

Explanatory Memorandum to the Local Election Survey (Wales) (Amendment) Regulations 2016

This Explanatory Memorandum had been prepared by the Local Government Democracy Division of the Welsh Government and is laid before the National Assembly for Wales in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Elections Survey (Wales) (Amendment) Regulations 2016. I am satisfied that the benefits outweigh any costs.

Mark Drakeford
Cabinet Secretary for Finance and Local Government, one of the Welsh
Ministers

15 December 2016

1. Description

- 1.1 The Local Election Survey (Wales) (Amendment) Regulations 2016 amend the questions which must be asked when conducting a survey of councillors and unsuccessful candidates at each ordinary general election to county and county borough councils and town and community councils.
- 1.2 These Regulations amend the Local Election Survey (Wales) Regulations 2012 to reflect changes to how the survey may be conducted which were introduced under the Local Government (Wales) Act 2015.

2. Matters of Special Interest to the Constitutional and Legislative Affairs Committee

- 2.1 None.

3. Legislative Background

- 3.1 These Regulations are made in exercise of the powers conferred upon the Welsh Ministers by sections 1(3)(a) and 175 of the Local Government (Wales) Measure 2011 (“the Measure”).
- 3.2 This instrument is subject to the annulment procedure by the National Assembly for Wales (the negative procedure).
- 3.3 Part 1 of the Measure introduced a duty on local authorities to monitor the equality and diversity of candidates in ordinary elections to principal and town and community councils.
- 3.4 Section 1(1) and (2) provide that in accordance with regulations a local authority must conduct a survey of councillors and unsuccessful candidates at ordinary elections to a county or county borough and to a town and community council.
- 3.5 Section 1 (3)(a) and (b) provide that the questions asked, the manner in which they are asked and how the information is collated is as prescribed in regulations.
- 3.6 Section 1(4) sets out the fields of questions which may be asked in the survey. The fields are - gender, sexual orientation, language, race, age, disability, religion or belief, health, education or qualification, employment and work as a councillors.
- 3.7 Section 1(5) provides that there is no duty on any individual to provide any information.

- 3.8 Section 2(1) provides that the local authority must compile the survey data and provide the information to the Welsh Ministers within six months of the date of the ordinary election to which the survey relates.
- 3.9 Section 2(5) and (6) provide that the Welsh Ministers may publish and share the information in an anonymous format. The information must be published by the Welsh Ministers within 12 months of the ordinary election to which it relates.

4. Purpose and intended effect of amended regulations

- 4.1 The first local election survey was conducted following the 2012 ordinary local government elections. The previous Welsh Government published a report on the collated data from the survey.

<http://gov.wales/statistics-and-research/local-government-candidates-survey/?lang=en>

- 4.2 The Expert Group on Diversity in Local Government was established to consider the results of the survey, suggest improvements to the methodology and any other improvements to the survey.
- 4.3 In their report *On Balance: Diversifying Democracy in Local Government in Wales*:

<http://gov.wales/topics/localgovernment/publications/expert-group-report/?lang=en>

the Expert Group recommended that:

“The Welsh Government establish a methodology which allows for the survey questionnaires to be distributed at the time of handling nomination papers, in advance of the election.

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. “

- 4.4 The Welsh Ministers accepted these recommendations and made the following amendments to the Measure:

- The Local Government (Wales) Act 2015 amended section 1(2) of the Measure to remove the requirement that a local authority must conduct a survey themselves. A local authority can now arrange for the survey to be

conducted by a third party.

- A new section 1(3A) was inserted to allow local authorities to conduct the survey before or after the date of the ordinary election to which the survey refers.
- Section 1(6) was repealed, removing the requirement for local authorities to arrange for information to be provided anonymously.

4.5 The aim of the amendments was to improve the response rate of councillors and unsuccessful candidates participating in the survey. Allowing the survey forms to be issued in advance of the election is deemed more likely to encourage candidates to return the form and result in a higher response rate. Removing the requirement for the survey to be conducted anonymously will allow those conducting the survey to monitor response rates and identify those candidates who were elected.

4.6 Allowing local authorities to contract with a third party to conduct the survey on their behalf provides another option for local authorities on conducting the survey, but does not remove their statutory duty.

