

Clarification regarding The Local Government and Elections Wales Act 2021

Further to the briefing note issued regarding The Local Government and Elections (Wales) Act 2021, I contacted One Voice Wales to seek clarification on a number of matters.

The Local Government and Elections (Wales) Act 2021, Schedule 4 contains the wording:

In paragraph 26 of Schedule 12 to the 1972 Act (notices of meetings of community councils)—

(a) in sub-paragraph (2), after “community council” insert “ or, if the meeting is convened at shorter notice, then at the time it is convened ”;

(b) in sub-paragraph (2)(a)—

(i) for “of the time and place of the intended meeting” substitute “ of the meeting containing the information required by sub-paragraph (2ZA) ”, and

(ii) for “be signed by” substitute “ set out the names of ”;

(c) after sub-paragraph (2) insert—

“(2ZA) The information required to be in a notice under sub-paragraph (2)(a) consists of—

(a) where the meeting or part of the meeting is open to the public and is held through remote means only, details of the time of the meeting and how to access it;

(b) where the meeting or part of the meeting is open to the public and is held partly through remote means or is not held through remote means, details of the time and place of the meeting and how to access it;

(c) where the meeting is not open to the public and is held partly through remote means or is not held through remote means, details of the time and place of the meeting and the fact that it is not open to the public;

(d) where the meeting is not open to the public and is held through remote means only, details of the time of the meeting and the fact that it is being held through remote means only and is not open to the public.

(2ZB) In sub-paragraph (2ZA), references to a meeting held through remote means are to a meeting held by means of any equipment or other facility which enables persons who are not in the same place to speak to and be heard by each other (whether or not the equipment or facility enables those persons to see and be seen by each other).”

Please see questioned asked and responses below:

1. Can urgent meetings can be called without the 3 clear days notice? The guidance says:
‘In exceptional circumstance, a meeting of a committee or sub-committee of the council meeting may be called at shorter notice. In which case, notices should be published with at least 24 hours’ notice.’

Is there any guidance on what is classed as an exceptional circumstance and can this be used for a meeting of full Council?

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Response from One Voice Wales:

Welsh Government have been asked to issue further guidance on this because as you point out it is not entirely clear. For now we are recommending that it only be applied in exceptional circumstances for the calling of a Committee or Sub Committee meeting.

There is no guidance on 'exceptional' circumstances that will be for the Council to determine and defend if challenged.

2. For meetings that are held through remote means only or partially remote, does the link to the online meeting need to be included on the notice? Or can the notice just include details such as a link to a webpage that provides the link to access the meeting (just in case the meeting link does not work on the day and needs to be updated).

Response from One Voice Wales:

How the Council informs anyone wishing to attend a remote or partial remote meeting is again for the Council to decide.

Some Clerks post the link on the agenda others ask that individuals contact the Clerk.

Your suggestion that the link be found on a Council web page seems to be sensible and would as you say allow for updating should there be a technical hitch.

Again the arrangements are what works best for the Council and those seeking remote access.

Subject to the Council being clear about its arrangements and publicising them so anyone wishing to attend remotely can find out how with ease it's up to the Council.

3. There appears to be some conflicting information in the guidance document regarding how meetings are held. It contains both sentences below:

The Act does not require meetings to be held in a particular way. Whether they are held virtually, partially virtually or entirely face to face – subject to prevailing public health regulations – is a matter for the council.

Whilst physical meetings are allowable under the 2021 Act, councils must note that the 2021 Act requires that participants (i.e. council members, members of the public and press) are able to join meetings remotely – even if physical meetings are the preferred mode. Councils must publish these arrangements, for example, through standing orders. Councils are not allowed to resolve that all meetings will be held entirely physically.

The first sentence implies the Councils have a choice but the second sentence implies that Councils can only hold entirely remote or hybrid (remote & in-person) meetings and cannot revert back to 'in-person' only meetings. Please can you clarify this?

Response from One Voice Wales:

Yes the guidance is conflicting but to be clear the choice for meetings is remote or partial remote also known as hybrid meetings. Face to face only is no longer an option.

All meetings must be open for the public to access until discussions become confidential when a meeting must then resolve to close to the public and press.