



A PARLIAMENT THAT WORKS FOR WALES

The report of the Expert Panel on Assembly Electoral Reform

November 2017



The Expert Panel on Assembly Electoral Reform was established in February 2017 to provide robust, politically impartial advice to the Llywydd and Assembly Commission on the number of Members the Assembly needs, the most suitable electoral system, and the minimum voting age for Assembly elections.

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Assembly Electoral Reform



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INTRODUCTION FROM THE CHAIR



Today's Assembly is a very different institution to the one established in 1999, and devolution in Wales continues to develop. The Assembly is on the verge of becoming the Welsh Parliament. It will soon be operating on the basis of a new reserved powers model under the *Wales Act 2017*—with responsibilities for the first Welsh taxes in 800 years, including income tax-varying powers—and establishing its proper place in the UK's changing constitutional landscape.

Many who engage with and study the Assembly recognise that, with only 60 Members, it lacks the capacity it needs. This matters. Assembly Members have crucial roles to play in holding the Welsh Government to account, scrutinising and overseeing policy, legislation and spending, championing constituents' interests, and engaging the people of Wales in our maturing democracy. When these roles are fulfilled effectively, there is a real, direct and positive impact on the lives of people and their communities.

As an independent, impartial Panel, we have used our expertise and experience to conclude that a 60 Member Assembly does not have the capacity it needs to fulfil its responsibilities, now and in the future.

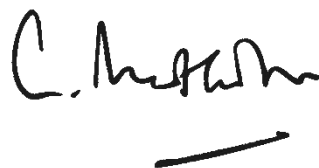
More Assembly Members are needed if the Assembly is to work effectively in meeting the scrutiny and legislative challenges and opportunities that it faces today as well as in the future. There is therefore a compelling case for a substantial increase in size.

I have no doubt that many will question whether money should be spent on more politicians at a time of austerity. However, as we explain in our report, while the additional cost may be significant in absolute terms, it should be kept to a minimum and will represent a very small proportion of the money

spent by the government that the Assembly oversees. We believe that even marginal improvements in the scrutiny of Welsh Government spending and policy decisions will reap significant dividends to the taxpayer.

Changing the Assembly's size also provides an opportunity to reform and revitalise the electoral system so that the Assembly better reflects the communities it serves. Similarly, giving 16- and 17-year-olds the right to vote could become a powerful way to involve and engage the young people of Wales in our democracy, increasing their political awareness and participation now and in the future. After all, it is their future.

Calling for more politicians is unpopular. We understand that. Nevertheless, we believe that, as devolution in Wales enters its next phase, the Assembly cannot continue as it is without risking its ability to deliver for the people and communities it serves. This report is a call to action. From April 2018 the Assembly will finally have the powers it needs to address these issues itself, and to ensure that the 2021 election delivers a parliament that truly works for the people of Wales.



Professor Laura McAllister CBE, FLSW, FRSA
Chair, Expert Panel on Assembly Electoral Reform

EXECUTIVE SUMMARY

Expert Panel on Assembly Electoral Reform

01. The Expert Panel on Assembly Electoral Reform was appointed by the Llywydd and Assembly Commission in February 2017, and tasked with making recommendations on the number of Members the Assembly needs, the system by which they should be elected, and the minimum voting age for Assembly elections. We were asked to report by autumn 2017, and to make recommendations which, provided the required political consensus is achieved, could be implemented in time for the Assembly election in 2021.

How many Members does the Assembly need?

