consider and take decisions on matters which will ensure the new Local Authority is able to function effectively from the day the new Authority assumes the full range of Local Government functions (Vesting Day).
45. There will also be reduced scope for Local Authorities, councillors and officers to engage in negative and damaging behaviour in the run-up to their abolition by merger. In advance of the new Shadow Authorities coming into being, the facility will exist to direct transition committees or other designated persons to offer advice, opinions and recommendations with a view to helping the existing Authorities take decisions that do not bring financial or reputational damage on the new Local Authority. Should the existing Authority decide to take action contrary to the opinion given by the designated person or persons on certain specified transactions,

appointments of senior staff or use of financial reserves, then the existing Authority must publish its reasons for taking such action.

46. Once the Shadow Authorities have been established in the run-up to merger, it is likely that existing Authorities will need to seek “ consent” from the relevant successor Shadow Authority or other designated persons on certain specified transactions, appointments of senior staff or in the setting of the Authority’s budget. This will be detailed by way of Ministerial direction. The purpose is to provide a safeguard against the possibility that existing Authorities may take decisions with financial or other implications which could be against the longer term interests of the incoming new Authority.
47. If an existing Local Authority is not co-operating with its partners in the run up to merger, there will be powers in the Bill to require that Authority to make available such information as is relevant to a proposed merger to the other Local Authorities involved in the same prospective merger. This would avoid any risk of Local Authorities, in the run up to their abolition, causing significant hindrance and disruption to forward planning and preparations for merger by withholding information.
48. Each joint transition committee will have the specified function of preparing and agreeing a draft Pay Policy Statement, which it will hand to the Shadow Authority for the proposed new Authority. Shadow Authorities will be required to prepare, adopt and publish a Pay Policy Statement before any senior appointments are made for the new Authority. These statements will articulate an Authority's own policies towards a range of issues relating to the pay of its workforce, particularly its 'chief officers' and its lowest paid employees.
49. The IRP would be empowered to make recommendations on Local Authorities’ Pay Policy Statements until 1 April 2020 in relation to all Chief Officers pay (currently they are only empowered to make recommendations in relation to Heads of Paid Service pay, usually the Chief Executive). The IRP would also have to be consulted about any proposed change in a Chief Officer’s salary which was not commensurate with the Authority’s Pay Policy Statement. Local Authorities would have to have due regard to any recommendations received about such changes from the IRP. This responsibility would strengthen scrutiny of Local Authorities’ decision-making around senior officers pay, helping to ensure long-term public concerns surrounding senior officer pay are addressed.

Option 3 – Delay addressing this matter until a second Local Government (Wales) Bill. A second Bill would make provision requiring Principal Local Authorities involved in mergers to set up statutory joint transition committees as soon as practicable. It would also make provision to discourage and counter negative behaviour in the run up to merger.

50. In accordance with this option (Option 3), the proposed legislation would not be made until a second Local Government (Wales) Bill were passed by the National Assembly (Summer 2017).

51. The requirement to establish joint transition committees and the introduction of measures for the purpose of discouraging and countering negative behaviour would be in force just six months before any Authority established by voluntary merger came into being, and two years before any Authority established by a second Bill came into being.

52. In the case of any voluntary mergers, in practice this would mean no statutory joint transition committee would be established. By summer 2017, should a second Bill be passed by the National Assembly, the transition period for any voluntary mergers would have passed and Shadow Authorities would be about to be established. Legislation for the purposes of discouraging and countering negative behaviour would also have limited effect as it would only come into force towards the very end of the transition period.

53. Whilst those existing Local Authorities involved in any voluntary merger are likely to be working closely in the transition period, the quality and the consistency of preparatory work undertaken during this period would depend heavily upon on the good faith and foresight of the existing Local Authorities.

54. In the case of any merger being achieved by a second Bill, legislation introduced two years before merger would have diminished effect. The requirement for existing Local Authorities to establish transition committees would be introduced a year later than under option 2.

55. Under Option 2, Local Authorities which have been identified for merger could be required to set up transition committees when a second Bill *is introduced* into the National Assembly (Autumn 2016). Under this option Local Authorities would not be required to set up transition committees until after a second Bill *is passed*, which subject to the will of the Assembly, would be September 2017.

56. Therefore joint transition committees will have a shorter lifespan (two years as opposed to three years under Option 2) to complete preparatory work. In addition, legislation with the purpose of discouraging and countering negative behaviour would be introduced two years before merger, instead of three.

Policy Intention 4: Making provision to enable the Welsh Ministers to merge two or more Principal Areas and their respective county/county borough councils and to establish a new Principal Area and council in their place.

57. Two options have been considered for achieving the policy intent. These are:

- Option 1. Do nothing: The Welsh Ministers would not be able, by regulations, to merge two or more Principal Areas and their respective county/county borough councils and to establish a new Principal Area and council in their place.
- Option 2. Introduce legislation to include a regulation making power. This provision would enable the Welsh Ministers, by regulation, to merge two or more Principal Areas, and to establish a new Principal Area and council in their place. Any legislation would also amend section 4 of the Fire and Rescue Services Act 2004 to disapply the requirement to hold a local inquiry where a variation to the boundaries of Fire and Rescue Authorities is made in consequence of voluntary merger.

58. Each option is set out below.

Option 1 – Do nothing – The Welsh Ministers would not be able, by regulations, to merge two or more Principal Areas and their respective county/county borough councils and to establish a new Principal Area and council in their place.

59. The Commission on Public Service Governance and Delivery recommended the Welsh Government should encourage those Local Authorities who wish to begin a voluntary, early process of merger.

60. Voluntary mergers on a case by case basis are not possible under existing legislation. Under this option (Option 1), the Welsh Ministers would be unable, by regulations, to merge two or more Principal Areas and their respective county/county borough councils early, even if the Authorities wish to do so.

61. As a result, the Welsh Ministers would not be able to respond positively to joint requests from Local Authorities to proceed to early voluntary merger. Mergers would not be possible until the passing of a second Local Government (Wales) Bill.

62. Local Authorities which had recognised the benefits of merger and were working together towards that end would not be able complete the process and achieve the benefits for a further two years.

Option 2 – Introduce legislation to include a regulation-making power. This provision would enable the Welsh Ministers, by regulations, to merge two or more Principal Areas, and to establish a new Principal Area and council in their place. Any legislation would also amend section 4 of the Fire and Rescue Services Act 2004 to disapply the requirement to hold a local inquiry where a variation to the boundaries of Fire and Rescue Authorities is made in consequence of voluntary merger.

63. The Commission on Public Service Governance and Delivery recommended the Welsh Government should support those Local Authorities who wish to begin a voluntary early process of merger.

64. This option (Option 2) would make specific legislative provision which allows willing and committed Local Authorities to move at pace to full merger where they have identified a case for doing so.

65. This option would enable the Welsh Ministers, by regulations, to abolish two or more Principal Areas and their respective county/county borough councils and establish a new Principal Area and council in their place.

66. Following passage of the Bill, Local Authorities will be able to submit formal applications for voluntary early mergers. The Welsh Ministers will then be enabled to receive and process these applications.

67. Enabling Local Authorities to merge early voluntarily would provide early legislative certainty for these Authorities. It would mean one fewer set of elections en route to the new structures, build on the commitment of existing Authorities to plan for transition and involve a period of shadow operation, based on existing Authorities. Those who move early will be fully vested two years ahead of remaining Authorities, allowing the early mergers more quickly to realise efficiencies and achieve service transformation.

68. The regulation making power would only be exercised in relation to Authorities that have submitted a joint proposal. The Welsh Ministers will be able to decide to take no action on a proposal.

Disapplying the requirement to hold a local inquiry

69. Any legislation would also amend section 4 of the Fire and Rescue Services Act 2004 to disapply the requirement to hold a local inquiry where a variation to the boundaries of Fire and Rescue Authorities is made in consequence of voluntary merger.

70. In Wales a Local Authority is a Fire and Rescue Authority. The Welsh Ministers may, by order, make a scheme constituting a Fire and Rescue Authority for a combined area of two or more Local Authorities. In relation to Wales, the three current FRAs were established by 'combination orders' made by the Secretary of State under the Fire Services Act 1947, which were subsequently preserved by section 4 of the Fire and Rescue Services 2004 Act; each of the existing FRAs is defined by reference to the area of its constituent Local Authorities.

71. If two or more Local Authorities which are currently served by different FRAs were to merge voluntarily, the combination orders of both FRAs would need to be substantively amended so as to place the whole of the new area in one FRA or the other. As FRAs are by definition either Local Authorities or (in the case of all three Welsh FRAs) combinations of them, it is not possible for one Local Authority to be served by two FRAs.
72. Section 4 of the 2004 Act contains power for the Welsh Ministers to vary a combination order, but subjects it to certain conditions. In particular, the Welsh Ministers may only vary a combination order if:
- they have consulted the (Local and Fire) Authorities affected by it, and any other appropriate persons; and
 - they have held a local inquiry into the proposed variation, although this requirement is disapplied if the (Local and Fire) Authorities affected agree to the variation; or if it is necessary to make the variation without delay in the interests of public safety.
73. Any substantive change to combination orders would engage the requirements to consult and to hold a local inquiry if the affected Authorities did not agree to the change. In the case of a voluntary merger which straddled an FRA boundary, any such merger could only proceed with amended combination orders in place. Without that, there would be no organisation with clear responsibility for Fire and Rescue Services in the new area.
74. The requirement to hold a local inquiry, if agreement of affected Authorities to vary a combination order were not forthcoming, could significantly delay amendments to the orders, and thus the Local Authority mergers themselves. This would be despite any proposal for voluntary merger already having been the subject of extensive local consultation.
75. This creates a risk to the timing and implementation of voluntary mergers under the Bill. An affected FRA could decline to agree to the change, as could other affected Local Authorities. Any form of objection would naturally undermine the principle that voluntary mergers should be implemented at pace. It would also mean that an FRA or another Local Authority could frustrate the legitimate wish of two Local Authorities that wished to merge voluntarily and following consultation with local interests.
76. This option (Option 2) amends section 4 of the 2004 Act to disapply the requirement to hold a local inquiry where a variation to the boundaries of Fire and Rescue Authorities is made in consequence of voluntary merger.
77. The provision would provide that the requirement to hold a local inquiry is not to have effect where a variation to a combination order is made in consequence of a voluntary merger – regardless of whether the affected Authorities agree to the change.

78. This option achieves the policy intention, in preparation for the possibility that the Welsh Ministers will need to take swift consequential action as a result of a voluntary merger application which involves 2 or more Local Authorities that straddle Fire and Rescue Authority boundaries.
79. The same approach was taken as regards the voluntary mergers of English Local Authorities under the Local Government and Public Involvement in Health Act 2007.

Policy Intention 5: Ensure reviews already completed by the Local Government Boundary Commission for Wales (“LGBCW”) (renamed the Local Democracy and Boundary Commission for Wales in 2013) between 2010 and 2012 on electoral arrangements for Principal Local Authorities can be implemented by regulations

80. Two options have been considered for achieving this policy intent

- Option 1: Do Nothing: Do not amend section 74 of the Local Government (Democracy) (Wales) Act 2013 (“the 2013 Act”) which as currently worded may not allow certain reviews already conducted by the LGBCW to be implemented by regulations
- Option 2: Introduce legislation to amend section 74 of the Local Government (Democracy) (Wales) Act 2013 to ensure that LGBCW reviews already conducted in respect of electoral arrangements can be implemented by regulations

81. The options are set out below.

Option 1 – Do nothing – Do not amend section 74 of the Local Government (Democracy) (Wales) Act 2013 which as currently worded may not allow eight reviews already conducted by the LGBCW to be implemented.

82. The LGBCW (renamed the Local Democracy and Boundary Commission for Wales by the 2013 Act) had a statutory duty to conduct reviews and make recommendations about the alteration of local government areas, the constitution of new local government areas, the abolition of local government areas and changes of electoral arrangements for local government areas.
83. The electoral arrangements reviews include the electoral arrangements for the Principal Areas. Electoral arrangements include the number of councillors for the whole area; the number of councillors for any electoral division within the area; the number and boundaries of the electoral divisions and the name of any electoral divisions.
84. As per their statutory duty, following directions issued by the Welsh Ministers in 2009, the LGBCW began a cycle of work to undertake reviews of the electoral arrangements of each Principal Area in Wales. This included eight completed reviews of electoral arrangements of Principal Areas, for which the LGBCW submitted final reports between 2010 and 2012. The Welsh Ministers have considered the final reports and have agreed they are acceptable. In the normal course, the necessary regulations would be made for implementation of the recommended electoral arrangements.
85. The eight areas are Denbighshire, Powys, Conwy, Ceredigion, Pembrokeshire, Torfaen, Carmarthenshire and Gwynedd. However, the implementation process was disrupted following the publication of an independent report in June 2011 stating the LGBCW was 'unfit for purpose'.
86. As a result, the implementation of the recommendations within these eight reviews was delayed. The outcome of the 2011 report was the 2013 Act which reformed the LGBCW. The 2013 Act included provision which was intended to "save" work undertaken by the LGBCW before the reform and so allow the Welsh Ministers to act on such work already completed. However, there is doubt as to whether it is possible to implement the recommendations of these reviews due to the current wording of section 74 of the 2013 Act.
87. The 2013 Act provides that any review *being conducted* on 30 September 2013 can be implemented by the Welsh Ministers via an order (i.e. regulations). This wording casts doubt about whether the recommendations within the eight reviews above can be implemented, as they had already been conducted and completed before the 30th September 2013.
88. Under this option (Option 1), it may not be possible to implement the recommendations within the eight reviews. If the recommendations are not implemented, the Welsh Government could be criticised for disregarding the work completed.

