

FULL COUNCIL 14TH JULY 2021

WG CONSULTATION ON THE COMMUNITY CLERK QUALIFICATION REGULATIONS

1. PURPOSE OF THIS REPORT

- 1.1 To approve the Town Council's response to the WG consultation on the qualification required by the Clerk in order to meet the second of the three eligibility conditions to become an 'eligible community council' and have General Power of Competence

2. BACKGROUND

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

- 2.2 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.

- 2.3 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.

3. PROPOSAL

- 3.1 The consultation states that the clerk is a key source of advice to a town/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.

- 3.2 Welsh Government 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.

- 3.3 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. It is considered that there would be challenges to quantifying how much 'time served' and the quality of the 'time served' would provide this assurance. Therefore, WG do not propose to extend the range of qualifications to include professional qualifications, such as those required to be an accountant or lawyer, or to specify a period of 'time served'.
- 3.4 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.
- 3.5 The proposed list of qualifications and the relevant awarding bodies are as follows:
- the Certificate 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.
- 3.6 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.
- 3.7 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.
- 3.8 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.
- 3.9 The SLCC is currently updating the CiLCA qualification for Wales to incorporate a module specific to implementation of general power of competence in Wales.

- 3.10 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.

4. CONSULTATION RESPONSE

- 4.1 The consultation closes on 24 September 2021. Specific questions are posed within the consultation and the Town Council response is set out in italics below.

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?

Yes, Abergavenny Town Council would support the qualifications specified. We would add that it is vital that Clerks knowledge and skills are kept up-to-date so that mandatory CPD or refresher course is considered after a specified time period from achieving the CiLCA qualification.

Question 2 - Does each title description make it clear which qualifications are being specified?

Yes it is clear as it specifies the awarding body

Question 3 - Are there other appropriate sectoral qualifications that should be considered for inclusion in the draft regulations?

None that we are aware of

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 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?

We note that candidates can submit their evidence in Welsh, however has consideration been given to providing the training element of the CiLCA course in Welsh should there be sufficient interest?

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 favourably 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 favourably than the English language.

As above

5. RECOMMENDATIONS

- 5.1 To approve the responses as set out in paragraph 4.1