02. The role, responsibilities and powers of the Assembly have changed considerably since 1999. The pressures on the Assembly are likely to continue to increase as a result of a move to a reserved powers model, the devolution of taxation and borrowing powers (including income tax-varying powers), further devolution of areas of policy and Brexit.
03. Alternative approaches to enhance the capacity of the institution have been explored and implemented, without addressing the fundamental limitation of the severely limited time available to 60 Members to fulfil their varied and complex roles as legislators, scrutineers, representatives, employers and politicians.
04. The impact of scrutiny and oversight carried out by the Assembly and its Members is difficult to measure objectively, but we are clear it has a positive impact on the lives of the people of Wales.
05. There is a compelling case, supported by comparisons with other UK and international legislatures, that the size of the Assembly needs to increase. Our analysis of the evidence points towards an appropriate size for the Assembly of at least 80 Members, and preferably closer to 90 Members. Increasing the Assembly to this size would deliver meaningful benefits for the capacity of the institution and corresponding dividends for the people of Wales. Such benefits would be greater at the upper end of our range.
06. Estimates provided to us by the Assembly Commission of the recurrent costs associated with our proposals range from some £6.6 million per year for 20 additional Members to £9.6 million per year for 30 additional Members. There would also be some one-off costs associated, for example, with the

adjustment of the Siambr and Members' office accommodation. The Commission estimates that these would be approximately £2.4 million for 20 additional Members and £3.3 million for 30 additional Members.

- 07.** We recognise that these costs are significant, but note that they amount to a very small proportion of the sums expended by the Welsh Government. Even marginal improvements in the scrutiny of the Welsh Government's expenditure could reap significant dividends to the taxpayer as a result of improved legislation, policy and decision-making. Nevertheless, it is incumbent on the Remuneration Board and the Assembly Commission to consider carefully how the current levels of staffing, service provision and financial resources provided to support Members should be altered in the case of a larger Assembly, so that the cost of implementing our recommendations is kept to an absolute minimum. Popular acceptance of a larger Assembly could be dependent on this.

How should Assembly Members be elected?

- 08.** Increasing the size of the Assembly requires reform of the way in which Members are elected. We identified ten principles against which we evaluated a wide range of electoral systems.
- 09.** The Assembly has a strong and commendable reputation for gender representation, and we considered mechanisms which could be incorporated into the electoral arrangements to safeguard the progress made in Wales to date. Such mechanisms will support and encourage the election of a diverse Assembly, including integrated gender quotas, provisions to improve the availability of anonymised candidate diversity information, and enabling candidates to stand for election on the basis of job sharing arrangements.
- 10.** Using our principles, we narrowed our focus to three potential systems which could be appropriate for the Welsh context. Our preferred option, if our recommended integrated gender quota is implemented, is the Single Transferable Vote. If our recommendations to support diversity of representation are not implemented—whether through lack of political consensus or the limitations of the Assembly's legislative competence—then a Flexible List Proportional Representation system would provide a viable alternative. While not our favoured option, a Mixed Member Proportional (also known as an Additional Member System) would provide a 'least change' status quo option.

11. On the basis of insufficient time before 2021 and the lack of a boundary review body with statutory responsibility for Assembly boundaries, we ruled out a full boundary review before 2021. We ruled out reinstating co-terminosity with Westminster parliamentary constituencies on the basis of (i) uncertainty about the implementation of the UK parliamentary boundary review and (ii) it being preferable for Assembly constituencies to be influenced by factors entirely relevant to Wales.
12. Focusing on existing electoral or administrative areas which could be used as building blocks, we identified two alternative models for multimember Assembly constituencies. Our preferred option for electing an Assembly of 89 or 90 Members, i.e. at the upper end of our recommended size bracket, is for 20 constituencies based on current Assembly constituencies. Alternatively, our indicative modelling suggests that 17 constituencies based on local authority areas could be a viable alternative for the purposes of electing an Assembly of 83 or 84 Members, i.e. towards the middle of our size bracket. Should the Assembly choose to legislate for the status quo option of a Mixed Member Proportional System, the existing Assembly constituencies and regions could be used for this purpose.
13. Assembly constituencies should not be allowed to become ossified again. Our proposals include mechanisms for periodic review of boundaries or seat apportionments, as appropriate.

What should be the minimum voting age for Assembly elections?