89. The purpose of the recommendations within the reviews is to bring electoral parity within the Principal Areas reviewed. The reports recommend a small decrease in the number of councillors for the seven Principal Areas Denbighshire, Ceredigion, Conwy, Pembrokeshire, Torfaen, Gwynedd and Powys, and an increase in the number of councillors for Carmarthenshire, therefore, not implementing the recommendations could result in a general perception that these areas are over or under represented, respectively.
90. The proposals for merging Local Authorities notwithstanding, the next ordinary elections (subject to any proposals for voluntary merger from these Authorities) for the eight Local Authorities in question are scheduled for 2017. It would be appropriate for those elections to proceed on the basis of up-to-date electoral arrangements, rather than those which were identified as being in need of change several years previously.
91. An alternative would be for the LDBCW to undertake new reviews of the Authorities in question, incurring the cost that each such review entails.

Option 2 – Introduce legislation to amend section 74 of the Local Government (Democracy) (Wales) Act 2013 to ensure LDBCW reviews on electoral arrangements can be implemented.

92. Under this option (Option 2), any doubt as to the Welsh Ministers' power to implement the recommendations within the reviews would be removed, and the recommendations would be implemented as soon as practicable after the Bill has been passed by the National Assembly.

93. The implementation of the recommendations would bring electoral parity to the eight Principal Areas reviewed; Denbighshire, Powys, Conwy, Ceredigion, Pembrokeshire, Torfaen, Carmarthenshire and Gwynedd. As the reports recommend a small decrease in the number of councillors for seven of these eight areas, it will also result in a small cost saving for these Local Authorities in relation to councillor salaries.

Policy Intention 6: To enable the survey of Local Government councillors and unsuccessful candidates to be conducted prior to elections, and to clarify that a Principal Local Authority can arrange for a third party to conduct the survey on its behalf.

94. Two options have been considered for achieving the policy intent. These are:

- a. Option 1. Do nothing. The current wording of the Local Government (Wales) Measure 2011 would not be amended. Local Authorities would continue to conduct the survey *following* local elections, and it will continue to be *implied* that Authorities must conduct their own surveys as opposed to them being able to utilise third parties to conduct the surveys on their behalf.
- b. Option 2. Introduce legislation to amend the provisions in the Local Government (Wales) Measure 2011 to enable the survey of Local Government councillors and unsuccessful candidates to be conducted prior to elections, and to clarify that Authorities can engage third parties to conduct the surveys on their behalf.

95. Each option is set out below.

Option 1 – Do nothing. The current wording of the Local Government (Wales) Measure 2011 would not be amended. Principal Local Authorities would continue to conduct the survey *following* local elections, and it will continue to be *implied* that Authorities must conduct their own surveys as opposed to them being able to engage a third party to conduct the survey on their behalf.

96. The Local Government (Wales) Measure 2011 (“the 2011 Measure”) requires Authorities to conduct a survey of councillors and unsuccessful candidates after each ordinary election (i.e. election of the whole council) both at Principal Local Authority and community council level.

97. The purpose of the survey is to enable monitoring of the profile of local government candidates and councillors in order to assess the diversity of these groups and to measure the impact of any policies aimed at improving diversity. There is no compulsion on individuals to respond to the survey and the information received in response to a survey is to be kept anonymous.

98. The current wording of section 1(1) and section 1(2) of the Measure requires Authorities to conduct the survey *following* local elections, and this wording *implies* that surveys must be conducted by the Local Authority itself:

- *A Local Authority must, in accordance with regulations under this section, conduct a survey of:*
 - (a) *councillors in its area and*
 - (b) *unsuccessful candidates for election to the office of councillor in its area.*
- *A Local Authority must conduct a survey after each ordinary election to:*
 - (a) *the council of the county or county borough and*
 - (b) *a community council in the Local Authority's area.*

99. A recent report of the Expert Group on Diversity in Local Government highlighted:

- *The Welsh Government should establish a methodology which allows the survey questionnaires to be distributed at the time of handling nomination papers, in advance of the elections.*
- *The Welsh Government should agree with local government that a single research provider, such as the Local Government Data Unit, be employed to conduct the survey on behalf of Local Authorities at the next elections.*

100. The Expert Group further considered that administering the survey following elections in 2012 (2013 in Anglesey) had a negative impact on the overall response rate. It was, however, found that those Local Authorities who had used a third party to administer the questionnaire returned the highest number of responses.

101. Under this option (Option 1), the Local Government (Wales) Measure 2011 would not be amended to reflect the recommendations made by the Expert Group on Diversity in Local Government. Current legislation would provide the survey of councillors and candidates continues to take place after elections, and implies that Authorities must conduct their own surveys as opposed to engaging a third party to conduct the surveys on their behalf.

Option 2 – Introduce legislation to amend the provisions in the Local Government (Wales) Measure 2011 to enable the survey of Local Government councillors and unsuccessful candidates to be conducted prior to elections, and to clarify that Local Authorities can engage third parties to conduct the surveys on their behalf.

102. This option (Option 2) takes into consideration the recommendations of the Expert Group on Diversity in Local Government regarding the Local Government Candidates' Survey.
103. This option amends the provision in section 1 of the 2011 Measure requiring Local Authorities to conduct a survey of elected councillors and unsuccessful candidates "after each ordinary election". The Expert Group concluded that a higher response rate would be achieved if the survey were undertaken before the elections took place, at nomination stage. The option therefore seeks to remove the words "after" and add "in relation to" in section 1(2) of the 2011 Measure.
104. For this proposal to work successfully, this option also seeks to remove the provision in section 1(6) of the 2011 Measure requiring Authorities to arrange for the information in the survey to be provided anonymously. This will help those conducting the survey to identify which responses are from candidates who had been elected and make a separate analysis of these, as is required by the 2011 Measure. The alternative would be to conduct a second survey of those elected to Principal Local Authorities or community councils after the elections.
105. In addition, this option seeks to amend section 1(1) so that instead of each Local Authority being required to conduct a survey, each Local Authority is to be required to "arrange for a survey to be conducted". This would make it clear that Local Authorities can contract with an external provider who might, in turn, conduct surveys on behalf of more than one Authority. This is the preferred option given the high response rates of those Local Authorities who utilised a third party to administer the questionnaire in 2012.

7. Costs and benefits

107. This Chapter analyses the costs and benefits of the options set out at Chapter 6. Costs have been given a financial value and cover the periods as stated. For a number of the policy intentions, the nature of the identified benefits means that a qualitative description of the benefits is presented. Since the benefits can not be quantified, it is difficult to compare the costs and benefits in an objective way and a judgement has to be taken on whether the benefits justify the additional costs.
108. The assessment presents the best estimate of costs based on the information available. A note on the methodology used to estimate costs can be found at Appendix A. A number of assumptions have been used in the analysis and so costs have been rounded to the nearest £1,000 to reflect this.

Policy Intention 1: To ensure a review is undertaken and recommendations are made to the Welsh Ministers for electoral arrangements for any proposed new Principal Areas which the Welsh Ministers have declared they propose to establish prior to the first elections of the Local Authorities for those areas being held.

Option 1. Do nothing: the LDBCW would continue with its existing work programmes but would not be able to undertake reviews of electoral arrangements for any proposed new Principal Areas until those new areas have been established in legislation i.e. in regulations for early, voluntary merger or in a second Local Government (Wales) Bill to be introduced into the National Assembly for Wales in 2016.

Costs

109. Under this option (Option 1), the LDBCW would continue with its other work programmes but would not be able to start work and undertake reviews of electoral arrangements for proposed new Principal Areas until the new Areas have been established via legislation i.e. in the case of voluntary mergers, when the necessary regulations had been made (anticipated for Spring 2016) or, for all other mergers, in a second Local Government (Wales) Bill (to be passed in 2017, subject to the will of the Assembly).
110. If the LDBCW are not empowered to undertake work early, the costs related to the work which would still need to be completed around the electoral arrangements would still be incurred, but concentrated in 2017-2019. The LDBCW would still require £736,000 in additional funding from the Welsh Government to ensure the reviews are conducted in a timely fashion, after the creation of new Authorities. The breakdown of these costs is detailed at Table 1 below. Adding this amount to the current funding level would bring the total cost to the Welsh Government to £2,816,000. This additional funding will enable the LDBCW to increase its overall capacity during this period. The funding will cover additional staff costs and the extra administration costs which will be incurred, such as travel and subsistence, training and IT.

Table 1: Costs to the Welsh Government: funding required for the LDBCW to review electoral arrangements of the proposed new Principal Areas, between 2015 and 2019 (£).

	Total funding requirement, comprising:	Current funding level	Additional funding needed
2015-16	520,000	520,000	0
2016-17	520,000	520,000	0
2017-18	720,000	520,000	200,000
2018-19	1,056,000	520,000	536,000
Total costs	2,816,000	2,080,000	736,000

Benefits

111. There are no benefits associated with this option.

112. This option delays, but does not necessarily avoid the costs of funding the LDBCW to conduct work on considering and making recommendations for electoral arrangements for proposed new areas.

Option 2: Introduce legislation which enables the Welsh Ministers to issue directions to the LDBCW to start work early on the reviews of electoral arrangements for proposed new Principal Areas.

Costs

113. The costs identified under this option (Option 2) are to ensure the LDBCW conduct the required work in time for the staging of the first elections following merger. These will be in May 2018 for Local Authorities formed via a voluntary merger and May 2019 for Local Authorities formed via a second Local Government (Wales) Bill.
114. The Welsh Government has estimated the additional financial costs associated with reviewing the electoral arrangements in time for the first elections as £736,000. This cost will be met by a subsidy paid to the LDBCW by the Welsh Government. Adding this amount to the current funding level would bring the total cost to the Welsh Government to £2,816,000. This additional funding will enable the LDBCW to increase its overall capacity during this period. The funding will cover additional staff costs and the extra administration costs which will be incurred, such as travel and subsistence, training and IT.

Table 2: Costs to the Welsh Government: funding required for the LDBCW to review electoral arrangements of the proposed new Principal Areas, between 2015 and 2019 (£).*

	Total funding requirement, comprising:	Current funding level	Additional funding needed
2015-16	605,000	520,000	85,000
2016-17	716,000	520,000	196,000
2017-18	861,000	520,000	341,000
2018-19	635,000	520,000	115,000
Total costs	2,816,000	2,080,000	736,000

* Due to rounding totals may not add up to the sum of the rows/columns.

Benefits

115. In accordance with this option, legislation would be introduced which enables the Welsh Ministers to issue directions to the LDBCW to begin work early on reviews of electoral arrangements for proposed new Principal Areas, and make recommendations to the Welsh Ministers for electoral arrangements for any new Principal Local Authority which the Welsh Ministers have declared they propose to establish.
116. Under this option, the LDBCW would start undertaking reviews of electoral arrangements for any proposed new Principal Area (whether to be merged voluntarily by regulations, or by a second Local Government (Wales) Bill)

soon after this Bill is passed, in accordance with directions issued by the Welsh Ministers.

117. This option will also allow for the reviews of electoral arrangements for proposed new Principal Areas to be conducted and implemented in good time for the first elections to take place in 2018 for a new Authority established voluntarily by merger regulations; or in 2019 for Authorities established by a second Local Government (Wales) Bill. This option addresses the need to maintain organisational momentum and ensures the new Authorities created by the merger programme are launched on a timely basis. It provides clarity earlier for stakeholders including the public, councillors and candidates and electoral officers. It is also open and transparent as the electoral reviews would be conducted in public by the LDBCW.

Preferred Option

118. Option 2 most sensibly achieves the policy intention. Warding arrangements will be reviewed by an impartial body with expertise and experience relevant to that specific exercise, in time for the first elections to new Principal Local Authorities.

Policy Intention 2: To make determinations about payments for members of the proposed new Principal Local Authorities and members of any Shadow Authority established in advance of new Principal Local Authorities coming into being.

Option 1 – Do nothing: Determinations about payments for elected members serving or holding senior office in a newly merged Authority, and on Shadow Authorities would be completed as part of the IRP’s normal course of work, but could not be commenced until the new Authorities had been established in legislation, which would be Spring 2016 for a new area established by regulations and 2017 for areas established by a second Local Government (Wales) Bill.

Costs

119. Under this option (Option 1), determinations about payments for elected members serving or holding senior office in a newly merged Authority, and elected members serving on Shadow Authorities, would be completed as part of the IRP’s normal course of work. This work could not be commenced until the new Authorities had been established via legislation (Spring, 2016 for an area merged voluntarily by regulations and 2017 for areas merged by a second Local Government (Wales) Bill). This would not allow for determinations about payments for members of the proposed new Authorities to be made sufficiently early, particularly in relation to prospective voluntary mergers and their Shadow Authorities.
120. Any remuneration review would be conducted as part of the IRP’s normal course of work; however, there would be some financial implications to the Welsh Government. The IRP would have to conduct a review expediently once the legislation for the new Authorities had been passed. An additional £20,000 for one year to support meetings, consultations and report writing associated with the review would be required.
121. This option does not provide the IRP with sufficient time to undertake their own research, conduct a thorough evidence-gathering exercise and deliberate, even though practicably a review of sorts could be conducted. Time scales would be compromised, affecting the quality and range of engagement, consultation and reflection of any review, and thus the quality and range of any final reports. Compressing additional working days into the course of a single year would not provide the IRP with appropriate periods of time required to engage, consult or reflect effectively with all the key players.
122. In taking forward a programme of Local Authority mergers, elected members serving or holding senior office in a newly merged Principal Local Authority should be entitled to receive appropriate payments in respect of their responsibilities on a Shadow Authority and from Vesting Day for the new Authority. Under this option, there is a risk this may not happen, particularly with regards to any areas merging voluntarily in 2016. As a consequence, councillors serving on the Shadow and full Authority could be restricted in their ability to perform their duties or not be remunerated appropriately. The period of the Shadow Authority and the first year of a new Authority

exercising its full operations are critical to the long-term success of the new Principal Local Authority. Councillors should not be distracted or prevented from focussing on the key issues that need to be addressed.

