



Llywodraeth Cymru
Welsh Government

PUBLICATION

Consultation on the community council clerk qualifications regulations

We are seeking your views on proposals to set out qualifications a clerk to a community council must have.

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Purpose

This consultation relates to proposals to specify the qualifications that the clerk (also known as ‘Proper Officer’) to a community council must hold in order for the community council to meet the second of the three eligibility conditions to become an ‘eligible community council’.

Context

Section 24 of the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) gives “qualifying local authorities” a general power of competence (the “general power”). The general power gives these authorities the power to do

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anything that an individual can do, provided they act rationally and within the law.

Qualifying local authorities are specified in the 2021 Act as principal councils and 'eligible community councils'.

An 'eligible community council' is a community council which meets the eligibility conditions set out in section 30 of the 2021 Act, or in regulations made by the Welsh Ministers under section 35 of the 2021 Act, and passes a resolution that it meets the conditions.

The conditions a community council must satisfy in order to resolve itself an 'eligible community council' are:

- at least two-thirds of the total number of members of the council have been declared to be elected, whether at an ordinary election or at a by-election
- the clerk to the council holds such qualification or description of qualification as may be specified by the Welsh Ministers by regulations
- the council has received unqualified auditor's opinions from the Auditor General for Wales, for two consecutive financial years. The latest unqualified auditor's opinion must have been received during the 12 months preceding the day on which the council's resolution is passed.

This consultation seeks views on the draft regulations specifying the proposed qualifications under the second condition.

A Regulatory Impact Assessment (RIA) has not been prepared as part of the Regulations. The likely costs and benefits of complying with these Regulations were assessed as part of the [RIA for the 2021 Act](#) (pp 125-126).

More generally, a consultation on other aspects of exercising the [general power of competence](#) closed on 11th of June 2021, and sought views on the following proposals:

- prescribing conditions qualifying local authorities must meet when exercising the general power of competence for a commercial purpose
- re-making the trading order and enabling 'eligible community councils' to

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trade in their ordinary functions

- extend the application of these draft Regulations to ‘eligible community councils’ when the general power of competence is commenced for these authorities in May 2022.

Rationale

The clerk is a key source of advice to a community council and it is vital the clerk is properly equipped to play that role both in terms of expertise and time. The general power of competence is a significant legislative power which would allow councils to be more ambitious and innovative. The council must have confidence that the clerk is suitably equipped with the administrative and legislative expertise to support the council in exercising it.

We have considered the different ways in which the assurance of being properly equipped to play this role could be provided, including the case for each of:

- broadly aligned professional qualifications
- ‘time served’ in the role of clerk as a suitable qualification
- Sector-specific qualifications.

A clerk to a council is a professional employee requiring management, organisational and communication skills, with an understanding of the law, administrative procedures, the planning system, financial management and community engagement. Both the range of broadly aligned professional qualifications (such as legal or accountancy) and the extent of the experiences gained of being ‘time served’ would vary in the extent to which they would provide the necessary skills, knowledge and understanding. Neither would provide an objective means of providing assurance that the clerk is suitably equipped to support the council in exercising this power. We would be unable to quantify how much ‘time served’ would provide this assurance. We could not assess whether that time served had demonstrated the necessary skills, knowledge and understanding. Moreover, we could not quantify the extent to which broadly aligned professional qualifications were applicable to provide the relevant assurance. Therefore, we do not propose to extend the range of qualifications to include professional qualifications, such as those required to be

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an accountant or lawyer, or to specify a period of ‘time served’.

Specifying a sector specific qualification would confirm the relevant knowledge, skills and understanding to underpin the exercise of the new general power of competence. It recognises and reinforces that acting as a clerk to a council is a professional role. This avoids the need for subjective judgements about whether other qualifications are considered “equivalent” or not.

Choice of qualifications

There are a number of relevant sector-specific qualifications in existence.

The Certificate in Local Council Administration (CiLCA) qualification is recognised as providing a broad knowledge of all aspects of the clerk’s work, role and responsibilities, including the law, council procedures, finance, planning and community involvement.

In 2018, the Independent Review Panel published its report on the future of the community and town council sector. Throughout the Panel’s engagement with the sector, as it took evidence, they reported a consistent message about the need to ‘professionalise’ clerks. They concluded that community councils need to be professionally supported through qualified and independent staff and recommended all clerks must hold or be working towards a professional qualification, with CiLCA as the expected minimum qualification.

CiLCA is widely recognised by the sector and is one of the specified qualifications in the conditions for parish councils exercising the general power of competence, as set out in: The Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012 (‘the 2012 Order’).