14. On the basis of the existing evidence, research and literature, and the additional evidence and views we have gathered, we believe a reduction in the minimum voting age to 16 with effect from 2021 would be a powerful way to raise political awareness and participation among young people.
15. Furthermore, if the Welsh Government proceeds with its proposals to reduce the minimum voting age for local elections in Wales to 16 with effect from 2022, it would be extremely anomalous and create additional administrative and political issues if the voting age for Assembly elections were not similarly reduced.
16. To ensure that young people are encouraged and supported to exercise their right to vote, any reduction in the minimum voting age should be accompanied by appropriate, effective and non-partisan political and citizenship education. This must ensure that young people hear political views

from across the spectrum, and are equipped to make up their own minds about how to exercise their democratic right.

Implementation of our recommendations

- 17.** The Assembly's role and responsibilities have been evolving since 1999, and face further changes as a result of the transition to a reserved powers model of devolution, the devolution of taxation and borrowing powers, and Brexit.
- 18.** Our task was to make recommendations which could be sustainable, appropriate for the Welsh context, and which could be implemented with effect from 2021 if the necessary degree of political support can be achieved.
- 19.** We believe we have done this. Our analysis of the role, capacity and size of the Assembly leads us to believe that the recommendations set out in our report should be implemented within this timescale. The Assembly is already overstretched. We believe it does not have the capacity as an Assembly of 60 Members to respond to the challenges it faces.
- 20.** Calling for more politicians is unpopular, but our analysis of the evidence demonstrates that all the alternatives to an increase in size have been tried and tested without adequately addressing the capacity gap we have identified.
- 21.** The Assembly Commission announced earlier this year that, following unanimous agreement by all parties in the Assembly, it would introduce legislation to change the name of the institution to the Welsh Parliament/Senedd Cymru in order to reflect its constitutional status as Wales's national legislature. Implemented alongside this important reform, our recommendations offer an opportunity to reinvigorate Welsh democracy, and to enthuse and energise voters by extending the franchise and establishing an electoral system founded on the principles we have identified, so that the 2021 election delivers a legislature with the capacity it needs to represent the people and communities it serves. Our report is a call to action to the Assembly to ensure that it becomes a Welsh Parliament that truly works for the people of Wales.

LIST OF RECOMMENDATIONS

A list of our recommendations is set out below.

Recommendation 1. The size of the Assembly should be increased to at least 80 Members, and preferably closer to 90 Members, to ensure that the parliament elected in 2021 has sufficient capacity to fulfil its policy, legislative and financial scrutiny responsibilities, and that Members can also undertake their representative, campaigning, political and other roles.Page 28

Recommendation 2. The Remuneration Board and Assembly Commission should consider how the total staffing support, services and financial resources provided to Members can be altered in the case of a larger Assembly, so that the cost of implementing our recommendations is kept to an absolute minimum.Page 31

Recommendation 3. The Assembly must exercise restraint in the way it makes use of any increase in the size of the institution—for example in relation to the number and size of committees, the appointment of office holders, and the maximum size of the Welsh Government—in order to ensure that the potential benefits for the quality and quantity of scrutiny are realised and additional costs are kept to an absolute minimum.Page 89

Recommendation 4. If our recommendations on legislative interventions to support and encourage diversity of representation are implemented, the Assembly should be elected by Single Transferable Vote with effect from 2021. If, however, these recommendations are not implemented, the Assembly should be elected on the basis of a Flexible List electoral system with effect from 2021.Page 102

Recommendation 5. We recommend that the multimember Assembly constituencies upon which a Single Transferable Vote or Flexible List system are based should return no fewer than four and ideally no more than six Members.Page 106

Recommendation 6. Should the Assembly implement either a Single Transferable Vote or Flexible List electoral system in 2021, we recommend that an Assembly of 89 or 90 Members should be elected on the basis of 20 Assembly constituencies formed by pairing the current 40 Assembly constituencies. A multimember constituency model based on combining or splitting local authority areas could be a viable alternative for the election of an Assembly of 83 or 84 Members on the basis of either STV or Flexible List, should the Assembly decide that variations in district magnitude were acceptable.Page 106