Table 3: Costs to the Welsh Government: funding for the IRP, 2017-18.

Grade	Salary (£)	Time (days)	Cost (£)
3 Panel Members	200 (per day)	18	11,000
1 Vice chair	230 (per day)	18	4,000
1 Chair	260 (per day)	18	5,000
Total cost			20,000

123. The Scrutiny, Democracy and Participation Division within the Welsh Government will be required to provide additional secretariat support for the additional days the IRP will need to meet. They will also need to manage additional workload in relation to monitoring the IRPs budget.

Table 4: Welsh Government opportunity costs related to supporting the IRP, 2017-18.

Grade	Gross annual salary (£)	Time (days)	Cost (£)
Policy Official (Grade 7)	69,000	10	3,000
Policy Official (Higher Executive Officer)	41,000	20	3,000
Policy Official (Team Support)	26,000	20	2,000
Total cost			8,000

Benefits

124. There are no benefits associated with this option.

Option 2 – Introduce legislation to enable the IRP to start work early and make determinations about payments for members of the proposed new Authorities and members of any Shadow Authorities established in advance of a new Principal Local Authority coming into being.

Costs

125. The costs of conducting research and reviews in good time to accommodate the proposed Shadow Authorities and new Principal Local Authorities is estimated to be around an additional £20,000 per annum for two years (2016-17 and 2017-18); £40,000 in total. These costs are associated with additional meetings, consultations, and the drafting of reports and would fall to the Welsh Government.

Table 5: Costs to the Welsh Government: funding for the IRP, 2016-17 to 2017-18.

Grade	Salary (£)	Time (days)	Cost (£)
3 Panel members	200 per day	18	11,000
1 Vice chair	230 per day	18	4,000
1 Chair	260 per day	18	5,000
Total annual cost			20,000
Total cost for 2 years			40,000

126. There will also be additional opportunity costs for the Welsh Government in relation to the Scrutiny, Democracy and Participation Division, which provides the secretariat for the IRP during this period.

Table 6: Welsh Government opportunity costs related to supporting the IRP for the years, 2016-17 to 2017-18.

Grade	Gross annual salary (£)	Time (days)	Cost (£)
Policy Official (Grade 7)	69,000	10	3,000
Policy Official (Higher Executive Officer)	41,000	20	3,000
Policy Official (Team Support)	26,000	20	2,000
Total annual cost			8,000
Total cost for 2 years			16,000

Benefits

127. This option (Option 2) provides the IRP with sufficient time to undertake their own research, conduct a thorough evidence-gathering exercise and deliberate. Conducting a review over the course of two years provides the IRP with appropriate periods of time required to engage, consult and reflect effectively with all the key stakeholders.
128. Councillors serving on the newly merged Principal Local Authority, created by way of the current proposals, would be expected to be able to receive payments in respect of their responsibilities and service on the new Authority from Vesting Day. Making determinations about payments to members of proposed new and Shadow Authorities would allow for a framework of remuneration to be in place before new Principal Local Authorities are established. It also provides earlier, clarity for councillors and candidates.
129. This would ensure members of Shadow Authorities and proposed new Principal Local Authorities could be remunerated equitably and appropriately for their new responsibilities, associated with the size of any new Authorities. This option also enables the IRP to impose requirements for avoiding the duplication of payments relating to the official business of members who may serve on both a Shadow Authority and an existing Authority during the same period.
130. This option provides the IRP with the ability to consider fully the impending changes and take into account in their reports, at an additional cost of £20,000.

Preferred Option

131. Option 2 is the preferred option. Whilst it will involve slightly higher costs, it is considered essential that the IRP have sufficient time to make considered decisions about councillor pay before the new Principal Local Authorities and the Shadow Authorities are established.

Policy Intention 3: Put in place joint-working arrangements to ensure effective forward planning with regards to the proposed new Principal Local Authorities. This will include taking measures to discourage and counter negative behaviour.

Option 1: Do nothing: Existing legislation allows Principal Local Authorities, acting on their own initiative, to establish joint committees to consider issues of shared interest or responsibility. Merging Authorities could establish a joint transition committee to prepare for proposed mergers, but they will not be required to establish such committees. Nor would there be anything in legislation to guide the work of such committees. There would be no proposed amendments to legislation to counter and discourage negative behaviour in the run up to merger.

Costs

132. There could be a range of consequences in relation to the new Principal Local Authorities formed by merger if no statutory arrangements for joint working are established and no legislation is made to counter and discourage negative behaviour from taking place in the run up to mergers.
133. The situation is likely to lead to haphazard planning arrangements in relation to the proposed new Authorities. Existing Principal Local Authorities would be free to decide how much resource (if any) should be committed for planning activities for the new Authority.
134. Some Principal Local Authorities may conduct very thorough preparatory work in some subject areas, whilst other subject areas may be ignored altogether. There is a risk, based on historic experience that, some Principal Local Authorities may even adopt a policy of non co-operation and non-negotiation with other Principal Local Authorities involved in a prospective merger.
135. If the newly established Shadow Authorities do not receive adequate advice and information from the existing Authorities in the run-up to their abolition, the Shadow Authorities will not be in a position to make timely and effective decisions on the future planning of the new Principal Local Authorities and will be severely limited in their ability to maximise opportunities to establish quality, cost effective local services.
136. It may also lead to rushed senior staff appointments. If timely advice on workforce planning and Pay Policy Statements is not completed, the new Shadow Authority will need to draw up the Pay Policy Statement from scratch within a short space of time, in order to start the appointment process for the new Principal Local Authority in time for Vesting Day. If it came to public attention the appropriate decision-making processes were not adhered to, it would undermine public and official perceptions of the openness, fairness and transparency of the reform process.
137. There could be some cases where excessive salaries are offered in advertisements in order to attract applications for the new senior posts in the

new Principal Local Authorities. This may have the effect of intensifying long-term public concern about decision-making procedures around Senior Officer's pay.

138. If there are no formal mechanisms in place to ensure the interests of the proposed new Principal Local Authorities are taken into account by existing Principal Local Authorities, there is likely to be rumour and suspicion about the motivations of councillors and officials in taking (or not taking) certain decisions during the run-up to mergers.
139. During previous local government reorganisations in Wales and the UK, rumours circulated that Local Authorities took deliberate action to harm the future interests of the proposed new Authorities. For instance there were rumours existing Authorities entered into financial commitments which might be unaffordable in the long term. If similar rumours circulated during this reform process, without mechanisms for dealing with the activities which could give rise to such rumours, this may have a long lasting damaging effect on the reputation of Local Government in Wales.

Benefits

140. None. It would be left entirely to the existing Principal Local Authorities to prepare, so there would be no re-assurance that the Authorities would work together or plan for and take action on certain issues in the run-up to merger.

Option 2: Legislate to enable the Welsh Ministers to require Principal Local Authorities which have been identified for future merger, to put in place joint transition committees, and issue directions on their operation. Alongside this measure, make provision to discourage and counter various behaviours within Principal Local Authorities, which might bring financial and reputational damage on the new Principal Local Authorities in the run up to merger.

Costs

141. Principal Local Authorities will be required to provide appropriate resources (including support staff) to facilitate the joint transition committee for their new Principal Area. The supporting costs will be approximately £97,000pa per committee to be shared between the constituent Authorities. It will be up to Principal Local Authorities involved in the same merger to decide exactly how this will be split between them. Any such costs will be met from existing Principal Local Authority budgets.

Table 7: Local Government annual costs for each joint transition committee.

Staff/ councillor costs	Estimated gross annual salary (£)	Time	Cost (£)
Local Government Scrutiny Officer (full time)	53,000	100%	53,000
Administration Officer (part time)	26,000	50%	13,000
Councillors – (cost based on 15 members)	18,000 (per councillor)	10% (per councillor)	27,000*
T&S for cabinet members			4,000
Total cost			97,000

*The Bill stipulates that there should be five members per merging Authority. Therefore the average cost will vary depending on the final configuration and whether there are eight or nine Local Authorities. For simplicity, an average cost, based on 15 members per transition committee has been provided. There might be an additional cost in relation to any additional allowance provided to the chair of the transition committee. However this will be for the IRP to determine. It will be for the constituent Principal Local Authorities to decide whether the chair should alternate between the Authorities

142. For Principal Local Authorities merging voluntarily, the merger regulations will stipulate when the transition committees will be established. The working presumption is the committees will be established as soon as practicable after the regulations are made, so probably from around April 2016. For Authorities to be merged by a second Local Government (Wales) Bill, the transition committees will be established, by regulations, as soon as practicable after that Bill has been introduced, so could be from around September 2016. In both cases, the transition committees will formally expire once the “old” constituent Authorities which established them are abolished and the new Authority assumes the full range of functions.

143. It will be necessary for the transition committees to ‘hand-over’ the preparatory work to the Shadow Authority once they have been established. The nature and purpose of this work means that the transition committee’s role (and cost) will diminish over the course of the co-existence alongside the Shadow Authorities to 10% or even zero in the final months. This period of diminishing activity for the transition committees will be between September 2017 and March 2018 for Authorities merging voluntarily and between September 2019 and March 2020 for Authorities merging via a second Local Government Bill.

144. There is an element of uncertainty at this stage around the number of voluntary mergers that will take place. This has an impact on the scale and timing of costs under this option. Table 8 presents two scenarios, the first based on one voluntary merger and six mergers via a second Bill and the second scenario based on one voluntary merger and seven mergers made via a second Bill.

Table 8: All Wales costs for Local Government in relation to joint transition committees (£)*.

Type of merger	2016-17	2017-18	2018-19	2019-20	Total
One voluntary merger/ six via the main mergers programme	388,000	636,000	582,000	320,000	1,926,000
One voluntary mergers/ seven via the main mergers programme	437,000	733,000	679,000	374,000	2,223,000

*A more detailed breakdown of the costs in this table can be found in Appendix A.

145. The committee’s role will be to provide advice on the gaps, discrepancies and duplication between the two merging Authorities. For example, two Local Authorities involved in the same merger may have very similar arrangements in terms of Education and Social Services. They may indeed already have some shared service arrangements in place. They may however have very different arrangements in relation to housing and refuse collection.

146. Senior Officers within existing Principal Local Authorities will also have duties in respect of joint transition committees. They might be required to attend some committee meetings, and may be asked to provide additional information or reports to the committee on their particular area of responsibility. However at the same time these officers will see a corresponding decrease in their responsibilities in respect of planning for the

existing Authorities. It is acknowledged Senior Officers will need to balance the demands on their time carefully.

147. There will also be an opportunity cost to the Welsh Government, in relation to producing the guidance which will be issued to joint transition committees, setting out their exact remit and activities.

Table 9: Costs to Welsh Government in relation to producing guidance for the operation of joint transition committees.

Grade	Annual grade cost (£)	Time	Cost (£)
Policy Official (Deputy Director)	101,000	5 days	2,000
Policy Official Grade 7	69,000	20 days	6,000
Lawyer (Grade 7)	69,000	5 days	1,000
Total			9,000

148. In respect of the requirement for the IRP to consider and make recommendations on Principal Local Authorities Pay Policy Statements in respect of Chief Officers, Welsh Government will incur additional costs. The IRP will need expanded capacity during this period to firstly, prepare guidance for Local Authorities in respect of preparing and agreeing recommendations for a draft Pay Policy Statement and secondly to fulfil the on-going responsibility to make recommendations in relation to any proposed change in a Chief Officer's salary which was not commensurate with the Principal Local Authority's Pay Policy Statement.

149. An additional IRP member will need to be recruited for the four year reform period (2016-17 to 2019-20). They will also need to be provided with additional administrative support from the Welsh Government, these costs are outlined at Table 10 below.

Table 10: Costs to the Welsh Government in relation to increased IRP capacity, 2016-17 to 2019-20.