There are other relevant, sector specific qualifications that clerks may hold that would also be appropriate to demonstrate the skills, knowledge and understanding appropriate to exercise the general power of competence. They build on the CiLCA curriculum, examining similar topics in greater depth. It is intended that the appropriate advanced qualifications are also specified in the regulations.

Listing the advanced qualifications in the regulations requires care, as the relevant course has been in existence since 1987 and has changed names several times since then. This unique course was delivered in various guises by the University of Gloucestershire and its predecessor colleges from 1987 to 2017.

The original Certificate of Higher Education (CertHE) course was awarded by the Council for National Academic Awards. The CertHE in Local Policy was validated in 1992 and was re-designed again in 2009 leading to the CertHE in Community Engagement and Governance. In 2013, the CertHE in Community Governance was validated for direct delivery by the Society for Local Councils Clerks (SLCC) and in 2017 it was transferred to De Montfort University. All versions of the level 4 qualifications are specified in the draft regulations, and these regulations would be updated if and when successor qualifications are introduced.

The proposed list of qualifications and the relevant awarding bodies are as follows:

- certificate of Higher Education in Local Council Administration (CiLCA) -accredited by Ascentis
- the Certificate of Higher Education in Community Governance – validated by De Montfort University
- the Certificate of Higher Education in Community Engagement and Governance – awarded by University of Gloucestershire
- the Certificate of Higher Education in Local Policy, awarded by University of Gloucestershire or the former Cheltenham and Gloucester College of Higher Education.

Summary

This consultation seeks views on the proposal to specify the qualifications the clerk to a community council must hold to meet one of the eligibility conditions for a community council to exercise the general powers of competence. The proposed specified qualifications in the draft regulations are as follows:

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- the Certificate of Higher Education in Local Council Administration (CiLCA)
- the Certificate of Higher Education in Community Governance
- the Certificate of Higher Education in Community Engagement and Governance
- the Certificate of Higher Education in Local Policy.

Obtaining any of the qualifications listed above would be considered to demonstrate a sound understanding of the operation of local government and of principles of good governance.

The clerk to the council must hold one or more of the above qualifications at the time, or before the council passes a resolution that it meets the criteria and is an 'eligible community council'.

It would be insufficient to declare that the clerk is currently undertaking one of the qualifications; or intending to undertake one at a future date.

Implementation

Holding CiLCA is considered a proportionate, objective goal which is within the reach of most clerks, including part-time clerks. There is currently Welsh Government support to assist councils with the full CiLCA qualification cost in 2021 to 2022.

CiLCA is flexible enough to suit clerks from the diverse range of councils, and enables clerks to demonstrate that they have the core knowledge, skills, and understanding for working with a community council. Once registered for the qualification with the administrator, the Society for Local Council Clerks, a clerk has a period of up to 12 months to build the portfolio of evidence, with ongoing support from SLCC, to complete the qualification.

Candidates undertaking the CiLCA qualification are able to submit their evidence portfolio in either Welsh or English. A Welsh speaking assessor is available to assess portfolios submitted in the Welsh language.

The SLCC is currently updating the CiLCA qualification for Wales to incorporate

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a module specific to implementation of general power of competence in Wales.

The GPoC module would also be available as a stand-alone module for clerks who already hold any of the qualifications specified in the draft regulations. Councils will want to ensure that clerks have the most up-to-date and pertinent information on exercising the general power of competence. It is the intention to propose that councils should support clerks to take this additional module in the statutory guidance, which will be consulted upon later this year. There would be government support to assist councils with the cost of this module in 2021 to 2022.

Consultation questions

Question 1

Does the type of qualifications specified give confidence that the clerk has the core knowledge, skills and understanding to support a community council in the exercise of the new general power?

Question 2

Does each title description make it clear which qualifications are being specified?

Question 3

Are there other appropriate sectoral qualifications that should be considered for inclusion in the draft regulations?

Question 4

We would like to know your views on the effects that the draft regulations would have on the Welsh language, specifically on opportunities for people to use

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Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 5

Please also explain how you believe the draft regulations could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language.

Question 6

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

How to respond

Submit your response by midnight **24 September 2021** in any of the following ways:

- Complete our [online form](#)
- Download, complete our [online form](#) and email LGPartnerships@gov.wales
- Download, complete our [online form](#) and post to:

Local Government Transformation and Partnerships Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

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- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please **tell us**.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer

Data Protection Officer
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

E-mail: data.protectionofficer@gov.wales

Information Commissioner's Office

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow

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Cheshire
SK9 5AF

Telephone: 01625 545 745 or 0303 123 1113

Website: ico.org.uk

UK General Data Protection Regulation (UK GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data. In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation. If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

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