Recommendation 7. The Assembly should consider whether, in the apportionment of seats to constituencies or regions, additional weighting should be applied to voters in specific parts of Wales, for example on the basis of the distance from Cardiff Bay, rurality or deprivation of the area in which they are registered to vote.Page 107

Recommendation 8. The Welsh Government, in developing its proposals for local government electoral reform, should have regard to our recommendations and report, particularly in relation to the design and operation of the Single Transferable Vote electoral system.Page 114

Recommendation 9. The Assembly should request that the Secretary of State commences section 106 of the *Equality Act 2010* in relation to Assembly elections, or transfers the power to do so to the Welsh Ministers. Otherwise, legislation to reform the Assembly's electoral arrangements should include provision that would secure the availability of information regarding diversity.Page 117

Recommendation 10. In order to safeguard the achievements of the Assembly and political parties in Wales in relation to gender-balanced representation, we recommend that a gender quota is integrated within the electoral system put in place for 2021. If this does not happen—whether through lack of political consensus or the limits of the Assembly's legislative competence—we propose that political parties be expected to take steps to ensure their candidate selection processes support and encourage the election of a gender-balanced parliament for Wales. This should include voluntary adoption by parties of the quotas we have outlined.Page 125

Recommendation 11. Electoral law, Assembly procedures and the Remuneration Board's *Determination on Members' Pay and Allowances* should be changed to enable candidates to stand for election on the basis of transparent job sharing arrangements. The guiding principles of such arrangements should be that candidates clearly articulate the basis of their job sharing agreement to voters, that job sharing partners are treated as if they are one person, and that job sharing Members should give rise to no additional costs beyond those of a single Assembly Member.Page 127

Recommendation 12. Before making any order prescribing the design of ballot papers for use in Assembly elections, in addition to the consultation with the Electoral Commission required by section 7(1) of the *Political Parties, Elections and Referendums Act 2000*, the Welsh Ministers should also undertake such other consultation as may be appropriate, to ensure that the information included and the layout of the ballot paper is appropriate for the electoral system and for Wales.Page 150

Recommendation 13. Legislative action must be taken to put in place boundary or seat apportionment review mechanisms which provide for a full review before the 2026 election, whether or not our proposals for reform are implemented. Such mechanisms must take account of any changes to the Assembly franchise, as well as other demographic or population changes.....Page 175

Recommendation 14. The minimum voting age for Assembly elections should be reduced to 16 with effect from the 2021 election.Page 199

Recommendation 15. If the Assembly does legislate to lower the minimum voting age for Assembly elections to 16, the Assembly Commission should work with the Welsh Government, the Electoral Commission, political parties and others to support and encourage young people to exercise their right to vote, most importantly through appropriate political and citizenship education and public awareness-raising, but also by such other means as may be appropriate.Page 204

Recommendation 16. The citizenship education put in place to accompany any reduction in the minimum voting age must:

- i** Recognise the diversity of settings within which 16- and 17-year-olds may receive education and training, to ensure that those outside traditional school settings are also supported and encouraged to exercise their vote;
- ii** Go beyond simply outlining democratic structures and formal processes, to engage and inform young people about the issues which matter to them;
- iii** Ensure that young people have opportunities to learn about a full range of political opinions in a non-partisan way;
- iv** Be delivered by teachers and educators who have themselves received high quality training in order to ensure that citizenship education is taken seriously, and to avoid both political bias and the perception of political bias;
- v** Be subject to review after a suitable period to ensure its design and delivery met its objectives.Page 204



PART 1: INTRODUCTION AND BACKGROUND



01. THE EXPERT PANEL ON ASSEMBLY ELECTORAL REFORM

Background

01.01. In January 2015, the Fourth Assembly Commission considered the capacity of the Assembly, and published a report which unanimously concluded that:

“ With only 60 Members, the National Assembly is underpowered and overstretched.¹

01.02. At the time the Commission published its report, the Assembly did not have legislative competence over its size. However, with effect from a Principal Appointed Day (expected to be 1 April 2018) the *Wales Act 2017* will devolve powers to the Assembly over its size and electoral arrangements, including who is eligible to vote in Assembly elections.