Grade	Salary (£)	Time	Cost (£)
Executive Officer (Welsh Government support)	30,000pa	Full time	30,000
Additional IRP panel member	200 (per day)	24 days	5,000
Total annual cost			35,000
Total costs for the reform period 2016-17 to 2019-20			140,000

Benefits

150. The main purpose of establishing statutory 'joint transition committees' is to ensure a culture of joint working is established early in the transition process. The committees will examine service and organisational arrangements in the existing Authorities, compare such arrangements between them and present advice to the incoming Shadow Authority about gaps, discrepancies and duplication as is appropriate.
151. They will also provide information, opinions and advice to enable the Shadow Authority and executive to consider and take decisions on matters which will ensure the new Principal Local Authority is able to function effectively from the day the new Principal Local Authority assumes the full range of Local Government functions (Vesting Day). Joint transition committees will help ensure comprehensive preparatory work for the proposed new Principal Local Authorities is completed in the run-up to mergers. This will help ensure the new Principal Local Authorities are in the best possible start position to establish high quality and cost effective services.
152. They will also help reduce the scope for existing Authorities, councillors and officers to engage in negative and damaging behaviour in the run-up to mergers. In advance of the new Shadow Authorities coming into being, the 'joint transition committees' or some other designated person may be directed to offer advice, opinions and recommendations with a view to helping those bodies take decisions which do not bring financial or reputational damage on the new Principal Local Authority.
153. The additional measures taken to discourage and counter negative behaviour taking place in the run up merger should discourage such actions and mitigate any rumours that existing Principal Local Authorities were indulging in damaging or negative behaviour therefore safeguarding against the risk of potential financial and reputational damage to Local Government.
154. The requirements in relation to preparatory work to be completed in relation to Pay Policy Statements will help ensure pay decisions in relation to the new Principal Local Authorities comply with due diligence procedures from the outset.
155. The requirement for the IRP to make recommendations on a Principal Local Authority's Pay Policy Statement in relation to all Chief Officers will strengthen scrutiny around senior officer pay and help safeguard the reputation of Local Government in the run-up to merger and beyond.
156. The requirement for Principal Local Authorities to make available any information relevant to a proposed merger to the other Principal Local Authorities involved in the same merger during the transition period would mitigate any risk of Principal Local Authorities, in the run up to their abolition, causing significant hindrance and disruption by withholding information.

Option 3: Delay addressing the policy intentions until a second Local Government (Wales) Bill. Principal Local Authorities would not be required to set up statutory joint transition committees to prepare for any identified merger until summer 2017. Any proposed legislation whose purpose is to counter and discourage negative behaviour would also be delayed until summer 2017.

Costs

157. Delaying the implementation of the policy intention until a second Local Government (Wales) Bill will result in slightly lower upfront costs for Local Government, however only some of the intended benefits will be realised. The requirement for existing Principal Local Authorities to establish transition committees would be introduced a year later than set out under option 2. In option 2, Principal Local Authorities which have been identified for merger could be required to set up transition committees when a second Bill *is introduced* to the National Assembly (September 2016). Under this option (Option 3), Local Authorities would not be required to set up transition committees until after a second Bill *is passed* in June 2017, subject to the will of the National Assembly.
158. In the case of any voluntary mergers, this would mean no statutory joint transition committees would be established. By Summer 2017, the earliest a second Bill could be passed by the National Assembly, the transition period for any voluntary mergers would have passed and Shadow Authorities would be about to be established. Legislation for the purposes of discouraging and countering negative behaviour would also have limited effect as it would come into force towards the very end of the transition period.
159. Whilst those existing Principal Local Authorities involved in any voluntary merger are likely to be working closely in the transition period, the quality and the consistency of preparatory work undertaken during this period would depend heavily upon on the good faith and foresight of the existing Principal Local Authorities. In the case of any merger being achieved by a second Bill, any changes to legislation would not be introduced until two years before merger, and would therefore have diminished effect.
160. Joint transition committees would have a shorter lifespan (two years as opposed to three years under Option 2) to complete preparatory work. In addition proposed legislation whose purpose is to discourage and counter negative behaviour would be introduced two years before merger, instead of three. Principal Local Authorities involved in mergers will be required to provide appropriate resources to facilitate the joint transition committees as in option 2, which will cost approximately £97,000pa per committee to be shared between the constituent Authorities. The joint transition committees for Principal Local Authorities enacted through a second Bill would also have shorter lifespans.
161. Again (as set out in Option 2) it will be necessary for the transition committees to 'hand-over' primary responsibility for preparatory work to the Shadow Authority once they have been established. It is expected the

transition committees' role (and cost) will diminish to 10% once Shadow Authorities are established. This will be between September 2019 and March 2020.

Table 11: All Wales costs to Local Government in relation to joint transition committees (£).

Type of merger	2017-18	2018-19	2019-20	Total
One voluntary merger/ six via the main mergers programme	291,000	582,000	320,000	1,193,000
One voluntary merger/ seven via the main mergers programme	340,000	679,000	374,000	1,393,000

162. Although the cost of facilitating the joint transition committees may be smaller than identified under option 2, it will mean Local Government will be more pressured to complete important preparatory work in a shorter period of time. Senior Officers may encounter difficulties balancing their workload between the ongoing work within the existing Principal Local Authority and planning for the new Principal Local Authority
163. In relation to the legislation for the purposes of discouraging and countering negative behaviour, introducing legislation later would not be early enough to help mitigate perceptions that existing Principal Local Authorities maybe engaging in damaging and negative behaviour in the run up to mergers.
164. Under this option, the legislation would be introduced as part of a second Bill one year later (summer 2017 instead of summer 2016). This would provide scope for existing Principal Local Authorities (a one year period) to withhold information from any other Principal Local Authority involved in the same merger and also enter into financial arrangements which were not in the best interest of the new Principal Local Authority.
165. In relation to voluntary mergers, there would be no requirement for joint transition committees to be set up. If no preparatory work occurred before the Shadow Authorities were set up in April 2017, they would have to start work urgently to prepare, make and publish a Pay Policy Statement for the new Authority.
166. This would result in a rushed appointment process and could in some cases, lead to a situation where inflationary salaries are offered in advertisements in order to attract the right expertise to the new senior posts in the new Authorities. This may have the effect of intensifying long-term public concern about decision-making procedures around Senior Officer's pay.
167. In addition, the IRP would not be empowered to make recommendations on all existing Principal Local Authorities Pay Policy Statements in relation to all

Chief Officers pay until 2017-18. There would be no additional measures to strengthen scrutiny in this area in place for 2016-17, increasing the risk of reputational damage to Local Government in the run-up to merger and beyond.

168. The IRP would only need increased capacity for three years (as opposed to four years under option 2). Between 2017-18 and 2019-20 there would be an annual cost of £35,000 to the Welsh Government, and an overall cost of £105,000 over the reform period.

Benefits

169. There would be some benefits from this option, however, they will be fewer than under Option 2. Introducing the legislation at this point would ensure there is a requirement for existing Principal Local Authorities identified for future merger via a second Bill to set up joint transition committees two years before merger. It would also, to some extent, mitigate the risk of potential financial and reputational damage to Local Government in the run up to mergers.

Preferred Option

170. Option 2 is the preferred option. Although the cost is expected to be higher, Option 2 will ensure a culture of joint working is established early in the transition process. It will also reduce the scope for existing Authorities, councillors and officers to engage in negative and damaging behaviour during the entire reform process. This will help ensure the new Principal Local Authorities are in the best possible position following merger.

Policy Intention 4: Making provisions to enable the Welsh Ministers to merge two or more Principal Areas and their respective county/county borough councils and to establish a new Principal Area and council in their place.

Option 1. Do nothing: The Welsh Ministers would not be able, by regulations, to merge two or more Principal Areas and their respective county/county borough councils and to establish a new Principal Area and council in their place.

Costs

171. If the Welsh Ministers were unable, by regulations, to merge two or more Principal Areas and their respective county/county borough councils, formal voluntary mergers would not be possible.

172. The Welsh Ministers would not be able to respond to joint requests from Local Authorities to proceed to early, voluntary merger.

173. Forgoing the opportunity to enable voluntary mergers will result in delaying by two years the potential to realise the benefits and cost savings associated with merging (as set out in *Invitation to Principal Local Authorities in Wales to submit proposals for voluntary merger – ‘the Prospectus’*).

Benefits

174. There are no benefits associated with this option.

Option 2. Introduce legislation to include a regulation-making power. This provision would enable the Welsh Ministers, by regulation, to merge two or more Principal Areas, and to establish a new Principal Area and council in their place. Any legislation would also amend section 4 of the Fire and Rescue Services Act 2004 to disapply the requirement to hold a local inquiry where a variation to the boundaries of Fire and Rescue Authorities is made in consequence of voluntary merger.

Costs

175. This option (Option 2) would result in Welsh Government opportunity costs associated with officials drafting the regulations.

Table 12: Welsh Government opportunity costs of making one set of voluntary merger regulations, 2016.

Grade	Gross annual salary (£)	Time (days)	Cost (£)
Deputy Director (Grade 5)	101,000	15	6,000
Senior Lawyer (Grade 6)	86,000	10	4,000
Lawyer (Grade 7)	69,000	40	12,000
Grade 7	69,000	40	12,000
Total estimated costs			34,000 -

176. The Welsh Government is committed to supporting Principal Local Authorities wishing to take part in the early merger process. As part of this commitment, a review of the initial estimates of proposals set out in Local Authorities' expressions of interest and the costs and benefits in the more detailed cases for change to follow, will be considered as part of any RIA conducted should regulations be made as a result of this legislation.

177. At this stage, it is not possible to estimate the Welsh Government costs associated with the process of developing and supporting voluntary mergers (other than the opportunity cost of making eventual merger regulations). However, the Prospectus is clear that the Welsh Government is prepared to help provide 'expert advice' and support on various matters related to voluntary merger. It also suggests tailoring the use of existing funding streams. Where voluntary mergers proceed, there will be direct costs associated with these provisions which will be considered as part of any regulations made as a result of this legislation.

178. The cost of amending section 4 of the Fire and Rescue Services Act 2004 is negligible, and relates only to the resources involved in drafting and passing the provision concerned within the Bill. Should it be necessary, in consequence of any voluntary merger regulations, to amend existing Fire and Rescue Combination Orders, such provision would form part of the merger regulations, the costs of which are detailed within Table 12.

Benefits

179. The Welsh Ministers would have the necessary power to merge two or more Principal Areas and their respective county/county borough councils and to establish a new Principal Area and council in their place.
180. The Prospectus sets out the primary reasons for merging Principal Local Authorities; the financial and other benefits of doing so. If willing Principal Local Authorities were able to merge sooner, by means of voluntary mergers, the benefits of doing so would potentially be realised 2 years earlier.
181. Among the potential benefits of voluntary early merger for Local Authorities are:
- Setting the pace and the standard for sustainable, strong and effective Local Government in Wales;
 - A key role in shaping the future;
 - Realising the benefits of greater capacity and efficiency more quickly;
 - Delivering better services for communities sooner;
 - The opportunity to influence the development of shared support services, accruing cost savings much sooner and retaining these locally to support frontline services;
 - A much shorter period of uncertainty for staff and communities;
 - The status associated with being a forward-looking and progressive Authority which is better able to attract and retain excellent staff and act as a magnet for development;
 - The opportunity to establish a reputation as one of the foremost Authorities, not just in Wales but in the UK, with clear aspirations to deliver the best possible local services for residents; and
 - Only one set of elections, in 2018, rather than elections in 2017 and 2019.
182. Disapplying the requirement to hold a local inquiry where a variation to the boundaries of Fire and Rescue Authorities is made in consequence of voluntary merger potentially eliminates the cost of such an inquiry. The detailed costs of an inquiry regarding FRA boundaries are unknown, since, to our knowledge, no such inquiry has ever taken place in Wales or England. By comparison, the approximate cost of a Parliamentary Boundary Commission public hearing is £32,600. Given the size and population covered by Fire and Rescue Authorities in Wales, the costs could be considerably higher than this.
183. Disapplying the requirement accounts for the possibility that Ministers will need to take swift consequential action as a result of a successful voluntary merger application which involves 2 Principal Local Authorities that straddle Fire and Rescue Authority boundaries. It supports the principle that voluntary mergers should be implemented at pace. A proposal for voluntary merger will itself have been the subject of extensive local consultation with all interested parties, including any affected Fire and Rescue Authorities.

Preferred Option

184. Option 2 is the preferred option. Principal Local Authorities wanting to seize the opportunity to reform will be able to realise the benefits and costs savings associated with merging, two years earlier than if they wait for the main mergers programme. It, therefore, supports the principle that voluntary mergers should be implemented at pace. Disapplying the requirement to hold a local inquiry where a variation to the boundaries of Fire and Rescue Authorities is made in consequence of voluntary merger potentially eliminates the cost of such an inquiry.

Policy Intention 5: Ensure reviews completed by the Local Government Boundary Commission for Wales (“LGBCW”) (renamed the Local Democracy and Boundary Commission for Wales in 2013) between 2010 and 2012 on electoral arrangements for Principal Local Authorities can be implemented by regulation.

Option 1: Do nothing: Do not amend section 74 of the Local Government (Democracy) (Wales) Act 2013 (“the 2013 Act”) which as currently worded may not allow certain reviews conducted by the LGBCW to be implemented by regulation.

Costs

185. Under this option (Option 1), it may not be possible for the Welsh Ministers to implement the recommendations of these reviews. As the purpose of the recommendations within the reviews is to achieve electoral parity within the Principal Areas reviewed, the Welsh Government could be criticised for disregarding the work completed.
186. The recommendations in relation to some, or even all the areas already reviewed, could have a short term impact, given the reform programme. The Welsh Ministers’ proposals envisage all new merged Authorities established by 2020. However, Principal Local Authorities to be merged by a second Local Government (Wales) Bill will have elections (to the existing Authorities) in May 2017 and those elections should take place on the basis of up-to-date electoral arrangements which ensure electoral parity within the area. Under option 1, this would not be achieved. The reviews recommend small reductions in the number of councillors in seven of the eight Authorities (Ceredigion, Conwy, Denbighshire, Pembrokeshire, Torfaen, Gwynedd and Powys), and an increase in the number of councillors in Carmarthenshire. If the reviews are not implemented, there are associated annual costs related to Principal Local Authorities continuing to pay more members than it is considered they need. Assuming all Principal Local Authorities are merged in 2020. Table 12 outlines these costs for the period 2017 – 2020 below.