4.7 The Local Election Survey (Wales) (Amendment) Regulations 2016 make minor amendments to the survey questions and order in which they are asked. The changes are aimed to improve the survey response rate. The Regulations provide two versions of some questions to enable candidates to answer the survey before or after the election. The survey will also collect administrative data to help identify those who have responded to the survey and those who have been elected.

4.8 The Welsh Government wishes to encourage a more diverse range of candidates to stand for election to local government. These Regulations will enable the compilation of reliable data on the profile of candidates and councillors in local government. This will enable the Welsh Government to design policy to improve diversity in council chambers and assess their effectiveness.

5 PART 2: REGULATORY IMPACT ASSESSMENT

Options

- 5.1 Options for achieving the policy objective in relation to the amended Regulations are:
Option 1 – Do nothing and not amend the Regulations.
Option 2 – Introduce amended Regulations

Costs and Benefits

- 5.4 Option 1 – Do nothing. The Local Election Survey (Wales) Regulations 2012 would not be amended to reflect the changes made to the Local Government Measure (Wales) 2011 as a result of recommendations made by the Expert Group on Diversity in Local Government. The survey contained in the 2012 Regulations would remain unchanged.
- 5.5 Option 2- Introduce amended Regulations. Amending the Local Election Survey (Wales) Regulations 2012 to reflect the changes made to the Local Government Measure (Wales) 2011, as a result of recommendations made by the Expert Group on Diversity in Local Government
- 5.6 Option 1 means the survey contained in the 2012 Regulations will not reflect the changes made designed to increase participation. This is unlikely to lead to an increase in the amount of candidates or councillors completing the survey. As such it will make it difficult for the Welsh Government to assess how successful various schemes to increase the range of candidates standing for local government election have been. Doing nothing will also mean that if the survey is completed before the election, it will not make sense to a reader. This is because there are questions such as “what is your status following the election” contained in the current version of the survey. One benefit of following Option 1 is that it would be the same survey that was used following the previous ordinary election. This would enable the Welsh Government to make a direct comparison with next years survey and the previous survey that was undertaken.
- 5.7 Option 2 will ensure that the survey is conducted in conformity with the 2015 Act. To achieve this, two versions of the survey questions have been prepared to facilitate the survey being conducted before or after the election, and to include identifying questions which can be used to establish if a respondent was in fact elected as a councillor. The changes are also aimed at improving the response rate to the survey. These changes (lead from recommendation made by the Expert Group on Diversity) are

intended to improve the quality of the data received, which in turn will help to establish the success or otherwise of initiatives to increase the diversity of local councillors. This will enable the Welsh Government to develop further initiatives to encourage a more diverse set of candidates to stand for election to local government.

5.8 One negative of following Option 2 is that the questions will be slightly different from the survey asked in 2012. This could impact how the public can compare the two surveys. However, as the changes to the survey are minor it is not considered that such changes will make it difficult to compare the two surveys.

5.9 The Welsh Ministers are committed to financing this survey. £35,000 will be divided between the 22 local authorities in Wales. The allocation will be calculated based on the number of candidates in each area who stood for election to each county, county borough and town and community council at the 2012 ordinary local government election and the 2013 ordinary local government election on the Isle of Anglesey.

6 Welsh Language

6.1 The schedule to the Regulations contains a series of questions based around the following fields:

- Work as a councillor
- Age gender and race
- Belief
- Sexual orientation
- Employment status
- Parental responsibility
- Volunteering
- Education
- Health and disability
- Language

6.2 The survey monitors the proficiency of an individual's ability to understand, speak, read and write Welsh.

6.3 Compiling data on the usage of the Welsh Language will help inform future policy.

7. Consultation

7.1 The Welsh Government consulted on the proposed changes to Part I of the Measure as part of its wide consultation on the Local Government (Wales) Bill.

8.2 No consultation has been conducted on the Local Election Survey (Wales) (Amendment) Regulations 2106

9 Competition Analysis

9.1 The amended regulations 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

10.1 The collated survey data provided to the Welsh Government will be analysed and the Welsh Government will publish the results.

10.2 The results of the survey will help build a picture over time of the characteristics of those standing for election to local government and help to monitor the Welsh Government's initiatives to encourage more people from under represented group to consider standing for election.

10.3 This information will help to develop policy in this area.