01.03. The Fifth Assembly Commission, drawing on the work of its predecessors, announced in November 2016 that it intended to lead work to explore the use of these powers in order to address the capacity of the Assembly.² Acting on behalf of the institution, in February 2017 the Llywydd and the Commission announced the establishment of an Expert Panel on Assembly Electoral Reform.³

¹ National Assembly for Wales Commission, *The future of the Assembly and its capacity to deliver for Wales*, January 2015

² National Assembly for Wales Commission, 'Commission agrees its ambitions for the future', 14 November 2016

³ National Assembly for Wales Commission, 'Written statement on the Expert Panel on Assembly Electoral Reform', 1 February 2017

Role of the Expert Panel

01.04. The remit we have been given is:

- To review, and complement if necessary, the existing evidence and research relating to the size and electoral arrangements for the National Assembly;
- From that evidence base, and in order to inform the preparation of any necessary legislation, to make recommendations to the Assembly Commission on what should be the size of the membership of the National Assembly, the electoral system that should be used to elect its Members and the minimum voting age for National Assembly elections.

01.05. Our work is one element of a wider programme of work to reform the Assembly and shape the future of Welsh democracy. The Assembly Commission has announced it intends to introduce legislation in 2018 to change the name of the Assembly to the Welsh Parliament/Senedd Cymru. In the announcement, the Llywydd emphasised the changing role of the Assembly as it has matured and developed since 1999 and the need to:

“ ...take the opportunity not just for the important symbolic act of changing the name of the institution, but also for more fundamental reform of our electoral and internal arrangements. In leading this work on behalf of the institution itself, the Commission is aiming to maximise political consensus across all parties. Above all, we are aiming to deliver a parliament for Wales that commands the trust of those we serve, reflects the weight of responsibility that we carry, and equips our democratic system to address the challenges that we face as a nation.⁴

01.06. To this end, we have been tasked with reporting by autumn 2017, and making recommendations which, provided the required degree of political support is achieved, could be implemented in time for the National Assembly election in 2021.

⁴ National Assembly for Wales Assembly Commission, 'Written statement: Assembly reform programme', 13 June 2017

02. METHODOLOGY AND APPROACH

Approach to our terms of reference

02.01. As independent experts, our role has been to make robust, impartial, evidence-based recommendations on the matters within our terms of reference. Details of how we addressed each of the issues within our remit can be found in the relevant part of this report:

- In **Part 2**, we outline Members' roles, and explore the functions, capacity and size of the Assembly.
- In **Part 3**, we discuss the appropriate electoral system for the election of the Assembly, including ballot structure and electoral boundaries, and the sustainability of the electoral system.
- In **Part 4**, we consider the minimum voting age for Assembly elections.

02.02. These issues are interrelated. For example, our initial work on assessing the number of Members the Assembly needs was the key driver of our work on electoral systems. In **Part 5**, we provide an overview of our work, our conclusions, and how our recommendations contribute to the reform of the Assembly into a sustainable parliament that delivers effectively for Wales.

Methodology

02.03. As Panel members, we each bring expertise and experience from our respective fields, including electoral systems, parliamentary work and capacity, the constitutional position of the Assembly, and wider issues such as equalities, diversity and engagement. Throughout our work we have drawn on existing research and analysis to inform our conclusions. We have also supplemented our own expertise and the existing evidence by inviting targeted evidence from specialists, and by issuing a general invitation for interested individuals, groups and organisations, and the public, to share their views. A list of published submissions can be found in Annex E. We are grateful to all those who have contributed to our work.