Table 13: Cost to Local Authorities if reviews are not implemented, 2017 to 2020.

	Existing number of councillors	Proposed number of councillors	Change	Average Annual pay (£)	Annual Cost (£)
Carmarthenshire	74	75	1	18,000	-18,000
Ceredigion	42	37	-5	18,000	90,000
Conwy	59	57	-2	18,000	36,000
Denbighshire	47	42	-5	18,000	90,000
Powys	73	64	-9	18,000	162,000
Gwynedd	75	66	-9	18,000	162,000
Torfaen	44	40	-4	18,000	72,000
Pembrokeshire	60	57	-3	18,000	54,000
All Wales Annual Cost	474	438	-36	18,000	648,000
Total All Wales costs between 2017 and 2020 (3 years)					a. 1,944,000

187. Under this option, the eight reviews relating to Ceredigion, Conwy, Denbighshire, Powys, Pembrokeshire, Torfaen, Gwynedd and Carmarthenshire would have to be conducted again. It is estimated each review costs an average of £10,000. As a result, Option 1 represents additional costs of up to £80,000. Depending on the reform programme, part or all of this cost could be nugatory.

Benefits

188. There are no benefits associated with this option.

Option 2: Introduce legislation to amend section 74 of the Local Government (Democracy) (Wales) Act 2013 to ensure that LGBCW reviews conducted in respect of electoral arrangements can be implemented by regulations.

Costs

189. Following implementation of the reviews, Carmarthenshire would see an increase in councillors. The salary cost associated with this increase in councillors would be absorbed by the Local Authority.

Table 14: Annual costs to Carmarthenshire County Council following implementation of the reviews, 2017 to 2020.

	Existing number of councillors	Proposed amount of councillors	Annual pay (£)	Cost (£)
Carmarthenshire	74	75	18,000	18,000
Total Saving between 2017 and 2020 (3 years)				54,000

Benefits

190. Implementing the recommendations within the reviews will help to achieve electoral parity within the eight existing Principal Local Authorities concerned.

191. Under this option (Option 2), the eight reviews relating to Ceredigion, Conwy, Denbighshire, Powys, Pembrokeshire, Torfaen, Gwynedd and Carmarthenshire would not have to be conducted again. It is estimated each review costs an average of £10,000. As a result, this option represents a cost saving of around £80,000.

192. The recommendations in relation to some, or even all the areas already reviewed, could have a short term impact, given the reform programme. The Welsh Ministers' proposals envisage new merged Principal Local Authorities established by 2020. However, Principal Local Authorities to be merged by a second Local Government (Wales) Bill will have elections (to the existing Authorities) in May 2017 and those elections should take place on the basis of up-to-date electoral arrangements which ensure electoral parity within the area. The reviews recommended small reductions in the number of councillors in seven of the existing Authorities so if implemented there will be a small annual cost saving in relation to a reduction in councillor pay during this period for the Principal Local Authorities.

Table 15: Savings to Local Authorities following implementation of reviews.

	Existing number of councillors	Proposed amount of councillors	Change	Annual pay (£)	Annual Cost saving (£)
Ceredigion	42	37	-5	18,000	90,000
Conwy	59	57	-2	18,000	36,000
Denbighshire	47	42	-5	18,000	90,000
Powys	73	64	-9	18,000	162,000
Gwynedd	75	66	-9	18,000	162,000
Torfaen	44	40	-4	18,000	72,000
Pembrokeshire	60	57	-3	18,000	54,000
Carmarthenshire	74	75	+1	18,000	-18,000
Wales Total	474	438	36	18,000	648,000
Total Wales saving between 2017 and 2020 (3 years)					1,944,000

Preferred Option

193. Option 2 is the preferred option, as the provision achieves electoral parity in the eight areas concerned, and avoids potential costs associated with duplicating work already conducted by the LDBCW.

Policy Intention 6: To enable the survey of Local Government councillors and unsuccessful candidates to be conducted prior to elections, and to clarify that a Principal Local Authority can arrange for a third party to conduct the survey on its behalf.

Option 1. Do nothing. The current wording of the Local Government (Wales) Measure 2011 would not be amended. Authorities would continue to conduct the survey *following* local elections, and it will continue to be *implied* that Authorities must conduct their own surveys as opposed to them being able to utilise third parties to conduct the surveys on their behalf.

Costs

195. There are no additional costs associated with this option.

196. The current methodology, which the Measure necessitates (i.e. administering the questionnaire after elections as opposed to at nomination stage), is not felt to maximise Welsh Government funding provided to Local Authorities to conduct the survey (£40,000 in total across Local Authorities in Wales).

197. This option (Option 1) does not take into account the recommendations of the Expert Group on Diversity in Local Government.

Benefits

198. Although this option is not seen to maximise the monies provided by the Welsh Government to assist Principal Local Authorities in conducting the survey (£40,000 in total), it has been 'tried and tested' and yielded a 33% response rate.

199. Issuing the questionnaire at nomination stage (Option 2) is anticipated to yield a higher response rate. However, Option 2 also enables Principal Local Authorities to ask candidates to identify themselves. This may offset any expected increase in participation. Option 1 does not allow Principal Local Authorities to require candidates to provide their name as part of the survey.

Option 2. Introduce legislation to amend the provisions in the Local Government (Wales) Measure 2011 to enable the survey of Local Government councillors and unsuccessful candidates to be conducted prior to elections, and to clarify that Authorities can engage third parties to conduct the surveys on their behalf.

Costs

200. There are no direct costs associated with amending the 2011 Measure.
201. For this proposal to work successfully, this option (Option 2) also seeks to remove the provision in section 1(6) of the 2011 Measure requiring Authorities to arrange for the information in the survey to be provided anonymously. This will help those conducting the survey to identify which responses were from candidates who had been elected and make a separate analysis of these, as is required by the Measure. The alternative would be to conduct a second survey of those elected to Principal Local Authorities or community councils after the elections.
202. If candidates are asked to identify themselves, this may offset any expected increase in participation. Option 1 does not allow for Principal Local Authorities to ask candidates to provide their name when conducting the survey.
203. If candidates do not choose to identify themselves, it will be impossible to know whether a candidate has been elected or unelected following elections. These returns will only be able to provide an account of Local Government candidates.

Benefits

204. This option provides for Principal Local Authorities to conduct the survey at nomination stage, which is currently not an option under existing legislation. Issuing the questionnaire at nomination stage is anticipated to yield a higher response rate and takes into account the recommendations of the Expert Group on Diversity in Local Government.
205. Maximising the response rate of the survey maximises the monies provided by the Welsh Government to assist Principal Local Authorities in conducting the survey (£40,000 in total). This option is expected to achieve this, and thus may provide an improved understanding of Local Government diversity.
206. Under this option, it will be made clear to Principal Local Authorities they are able to utilise third parties to conduct the survey on their behalf. Utilising a third party is anticipated to further increase the likelihood of an improved response rate. Principal Local Authorities which utilised the Local Government Data Unit when conducting the survey in 2012 returned the highest number of responses. This also takes into account the recommendations of the Expert Group on Diversity in Local Government.

207. Under this option, those conducting the survey would be able to make a judgement as to how they might increase the response rate from Local Government candidates.

Preferred Option

208. Option 2 is expected to generate an increased response rate to the Local Government Candidates Survey as the provision enables a Principal Local Authority to conduct the survey at nomination stage and clarifies that Principal Local Authorities can arrange for surveys to be conducted by third parties. In doing so, the Welsh Government is taking into account the recommendations of the Expert Group on Diversity in Local Government, which felt such changes would increase participation in the survey.

Summary of the costs related to implementing the preferred option

209. The evidence in relation to the identified benefits of implementing the policy intentions is largely qualitative, and therefore a summary is not possible. However, a summary of the quantifiable costs of the preferred options is included below, although there are a few areas (notably policy intention 4) where it has not been possible to produce an estimate at this stage.

Table 16: Summary table of additional Welsh Government costs

	Policy intention	Option	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	Welsh Government costs (£)
Additional funding for LDBCW to conduct reviews*	1	2	85,000	196,000	341,000	115,000	N/A	N/A	736,000
IRP additional funding from Welsh Government to start work early	2	2	N/A	28,000	28,000	N/A	N/A	N/A	56,000
Establishment of joint transition committees**	3	2	9,000	N/A	N/A	N/A	N/A	N/A	9,000
Extending functions of the IRP	3	2	N/A	35,000	35,000	35,000	35,000	N/A	140,000
Drafting voluntary merger regulations	4	2	34,000	N/A	N/A	N/A	N/A	N/A	34,000
Fire and Rescue amendments	4	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Implementation of LDBCW reviews	5	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Local Government candidate survey	6	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Total			128,000	259,000	404,000	150,000	35,000	N/A	£975,000

*Due to rounding the sum of the annual costs may not equal the total Welsh Government cost column

**This total figure is based on the assumption there will be one voluntary merger.

Table 17: Summary table of additional Local Government costs

	Policy Intention	Option	2015-16	2016-17	2017-18	2018-19	2019-20	Local Government costs (£)
Additional funding for LDBCW to conduct reviews	1	2	N/A	N/A	N/A	N/A	N/A	N/A
IRP Funding to start work early	2	2	N/A	N/A	N/A	N/A	N/A	N/A
Establishment of joint transition committees*	3	2	N/A	388,000	636,000	582,000	320,000	1,926,000
Extending Functions of the IRP	3	2	N/A	N/A	N/A	N/A	N/A	N/A
Drafting voluntary merger regulations	4	2	N/A	N/A	N/A	N/A	N/A	N/A
Fire and Rescue amendments	4	2	N/A	N/A	N/A	N/A	N/A	N/A
Implementation of LDBCW Reviews**	5	2	N/A	-648,000	-648,000	-648,000	N/A	-1,944,000
Local Government candidate survey	6	2	N/A	N/A	N/A	N/A	N/A	N/A
Total				-260,000	-12,000	-66,000	320,000	-18,000

*This figure is based on the assumption there will be one voluntary merger and six mergers via a second Local Government (Wales) Bill. If there was one voluntary merger and seven mergers via the second Bill the cost in relation to the establishment of joint transition committees would increase by £297,000,

** The negative figures in this row indicate net savings. It is acknowledged these savings are not shared equally amongst all Local Authorities.

8. Specific impact assessments

210. A number of specific impact assessments have been completed, including a(n):

- Equality Impact Assessment;
- Privacy Impact Assessment;
- Welsh Language Impact Assessment;
- Rural Proofing Impact Assessment;
- United Nations Convention on the Rights of the Child Impact Assessment; and
- Sustainable Development Impact Assessment.

211. All impact assessments are based on the policy intentions as set out in this Bill only.

212. A copy of each of the impact assessments undertaken has been published to the Welsh Government's website and can be found by accessing the following link:

<http://wales.gov.uk/legislation/programme/assemblybills/?lang=en>

213. Should there be any voluntary merger regulations taken forward, a full impact assessment would be conducted at that stage.

214. Local Authorities are under general duties to comply with duties in relation to the equality, privacy, Welsh language and will be required to undertake impact assessments where appropriate.

Key points identified in impact assessments undertaken

215. The policy proposals will help to ensure Principal Local Authorities are enabled to realise the benefits of reform, and maximise opportunities to establish cost effective local services for all citizens. If Principal Local Authorities capitalise upon these opportunities, it is therefore likely to have a positive impact on all protected groups, children, young people and their families, rural communities and support sustainability in the longer term.

216. Establishing transition committees and discouraging and preventing negative behaviour will help to ensure the smooth running of services within Principal Local Authorities from Vesting Day, and ensure the interests of any new Principal Local Authorities are fully taken into account during the preparatory stages of merger.

217. Empowering Welsh Ministers, by regulations to merge two or more Principal Local Authorities, will allow one or more early voluntary mergers to go ahead. It is anticipated this will lead to early realisation of the benefits associated with merging, which will have a positive impact on the delivery of local services.

218. There are also specific impacts in relation to equality, privacy and the Welsh Language.

Equality Impact Assessment

219. There are a number of positive impacts on protected groups if the preferred options are implemented.

220. The requirement for Principal Local Authorities (which have been identified for future merger) to establish joint transition committees will help ensure obligations in relation to the Public Sector Equality Duty are met from the day the new Authorities are established.

221. Amending the provisions in the Local Government (Wales) Measure 2011 to enable the survey of Local Government councillors and unsuccessful candidates to be conducted prior to elections is expected to lead to increased participation in the survey. It is anticipated this will lead to an improvement in the quality of the data received which is used to inform future policies aimed to increase the diversity of Local Government candidates.

Privacy Impact Assessment

222. The Welsh Ministers have broad powers available to them to require a Principal Local Authority in Wales to provide any information in respect of any matter which is in the possession of the Authority. However, to ensure the Welsh Ministers and other Principal Local Authorities have the information required to prepare for merger, there is a provision within the Bill which will require Principal Local Authorities to share all information related to prospective merger with the Welsh Ministers and (relevant) Local Authorities. The type of information shared will not include any personal information. It will include information in relation to workforce planning matters, (but only in relation to identifying existing staffing structures), single status, pensions and pay policies generally, existing service distribution, Council Tax bases, corporate functions, IT systems and existing liabilities and commitments.

223. This Bill also includes a provision related to the Local Government Candidates Survey. An amendment is being included to remove the requirement that the survey is conducted anonymously, in that candidates may be asked to identify themselves when completing the diversity questionnaire. Principal Local Authorities do not necessarily have to conduct the survey in this manner. The legislation will merely provide they can. The Local Government Candidates Survey is voluntary.

224. With regards to this provision, the Data Protection Act puts the onus of compliance on the data controller. In this instance, the data controller is a Principal Local Authority. The Welsh Government will not be processing any personal data and, as such, the DPA will not be engaged.

225. The only potential for the Welsh Government to process personal data would be as a result of the survey return provided to us by the Principal Local Authorities.

The legal basis for this survey is provided by the [Local Government \(Wales\) Measure 2011](#) (Part 1, Chapter 1, Section 1). However, section 2 (6) of the Measure states:

No information received under section 1 or this section is to be published or shared in any form that, either by itself or in combination with any other information, identifies any individual to whom it relates or enables that individual to be identified.

226. This means that, in relation to the information obtained through the survey, the Welsh Government should not be receiving any personal data only non-personal data. Aggregated data will be forwarded by Local Authorities to the Welsh Government which will not identify individuals. The possibility of identifying individuals through analysis of the data is no greater than previously existed.

Welsh Language Impact Assessment

227. One positive impact has been identified. Guidance issued under the Bill will require joint transition committees to ensure Welsh language considerations are taken into account in relation to the strategic and organisation arrangements for the new Principal Local Authorities. It will provide a valuable opportunity for awareness of Welsh language considerations to be part and parcel of the working culture of the new Authority from the very start.

Other impacts

228. Note was taken of the guidelines for assessing the impact of policy on a) the environment and b) biodiversity. Review suggests that there is no need to complete a full impact assessment on either of these topics.

9. Competition assessment

229. The provisions within the Bill will not affect business, or charities and/or the voluntary sector in ways which raise issues related to competition. The competition filter has not been applied.

10. Post implementation review

230. The monitoring and evaluation arrangements stated here reflect that the intended purpose of the Bill is to facilitate preparatory work for the Reforming Local Government Programme and to enable the Welsh Ministers to facilitate voluntary mergers.
231. The work of the Local Democracy and Boundary Commission for Wales will continue to be monitored as it is currently by the Welsh Government through evaluating the reports received from the external and internal auditors of the Commission. The Welsh Government is also represented on the Commission's Audit and Risk Assurance Committee. Officials will continue to hold regular liaison meetings with the Commission's secretariat in order to monitor progress towards the Commission's objectives. The Commission's annual report is also laid before the National Assembly for Wales for scrutiny.
232. The work of the Independent Remuneration Panel will continue to be monitored as it is currently through Welsh Government officials providing administrative support and guidance to the IRP, as well as the Welsh Government continuing to control the IRP's budget. IRP members are appointed by the Welsh Ministers, and the Welsh Ministers will remain as statutory consultees for any report produced by the IRP.
233. Welsh Government officials will work closely with the Principal Local Authorities that submit proposals to the Welsh Ministers to merge voluntarily. The monitoring arrangements relating to the actual effectiveness of voluntary mergers should they happen, would be outlined as part of the detailed Regulatory Impact Assessment which would accompany any voluntary merger regulations. The provisions in this Bill simply provide the Welsh Ministers with the powers to make regulations, if required.
234. The effectiveness of established transition committees in facilitating joint working arrangements will be monitored by Welsh Government officials. The Welsh Ministers will issue guidance setting out the exact remit and expected activities of the transition committees, to which the committees must have regard. Implementation of the guidance will be closely monitored by the Welsh Government through regular dialogue with the Authorities. The Welsh Government also expects the transition committees to be run effectively, and in much the same way as other Local Authority committees are, for example, in terms of the role of the Chair, the transparency of the meeting arrangements and the publication of information (agendas, papers, minutes, etc.).
235. The provisions in the Bill to discourage and counter negative behaviour in relation to financial transactions or agreements will act as a safeguard against any activity that may hamper joint working arrangements. The arrangements are intended to ensure that relevant decisions are taken in an open and transparent way, with local members and local people given the opportunity to scrutinise the decisions.

Appendix A

METHODOLOGY AND COSTINGS

Assumptions

236. The estimates of the costs are based upon a robust and transparent methodology. However they are necessarily a forecast of the future. To reflect this, all the costs presented in the RIA have been rounded to the nearest £1,000 to reduce the risk of spurious precision in the analysis.

Welsh Government Costs

237. Welsh Government staff costs are gross figures and include on-costs such as those associated with IT, premises, employers NI contributions. All figures are presented in real terms and are based on 2014-15 pay scales.

238. Costs, for any given task are estimated by multiplying the appropriate wage rate by the number of days required to complete the task for each grade. The total cost of the task is the sum of the costs for each staff grade.

Outside Organisation Costs

239. LDBCW estimated costs have been provided by the organisation. These are 'actual costs' and have taken into account any rise in staff and operational costs in future years including uplifts in employers NI contributions.

240. IRP costs are estimated by multiplying the 'day rate' for each panel member by the number of days required to complete the task. In addition, an estimate of the T&S cost is included.

31. Table 18 and 19 provide a more detailed explanation about the costs of transition committees included in Table 8. A number of assumptions have been made when estimating the cost:

- The annual cost of transition committees per planned merger will be £97,000 (as set out in Table 7).
- Transition committees in relation to voluntary mergers will be established April 2016 and will run at full cost until September 2017 (18 months). During the final 6 months of their existence (October 2017-March 2018) the cost will be diminished to 10% (as committees hand-over the preparatory work to Shadow Authorities – see paragraph 142).
- Transition committees in relation to the main mergers programme will be established October 2017 and will run at full cost until September 2019 (3 years). During the final 6 months of their existence (October 2019 – March 2020) the cost will be diminished to 10% (see above and paragraph 142).

Table 18: Scenario 1: Costs of transition committees if there is one voluntary merger and six mergers via the main mergers programme (£)

	2016-17	2017-18	2018-19	2019-20	Total cost (£)
One Voluntary Merger	97,000	54,000*	-	-	151,000
Six via the Main Mergers Bill	291,000	582,000	582,000	320,000**	1,775,000
Total	388,000	636,000	582,000	320,000	1,926,000

*The one transition committee in respect of voluntary mergers will be running at full cost for the first six months of 2017-18 (April 2017-September 2017) at a cost of £49,000. The cost will be diminished to 10% during the last six months of 2017-18 (October 2017-March 2018) at a cost of £5,000. The total cost for 2017-18 is, therefore, £54,000.

** The cost of six transition committees in respect of the main mergers will be running at full cost for the first six months of 2019-20 (April 2019- September 2020) at a cost of £291,000. The cost will be diminished to 10% during the last six months (October 2019-March 2020) at a cost £29,000. The total cost for 2019-20 is £320,000.

Table 19: Scenario 2: Costs of Transition Committees if there is one voluntary merger and seven mergers via the main mergers bill (£)

	2016-17	2017-18	2018-19	2019-20	Total (£)
One voluntary merger	97,000	54,000*	-	-	151,000
Seven via the main mergers programme	340,000	679,000	679,000	374,000**	2,072,000
Total	437,000	733,000	679,000	374,000	2,223,000

*The one transition committees in respect of voluntary mergers will be running at full cost for the first six months of 2017-18 (April 2017-September 2017) at a cost of £49,000. The cost will be diminished to 10% during the last six months of 2017-18 (October 2017-March 2018) at a cost of £5,000. The total cost for 2017-18 is therefore £54,000.

** The cost of seven transition committees in respect of the main mergers will be running at full cost for the first 6 months of 2019-20 (April 2019- September 2020) at a cost of £340,000. The cost will be diminished to 10% during the last six months of 2019-20 (October 2019-March 2020) at a cost £34,000. The total cost for 2019-20 is £374,000.

LOCAL GOVERNMENT (WALES) BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Local Government (Wales) Bill introduced into the National Assembly for Wales on 26 January 2015 and amended following Stage 2 proceedings on 24 June 2015. They have been prepared by the Department for Local Government and Communities of the Welsh Government to assist the reader.
2. The Explanatory Notes should be read in conjunction with the Bill. They are not meant to be a comprehensive description of the Bill. Where an individual section of the Bill does not require any explanation or comment, none is given.

COMMENTARY ON SECTIONS

Section 1 – Overview

3. This section provides an overview of the key provisions of the Bill and sets out what the Bill seeks to achieve.

Section 2 – Main definitions

4. This section defines the main terms used in the Bill.

Sections 3 to 10– Voluntary mergers of local authorities

5. These sections make provision for the voluntary merger of two or more principal local authorities to create a new principal local authority and the abolition of the existing authorities involved in the voluntary merger.

Section 3 – Proposals for merger

6. Section 3 enables two or more principal local authorities to make a joint application to the Welsh Ministers, by 30 November 2015 or by another date specified by the Welsh Ministers through regulations, proposing they come together through voluntary merger to create a new principal local authority. The decision to make an application will be the responsibility of the full council of each of the local authorities making the joint application; subsection (2) means this is a function which may not be discharged by the executives of those local authorities.
7. Section 3(4) allows for applications to be received before the Bill receives Royal Assent and for any such applications to be treated as if they were received after the Bill comes into force. This is to enable sufficient time to consider applications before the making and approval of merger regulations before the Assembly rises at the end of March 2016 for the May 2016 Assembly elections, enabling new principal local authorities to be in place by April 2018.

Section 4 – Consultation before merger application

8. Section 4 requires principal local authorities, prior to submitting an application for merger, to consult with a range of stakeholders likely to be affected by the proposal

These notes refer to the Local Government (Wales) Bill which was amended following Stage 2 proceedings on 24 June 2015.

to merge voluntarily. The stakeholders to be consulted include: members of the general public, affected principal local authorities and community councils; a National Park authority; the local chief officer of police and the police and crime commissioner; the local fire and rescue authority, the local health board, all of the trades unions recognised by the principal local authorities making the proposal and any other person considered appropriate to consult with.

9. The consultation must be completed before an application for voluntary merger can be submitted to the Welsh Ministers, but consultations undertaken before the Bill comes into force will be treated as if having been undertaken after it has come into force. This is to enable sufficient time for the making and approval of merger regulations ahead of the Assembly elections in 2016, enabling new principal local authorities to be in place by April 2018.

Section 5 – Guidance about merger applications

10. Section 5 concerns the power of the Welsh Ministers to issue guidance to principal local authorities in respect of what is required from the authorities in submitting a joint application for voluntary merger, including guidance in respect of the objectives of making an application; guidance on matters the principal local authorities will need to consider in formulating an application; guidance on how the consultation detailed under section 4 should be carried out; and any other guidance pertinent to the development of an application under section 3. Subsections (2) and (3) require principal local authorities to have regard to any guidance issued by the Welsh Ministers in respect of an application for a voluntary merger, and this requirement can be met by having regard to guidance issued before the Bill comes into force.

Section 6 – Power to make merger regulations

11. Section 6 of the Bill provides the Welsh Ministers with the power, where a joint application for voluntary early merger has been made to them, to make regulations to abolish two or more principal areas and dissolve their respective county/county borough councils and establish a new single principal area and council in their place. Merger regulations must include provisions for the constitution of the new area that the new principal authority will cover and the abolition of the existing areas of the merging principal local authorities, the boundary of the new principal area, the English and the Welsh names of the new principal area, whether the new principal area is to be a county or county borough, the establishment of a new principal authority and provisions for the winding up and dissolution of the merging authorities.
12. Section 6(3) and (4) require the merger regulations to specify the name of the new principal local authority. Where the new principal area is to be a county, the name of the principal local authority must include the words “County Council” or “Council” in English and “Cyngor Sir” or “Cyngor” in Welsh. Where the principal area is to be a county borough, the name of the principal local authority must include the words “County Borough Council” or “Council” in English and “Cyngor Bwrdeistref Sirol” or “Cyngor” in Welsh.

Section 7 – Shadow authorities

13. Section 7 of the Bill requires merger regulations to include provision for the establishment of a shadow authority made up of all the members of the principal

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local authorities which submitted the joint application for voluntary merger. The merger regulations must include provision to require the shadow authority to appoint a shadow executive, specifying the functions of the shadow authority and shadow executive and how these functions will be exercised during the shadow period, and make provision for the shadow authority and shadow executive to become the principal local authority and its executive for the pre-election period.

14. This means between the time when a new principal local authority assumes responsibility for its functions, likely to be on 1 April to coincide with the start of the financial year, and the elections themselves taking place, on the first Thursday in May, the shadow authority will become the new principal local authority as elections to the new principal local authority will not have occurred and the old, merging principal local authorities will have been abolished on the 31 March.
15. For example, if the abolition of the principal local authorities merging voluntarily were to occur on the 31 March 2018 with vesting day (the day on which an authority assumes responsibility for its functions) for the new principal local authority on the 1 April 2018, the shadow authority will become the new principal local authority until the fourth day after the first ordinary elections to the new principal local authority (7 May 2018), when the new councillors will comprise the new principal local authority.
16. Section 7(2) and 7(3) provide the definitions for “shadow period”, being the period from which the shadow authority and shadow executive first exercise functions under the merger regulations to the transfer of full responsibilities on 1 April 2018, and the “pre-election” period, being the period between the date on which the new principal local authority assumes responsibilities (1 April 2018, also referred to as “vesting day”) and three days after the first ordinary elections to the new principal local authority, whereupon the newly elected councillors will take over and the councillors inherited from the shadow authority will stand down.
17. Section 7(4) concerns the Welsh Ministers’ power to issue guidance to shadow authorities and shadow executives, established under the merger regulations, about their functions and requires the shadow authority and shadow executive to have regard to such guidance.