02.04. We have approached our work impartially and with political neutrality. Nevertheless, fundamental constitutional issues such as these cannot, and should not, be considered wholly in isolation from the political realities of representative democracy. To that end, we welcome the helpful and constructive way in which the Llywydd, and the Political Reference Group she chairs, have engaged with our work. Our conclusions and recommendations are our own, but the Political Reference Group has been a valuable sounding board as our thinking developed, providing us with a forum to test our thinking and help us to provide workable options which could be implemented from 2021.



PART 2: THE ASSEMBLY AND ITS MEMBERS



03. THE SIZE OF THE ASSEMBLY

Background

03.01. Assembly Members, like other parliamentarians, carry a range of responsibilities. As a body, the Assembly makes laws in the areas devolved to it. All Members are responsible to their constituents and carry out representative functions, including casework, local campaigning and furthering the interests of their electorate. Of the 60 Members in the National Assembly for Wales, at any one time up to 14 may hold executive roles as part of the Welsh Government, including the roles of First Minister and Counsel General.⁵ The remaining Members undertake the fundamental functions of parliamentarians to hold the Welsh Government to account for its decisions and actions in relation to spending, policy, legislation, taxation and borrowing, and to articulate alternative visions for the future.

03.02. In its written submission, the Sir Bernard Crick Centre for the Public Understanding of Politics at Sheffield University suggested that the Assembly's evolution in terms of power and competence has "led to the emergence of a 'capacity gap' that may lead to a situation of institutional exhaustion if it is not remedied in the near future".⁶ It highlighted in particular the balance between the capacity of the legislature and the executive:

“ There is a fairly clear ratio within comparative politics in relation to parliaments and legislatures where the executive is derived from the legislature. Too few members and the need to appoint an executive essentially hollows-out the capacity of the legislature and leaves the executive possibly over-dominant; too many members and the legislature risks becoming bloated and inefficient with few opportunities for career progression for individual members.⁷

03.03. The size of the Welsh Government has changed over time to reflect the Assembly's role and powers. When the Assembly was first established, its Standing Orders limited the size of the Cabinet to nine. The limit was increased to 14 by section 51 of the *Government of Wales Act 2006*. Even before that increase in

⁵ The maximum size of the Welsh Government is prescribed by section 51 of the ***Government of Wales Act 2006***.

⁶ EP09 Sir Bernard Crick Centre for the Public Understanding of Politics, Sheffield University

⁷ Ibid

executive capacity, it was felt by many Members and observers that the Assembly was too small to carry out its functions.⁸ We have therefore focused primarily on the capacity of the Assembly to fulfil its non-executive functions, as it is here that the capacity constraints resulting from the Assembly's size are seen to impact most obviously.

Methodology

03.04. There is no single authoritative and agreed formula by which the optimum size of a legislature may be assessed.⁹ Our conclusions on the number of Members the Assembly needs are therefore based on balanced analysis of a range of different factors.

03.05. In chapter 04 we assess the role of the Assembly and the way in which its powers have developed since its establishment. The role of the Assembly has changed significantly since it began its work, and will continue to develop in the coming years, whether as a result of the move to a reserved powers model of devolution under the *Wales Act 2017*, the devolution of taxation and borrowing powers (including income tax-varying powers), further devolution of responsibilities, Brexit, or all of these.

03.06. In chapter 05 we explore potential approaches to increasing or enhancing the capacity of the Assembly to respond to changes in the Assembly's role without increasing the number of Members, for example changes to working practices; the structure of the Assembly's working week; the number of sitting weeks; induction, training and professional development; involvement of experts, the public and stakeholders in scrutiny; and the support and resources available to Members.

03.07. In chapter 06 we consider the roles fulfilled by Assembly Members. Members consistently report working long hours fulfilling a wide range of different tasks. There is no job description for the role of Assembly Member, but their roles are much broader than their participation in formal Assembly business. Such

⁸ For example, see Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, *Report of the Richard Commission*, 2004.