Section 8 – Elections and councillors

18. Section 8 enables merger regulations to include provision to cancel ordinary elections to principal local authorities merging voluntarily and to extend the term of office for the councillors of these authorities; provision to disapply, for a time period specified in the merger regulations, existing legislation which calls for a by-election to be held to fill casual vacancies on the council for those principal local authorities merging voluntarily; and provision to set the date for the first ordinary elections to the new principal local authorities and the term of office for the councillors elected through that election. The provision to disapply the requirement to fill a casual vacancy is required to prevent a situation whereby a by-election might be required to be held just days before the abolition of the existing principal local authorities, which would be a waste of money and resources.
19. Section 8(d) enables merger regulations to include provision to postpone ordinary elections for community councils in the new principal local authority and to extend

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the terms of office of existing community councillors. The usual practice is for ordinary elections for community councils to be combined with and held at the same time as ordinary elections for principal local authorities for efficiency purposes. Section 8(d) therefore enables ordinary elections to community councils in merging authorities to be moved to coincide with the new date for ordinary elections to the new principal authority, which should save money and resources.

Section 9 – Mayor and cabinet executive model authorities

20. Where one or more of the merging principal local authorities is operating or has made proposals to operate a mayor and cabinet executive arrangement, section 9(1) enables the merger regulations to include provision requiring the shadow authority to hold a referendum on whether the new principal local authority should operate a mayor and cabinet executive arrangement. Section 9(2) enables merger regulations to include provision to prevent a merging authority developing proposals to operate a mayor and cabinet executive arrangement as this may cause delay or frustrate the merger process.

Section 10 – Other consequential etc. provisions

21. Section 10 enables the Welsh Ministers to include such supplementary, incidental, consequential, transitional and saving provision as they consider appropriate within the merger regulations, and to make regulations of general application containing supplementary, incidental, consequential, transitional and saving provision for the purposes of merger regulations or to give full effect to merger regulations. The section sets out a number of specific uses of these powers, and provides that the rights and liabilities which may be transferred in accordance with these regulations include rights and liabilities under a contract of employment and that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to a transfer of staff made under these regulations.
22. In Wales there are three combined Fire and Rescue Authorities (FRAs) made up of the 22 principal local authority areas and these were created by combination orders made under the Fire Services Act 1947. Under the Fire and Rescue Act 2004 the Welsh Ministers may vary or revoke combination orders. However, if the relevant FRA or local authority affected by the change to the combination order, do not agree to the change, the Welsh Ministers have to cause an inquiry to be held into the proposed variation. Section 10(10) suspends the requirement for an inquiry to be held to revoke or amend a Fire and Rescue combination order where the proposed changes are a consequence of a voluntary merger. This is to prevent delays to the merger programme.
23. Section 10 also enables the Welsh Ministers to, by regulation, vary merger regulations or regulations made under section 10(11) and to vary or revoke regulations of general application devised under section 10(2).

Sections 11 to 15 – Transition committees

24. These sections provide for the establishment of transition committees and for their composition and functions. These provisions apply to authorities merging by

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voluntary merger under the Bill and mergers which might be given effect by other legislation.

Section 11 – Transition committees

25. Section 11 places a duty on the Welsh Ministers to make regulations to require the merging authorities to establish a transition committee (one for each proposed new principal area).

Section 12 – Composition of transition committees

26. Section 12 makes provision for the composition of the transition committees. A transition committee is to be made up of representatives from merging authorities. There must be an equal number of members from each merging authority on the committee, with a minimum number of 5 members per authority. The total number of members must be agreed by the merging authorities, but where an agreement cannot be reached, the Welsh Ministers will determine the size of the committee. The executive leader of each of the merging authorities must be a member of the transition committee; and where the executive leader does not have executive responsibility for finance, both the executive member responsible for finance and the executive leader must be appointed to the transition committee. A transition committee may co-opt additional people to serve as members on the committee but without voting rights. A merging authority's membership of a transition committee must reflect the political balance of the merging authority, in accordance with the requirements set out in the Local Government and Housing Act 1989.

Section 13 – Functions of transition committees

27. Section 13 makes provision for the functions of a transition committee. It requires a transition committee to advise and make recommendations to the merging authorities and to the shadow authority for the new principal area for:
- The economic, effective and efficient transfer of functions, staff and property rights and liabilities from the merging authorities to the new principal local authority,
 - ensuring the new principal local authority and its staff are in a position to carry out its functions effectively from the time when it assumes them; and
 - any other purpose which the Welsh Ministers specify through directions.
28. Section 13(2) to (4) enables the Welsh Ministers to give directions to transition committees to exercise their functions in accordance with the direction. The direction can apply to a single transition committee, every transition committee of a particular description detailed within the direction or to all transition committees. A transition committee must comply with the directions given and a direction made under subsection (2) can, at any time, be revoked or varied by another direction.
29. Section 13(5) concerns the power of Welsh Ministers to issue guidance to transition committees on the exercise of their functions; and a transition committee must have regard to any such guidance.
30. Section 13(6) prevents an audit committee or an overview or scrutiny committee of a merging authority from carrying out its functions in respect of the work of the transition committee.

These notes refer to the Local Government (Wales) Bill which was amended following Stage 2 proceedings on 24 June 2015.

Section 14 – Sub-committee of transition committees

31. Section 14 enables a transition committee to establish one or more sub-committees to provide the transition committee with advice on matters the transition committee refer to it. The membership of a sub-committee is to be determined by the transition committee but any appointed person who is not a member of the merging local authorities will not be entitled to vote.

Section 15 – Provision of funding, facilities and information to transition committees

32. Section 15 requires the merging authorities to meet the costs of the transition committees. The merging authorities must agree the apportionment of the cost to be absorbed by each of the merging authorities, and where an agreement cannot be reached, the Welsh Ministers will determine the proportion of cost to be borne by each authority. This section also requires the merging authorities to provide facilities, resources (including staff), and information reasonably requested, to the transition committee or any sub-committee of a transition committee, to enable the committee to undertake its functions.

Sections 16 to 23 – Electoral arrangements etc. for the new principal area

33. Sections 16 to 23 make provision in respect of the Local Democracy and Boundary Commission for Wales (the Commission) and the conduct of initial reviews of electoral arrangements for proposed new principal areas. These provisions apply in relation to authorities merging by voluntary merger under the Bill and mergers given effect by other legislation. The Commission's structure and functions are set out in the Local Government (Democracy) (Wales) Act 2013 and its role is to keep all local government areas in Wales and the electoral arrangements for the principal areas under review.
34. Currently, the Commission can only conduct reviews of the electoral arrangements of an existing principal area. Section 16 enables the Welsh Ministers to direct the Commission to conduct an initial review of the electoral arrangements of a proposed principal area.
35. Subsections (2) to (5) of section 16 provide definitions of key terms used within these sections of the Bill. The term "constitution" in section 16(3)(b) relates to the make-up of councils, not their legal constitution.

Section 17 – Directions and guidance to Commission

Section 17 makes provision for the matters which must or can be addressed within a direction made under section 16. Within any such direction, the Welsh Ministers must specify the date by which the Commission must provide its report on its initial review of a proposed principal area and may include details on specific matters the Commission must have regard to when conducting an initial review. The Welsh Ministers are also enabled to issue general directions to the Commission on carrying out initial reviews, including the order in which the Commission must carry out the individual reviews; however, before issuing a general direction, the Welsh Ministers must consult the Commission and any association which the Welsh Ministers consider to be a representative of local authorities.

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36. Section 17 also enables the Welsh Ministers to vary or revoke any direction issued to the Commission by way of a subsequent direction. It also enables the Welsh Ministers to issue a further direction to the Commission on a proposed principal area after the Commission has conducted and reported on an initial review of that same proposed principal area.
37. The Commission is required to comply with a direction given to it under sections 16 or 17 of the Bill and must also have regard to any guidance the Welsh Ministers issue to it about the conduct of an initial review of a proposed principal area.

Section 18 – Conduct of initial review

38. Section 18 makes provision for the conduct of an initial review of a proposed principal area by the Commission. When undertaking an initial review the Commission must seek to ensure effective and convenient local government, the definition of which may be provided under directions and guidance issued under section 17 of the Bill.
39. The Commission must try to ensure that the ratio of local government electors to elected members for a proposed principal area remains, as much as it can, the same in every electoral ward of the proposed principal area, resulting in each elected member representing the same number of electors. The Commission is also required to have regard to the desirability of fixing electoral ward boundaries which are easily identifiable, and which do not cut through identified local boundaries. Differences in the number of eligible electors and the actual number of persons registered to vote, along with any likely change in the number or distribution of local government electors within a proposed principal area that is due to take place within 5 years of the recommendations of the report being published, must also be taken into account.
40. The purpose of an initial review is to devise proposals and make recommendations for the electoral arrangements for a proposed principal area. In undertaking the review, the Commission may also propose and recommend changes at a community level, but only where such changes are consequential on what is proposed or recommended for the proposed principal area's arrangements. If the Commission considers that such consequential changes are appropriate at community level it must take account of considerations similar to those which apply to its consideration of the arrangements at the principal area level. The considerations in respect of such consequential changes are set out in subsections (5) to (8) of section 18.

Section 19 – Pre-review procedure

41. Section 19 requires the Commission, during the period before conducting an initial review, to make mandatory consultees, as defined by subsection (3), and any other individuals considered likely to be interested in the review, aware of the direction from the Welsh Ministers to conduct the review or any other directions issued relating to the review. During the pre-review period the Commission is also required to consult the mandatory consultees on the intended procedure and methodology of the initial review, particularly in relation to the proposed method of determining the appropriate number of elected members for the principal local authority for the proposed principal area.

These notes refer to the Local Government (Wales) Bill which was amended following Stage 2 proceedings on 24 June 2015.

Section 20 – Consultation and investigation

42. In conducting an initial review of a proposed principal area the Commission must undertake whatever investigations it considers appropriate and prepare a report the outlining its conclusions and proposals for the electoral arrangements of the proposed principal area. The report must contain details of the review which has been conducted.
43. The Commission is required to publish online its initial report, send it to certain specified persons, make it available for inspection in specified places for a period of not less than 6 weeks and not more than 12 weeks (the period for representations), and invite representations on its proposals within that report from the Welsh Ministers, the mandatory consultees and any other person considered appropriate by the Commission.

Section 21 – Reporting on initial review

44. Following the period for representations the Commission is required to re-consider its initial report, in light of any comments and feedback received, and must then prepare a further report including recommendations for the electoral arrangements for the proposed principal area, any consequential recommendations to community boundaries and wards, details of the approach taken in conducting the review and subsequent consultation, and details of any changes made to the initial report in light of any representations made to it.
45. The Commission must submit the report and its recommendations to the Welsh Ministers, publish the report online, make it available at the offices of the principal local authorities involved in the merger for at least 6 weeks without charge, issue a copy of the report to the mandatory consultees, Ordnance Survey and those individuals who submitted evidence or made representations in connection with the initial report.
46. Ordinarily no recommendations are to be made or published in connection with electoral arrangements reviews in the 9 months before an ordinary election to ensure preparations for an ordinary election are not confused by the publication of alternative electoral arrangements. However, due to the timescales for mergers, section 21(5) suspends the relevant provision of the Local Government (Democracy) (Wales) Act 2013 for recommendations made by the Commission in relation to a proposed principal area.

Section 22 – Implementation by Welsh Ministers

47. Section 22 enables the Welsh Ministers, having received a further report from the Commission, to make regulations to implement the recommendations or a form of the recommendations contained within the further report. Such regulations may not be made until at least 6 weeks after the further report. If the Welsh Ministers wish to modify the recommendations before implementing them, they must consider the matters set out in section 18 and must be satisfied that the modification is needed. The Commission is required to provide the Welsh Ministers with any relevant information about the recommendations that they may reasonably require, and Ministers are able to vary or revoke regulations implementing recommendations through subsequent regulations.

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Section 23 – Electoral regulations if no recommendations made

48. Should the Commission be unable to provide a further report, including recommendations, within the time limits given by the Welsh Ministers in their initial direction, section 23 enables the Welsh Ministers to make regulations setting out the electoral arrangements of a proposed principal area, and any relevant consequential changes, in the absence of recommendations from the Commission. Where such circumstances arise, the Commission must provide the Welsh Ministers with any information gathered to date in respect of the initial review. The Commission would also be required to conduct its first review of the electoral arrangements for the proposed principal area, as required by section 29 of the Local Government (Democracy) (Wales) Act 2013, as soon as possible after the first ordinary election of the council for that area and before the next elections of the council for that area.
49. The Welsh Ministers may, by subsequent regulations, vary or revoke regulations made under this section.

Section 24 – Future review periods

50. Section 29 of the Local Government (Democracy) (Wales) Act 2013, requires the Commission to conduct a review of the electoral arrangements of each of the principal areas within a 10-yearly review period, starting from September 2013. The reform programme envisages the creation of new principal authorities to be completed by April 2020, with each new authority requiring new electoral arrangements to be in place before that date. Section 24 enables the Welsh Ministers to re-set the start of the Commission's 10-year review period, so that it will run from new date following completion of the merger programme.

Sections 25 to 27 - Remuneration etc. arrangements for new principal local authorities

51. Sections 25 to 27 make provision in respect of the Independent Remuneration Panel for Wales (the Panel) and its functions in relation to payments to members of shadow authorities and new principal local authorities, whether established through voluntary merger or otherwise. The Panel was established in 2007 and has statutory responsibility for determining the range and level of allowances payable to elected members of principal local authorities, members of National Park Authorities, Fire and Rescue Authorities and community and town councils.

Section 25 – Directions to the Panel to perform relevant functions

52. Currently, the Panel can only carry out its functions (which include making determinations about payments) in relation to elected members of a principal local authority already established by statute. Section 25 enables the Welsh Ministers to direct the Panel to carry out its functions (which are the functions under sections 142 and 143 of the Local Government (Wales) Measure 2011) in relation to determining the pay and pensions for members of a shadow authority and members of a proposed principal local authority for the first financial year of its operation. Thus Part 8 of the 2011 Measure applies (with modifications) to a shadow authority as well as to a principal local authority.
53. In making determinations about payments to members of shadow authorities, section 25(4)(a) requires the Panel to take into account the financial impact of doing

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so on the shadow authorities themselves; a similar consideration will apply to making determinations for new principal local authorities.

54. Section 25(4)(b) has the effect that the Panel will be required to impose requirements to avoid the duplication of payments to those who are members of more than one authority at the same time (such as being members of a merging authority and of the related shadow authority at the same time).
55. In the case of a voluntary merger, the new principal local authority will come into being from 1 April 2018. It is envisaged that the members of the shadow authority will become the members of the new principal local authority for the first few weeks of its existence, exercising the full range of functions of that new authority. Following the first elections to the new authority (probably to be held in May), a new body of elected members will take over, and the members inherited from the shadow authority will stand down. Subsection 25(5) addresses this by enabling the Panel, in making determinations for the first financial year of the new authority, to make different determinations for the periods before and after the first set of elections.

Section 26 – Reports of Panel

56. Section 26 requires the Panel to include its first determinations on pay and pensions for members of a proposed new principal local authority in the annual report of the Panel relating to the first financial year of the principal local authority. The first determinations for members of a shadow authority may be included in either an annual or supplementary report. However the report, including the first determinations, must be published no later than 6 weeks before the shadow authority is established or elected.

Section 27 - Directions and guidance to Panel

57. Section 27 provides that a direction under section 25 may be varied or revoked by a subsequent direction and requires the Panel to comply with any direction given by the Welsh Ministers under section 25. It also addresses the Welsh Ministers' power to issue guidance to the Panel about exercising its functions under sections 25 and 26 and requires the Panel to have regard to any such guidance.

Section 28 - Pay policy statements

58. Section 28 requires a shadow authority of merging local authorities to prepare and approve a pay policy statement (as provided for under the Localism Act 2011) for the shadow period and for the first financial year of the new principal local authority. The purpose is to ensure the shadow authority has in place a public statement which articulates the authority's policies towards a range of issues relating to the pay of its future workforce, particularly its chief officers and its lowest paid employees. To assist the shadow authority, subsection (1) requires a transition committee of merging local authorities to publish recommendations for the shadow authority on the pay policy statement to be prepared by the shadow authority, no later than 42 days before the day the shadow authority is established or elected. Shadow authorities are prohibited from appointing a chief officer until the pay policy statement has been prepared and approved.
59. The term "chief officer" has the same meaning as in section 43(2) of the Localism Act 2011 and covers the following officers of a principal local authority:

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- the head of paid service (designated under section 4(1) of the Local Government and Housing Act 1989 (“the 1989 Act”))
- a monitoring officer (designated under section 5(1) of the 1989 Act)
- a statutory chief officer mentioned in section 2(6) of the 1989 Act, i.e.:
 - director of children’s services
 - director of public health
 - chief education officer
 - director of social services
 - officer responsible for the administration of the authority’s financial affairs
- a non-statutory chief officer mentioned in section 2(7) of the 1989 Act, i.e.:
 - a person for whom the head of paid service is directly responsible
 - a person who, as respects all or most of their duties, is required to report directly or is directly accountable to the head of paid service
 - any person who, as respects all or most of their duties, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority
- a deputy chief officer mentioned in section 2(8) of the 1989 Act, i.e. a person who, as respects all or most of their duties, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers. This does not include a person whose duties are solely secretarial or clerical or otherwise in the nature of support services.

60. Subsection (6) concerns the Welsh Ministers’ power to issue guidance to the transition committees and shadow authorities in respect of the performance of their duties under this section, and the shadow authority and transition committee must have regard to any such guidance.

Sections 29 to 36 – Restraints on transactions and recruitment etc. by direction

61. Sections 29 to 36 provide the Welsh Ministers with powers to restrain and control certain activities of merging local authorities. These provisions apply to authorities merging by voluntary merger under the Bill and mergers given effect by other legislation.

Section 29(1) – Restricted activities

62. Under section 29(1) the Welsh Ministers may direct a merging authority not to undertake a “restricted activity” without either considering the opinion, or obtaining the written consent, of the person specified in the direction. The persons that can be so specified are such authorities or persons as the Welsh Ministers consider appropriate, which may include the Welsh Ministers themselves, transition committees and shadow authorities (section 30(3)).

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63. Section 29(2), describes the restricted activities in respect of which opinion/consent directions can be issued:
- the selling or buying land or buildings (threshold – above £150,000);
 - entering into contracts or agreements whose period extends beyond the transfer date (threshold – above £500,000 if a capital contract; all other contracts £150,000);
 - making capital acquisitions i.e. defined as acquisition of share capital or loan capital (threshold – above £500,000);
 - giving a grant or other financial assistance (threshold – above £150,000);
 - making a loan whose period extends beyond the transfer date (threshold – above £150,000);
 - including an amount of reserves in its calculation of its budget;
 - starting the internal recruitment of a non statutory chief officer or deputy chief officer.
65. ‘Contract’ is defined as including a framework agreement under the Public Contracts Regulations 2006 (SI 2006/5); and a capital contract is one where the consideration payable by the authority is capital expenditure for the purposes of the Local Government Act 2003 (section 34(3) and (4)). Whilst section 34 sets out the minimum thresholds over and above which the Welsh Ministers may issue directions in relation to restricted activities, any direction issued by the Welsh Ministers will set the actual threshold which could be different from the minimum. Section 35 sets out how to determine whether the financial thresholds have been exceeded and also enables the Welsh Ministers to amend the current thresholds.
66. Section 29(5) requires a merging authority to provide details of a restricted activity to the person specified in the direction, and section 29(6) requires a merging authority to publish its reasons for determining to proceed with a restricted activity when the person specified in a direction has given the opinion that it would not be appropriate for the merging authority to do so.
67. Section 30(2) enables directions under section 29(1) to be issued in relation to a single merging authority, two or more specified authorities, or authorities of a specified description. Similarly, section 30(4) enables the Welsh Ministers to specify that different persons are to provide an opinion/consent in relation to different matters or in relation to different merging authorities or descriptions of authorities. Directions can also provide for different requirements in relation to the same restricted activities of differing values; for example, land purchases of a lower value may require the consent of a shadow authority whereas higher value purchases may require the consent of the Welsh Ministers.
68. In relation to reserves section 31 allows for a direction issued under section 29(1) to permit the inclusion of specified descriptions of reserves, or reserves of up to a specified threshold, in a calculation of the budget requirement without needing the opinion/consent of a specified person. This is intended to enable the Welsh Ministers to exercise control over the appropriate use of reserves, whilst stopping short of preventing merging authorities from using these monies.

These notes refer to the Local Government (Wales) Bill which was amended following Stage 2 proceedings on 24 June 2015.

69. The consequences of failing to comply with a direction issued in relation to a restricted activity are set out within section 33. A contract or agreement entered into will be deemed unenforceable; a land transaction or capital acquisition will be void, any grant or other financial assistance or a relevant loan will be repayable, and the use of unauthorised reserves in setting a budget requirement will be treated as though the budget calculation had not been made thereby preventing the merging authority from setting and collecting its council tax. .

Section 29(3) - Appointment/designation to restricted posts

70. Section 29(3) enables the Welsh Ministers to direct merging authorities to comply with specified requirements when seeking to appoint or designate persons to restricted posts, i.e., head of paid service, monitoring officer and statutory chief officer. The specified requirements may relate to matters such as the remuneration to be paid or the duration of the appointment. If a direction under section 29(3) has been issued, a merging authority is required to provide the Welsh Ministers with details of any proposal to appoint or designate a person to the post covered by the direction (section 29(5)(b)).
71. Section 32 enables directions under section 29(3) to be given in respect of a single merging authority, two or more specified authorities, and authorities of a specified description, and a direction may specify different requirements in relation to different posts. Failure to comply with a direction issued under section 29(3) will render the contract of employment (or a contract for services) entered into unenforceable (section 33(2)).

Section 36 - Guidance

Section 36 concerns the Welsh Ministers' power to issue guidance in relation to the operation of the opinion/consent regime set out within sections 29 to 35, and merging authorities and specified persons must have regard to any guidance issued.

Section 37 and 38 - Information requirements

72. Sections 37 and 38 enable the Welsh Ministers to require merging authorities to provide them with any information which the Welsh Ministers consider appropriate for the purpose of giving effect to the transfer of functions of the merging authority to the new principal local authority. The Welsh Ministers may also require that a merging authority shares information that the Welsh Ministers consider appropriate with other relevant bodies - the other authorities involved in the merger, the appropriate transition committee and the appropriate shadow authority.

Section 39 - Temporary extension of functions of Panel relating to heads of service to chief officers

73. Section 39 extends the application of Section 143A of the Local Government (Wales) Measure 2011, which applies to heads of paid service, to cover all chief officers of all principal local authorities in Wales until 31 March 2020. Thus, the Independent Remuneration Panel will be able to make recommendations in relation to any policy, outlined in an authority's pay policy statement, relating to the salary of an authority's chief officer and any proposed change to the salary of a chief officer; and the authority must have regard to any such recommendation from the Panel. In addition, a local authority will be required to consult the Panel about any proposed change to the salary of a chief officer which is not commensurate with a change to the salaries of the authority's other staff. The authority must have regard to any

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recommendation then received from the Panel when deciding whether or not to proceed with the change. The section also addresses the Welsh Ministers' power to issue guidance to the Panel in respect of exercising its extended functions, and the Panel is required to have regard to any such guidance.

Section 40 – Changes to duty to have regard to Panel recommendations about salaries

74. Section 40 amends section 143A of the Local Government (Wales) Measure 2011. The amended section 143A enables a principal authority that has consulted the Panel about a proposed reduction in salary payable to the head of paid service to implement the reduction on an interim basis in advance of receiving a recommendation from the Panel, provided the contract under which the salary is payable does not prevent the authority from changing it. The authority must reconsider the salary having regard to the Panel's recommendation when received. The principal authority must notify the Welsh Ministers of any decision they reach in relation to a recommendation from the Panel and the Welsh Ministers, if they feel the decision is not in keeping with the Panel's recommendation, may direct the authority to reconsider its decision.

Section 41 – Panel membership

75. Section 41 amends paragraph 1 of Schedule 2 to the Local Government (Wales) Measure 2011 to enable the Welsh Ministers to appoint between 3 and 7 members to the Independent Remuneration Panel. This is intended to provide flexibility as to the number of Panel members (currently 5) in order to manage and take on the extra responsibilities required by the Bill.

Section 42 – Survey of councillors and unsuccessful candidates for election as councillors

76. This section amends section 1 of the Local Government (Wales) Measure 2011 (the duty to conduct a survey of councillors and unsuccessful candidates for election as councillors) to allow local authorities to arrange for the survey to be conducted by a third party, to permit the survey to be conducted entirely after the election or by asking candidates to answer the prescribed questions before the election and collating the information afterwards, to remove the requirement that the survey must be conducted after each ordinary election of councillors, and to remove the requirement for surveys to be completed anonymously.

Section 43 – Proposal submitted before commencement of Part 3 of Local Government (Democracy) (Wales) Act 2013

77. This section amends section 74(2) of the Local Government (Democracy) (Wales) Act 2013 which saves Part 4 of the Local Government Act 1972. It allows the Welsh Ministers to consider wholly completed reports that were submitted to them by the Local Government Boundary Commission for Wales before 30 September 2013.

Section 44 – Regulations

78. This section provides that any regulations made by the Welsh Ministers under the Bill are exercisable by statutory instrument.
79. Merger regulations, regulations of general application relating to voluntary mergers, and regulations requiring the establishing of transition committees are prohibited

These notes refer to the Local Government (Wales) Bill which was amended following Stage 2 proceedings on 24 June 2015.

from being made unless a draft of the statutory instrument is laid before and approved by the National Assembly for Wales.

80. Regulations to amend the start date for the Local Democracy and Boundary Commission for Wales's 10-yearly review period for electoral arrangements of principal areas and to amend the thresholds for transactions covered by the opinion/consent regime involving the Welsh Ministers and other specified persons will be subject to the negative resolution procedure of the National Assembly for Wales.

Section 46 - Commencement

81. This section provides for sections 25 to 28 and 37 to 43 to come into force two months after the Act receives Royal Assent and for all other provisions to come into force on the day following receipt of Royal Assent.