⁹ The cube root law of assembly sizes, first proposed by Rein Taagepera, suggests that the size of single chamber national legislatures can be calculated as the cube root of the population size. There is debate in the academic literature about the accuracy of the cube root law. But the key point is that it applies to national parliaments, and therefore there are questions over its applicability to 'sub-national' legislatures such as the National Assembly for Wales.

broader roles—for example constituency or regional representation, casework and campaigning—cannot be separated from their formal Assembly business roles.

03.08. In chapter 07, we explore the policy, legislative and financial scrutiny roles undertaken by the Assembly and its Members, and the impact of such scrutiny on the lives of the people of Wales. We conclude that policy, financial and legislative scrutiny and oversight are fundamental elements of the roles of parliamentarians. For such scrutiny to be effective, the Assembly and its Members must have sufficient time, resources and capacity to plan, deliver and follow up on their scrutiny work.

03.09. In chapter 08 we explore the specific capacity constraints facing the Assembly's committee system—a key vehicle for carrying out the Assembly's scrutiny functions. We conclude that the Assembly is currently too small to carry out its scrutiny responsibilities effectively. An increase in the size of the Assembly which resulted in greater specialisation for Members on committees could undoubtedly improve the quality of scrutiny undertaken, but the extent to which this is realised will depend on how any additional resource is deployed.

03.10. In chapter 09 we compare the Assembly with other UK and international parliaments and assemblies, concluding that the Assembly is objectively small when compared to other legislatures in the UK and elsewhere.

How many Members does the Assembly need?

03.11. On the basis of our analysis, we are persuaded that all the options to maximise the capacity of the existing Assembly have been tried, and that there are compelling arguments that the number of Members should be increased.

03.12. These arguments are not new. In 2004, the Richard Commission, in the context of its recommendations that the executive and legislature should be formally separated and that the Assembly should be given primary law-making powers, recommended that the size of the Assembly should be increased to 80 in order to provide sufficient capacity to be able to respond to the uncertain challenges ahead.¹⁰ Peter Price, a member of the Richard Commission, stated that:

“ The Richard Commission (of which I was a Member) reached agreement on the size of the Assembly. We observed and analysed its work, leading us to conclude that it was already barely able to give proper democratic challenge and scrutiny at Committee level. It would certainly need more members when it had primary legislative powers.

[...]

While the Assembly gained primary legislative powers, the linked proposal of the Richard Commission was ignored—too hot to handle for too many politicians who knew perfectly well that the Assembly was and is too small to achieve its high ambitions.

It is a matter of deep regret that so many subsequent opportunities to give Wales the Assembly which it needs to provide the spur of scrutiny to increase the effectiveness of government have been lost.¹¹

03.13. In his posthumous autobiography, Rhodri Morgan, the former First Minister of Wales, said that the Richard Commission’s recommendation on size had not been implemented because it:

¹⁰ Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, *Report of the Richard Commission*, 2004

¹¹ EP33 Peter Price, *European Strategy Counsel*

“ ...would screw up any chances of getting the other conclusions on law-making powers through—the people of Wales were simply not ready to accept any argument for *more* AMs, however logical the reasoning over increased work on the legislative front needing more legislators to carry it out.¹²

03.14. The Assembly has changed significantly in the 13 years since Richard's recommendations in 2004, developing into a legislature with greater policy, legislative and fiscal powers, and increased control over its own arrangements. On this basis, **our analysis points towards an appropriate size for the Assembly of between 80 and 90 Members. We are persuaded that increasing the Assembly to a size within that range would deliver meaningful benefits for the capacity of the institution and corresponding dividends for the people of Wales.**

03.15. Within this range, clearly, there would be a noticeable difference between the lower and upper ends. A figure close to 80 would undoubtedly strengthen the institution and make it better able to fulfil its responsibilities effectively. However, at the upper end of our range, the benefits would be greater, providing a more meaningful difference in the ability of many Members to specialise, with consequent benefits for scrutiny and representation. The upper end of the range would also lessen the risk that the question of capacity would need to be revisited in the foreseeable future, should the responsibilities of the Assembly increase further.

03.16. We have also assessed the impact of having a parliament of more than 90 Members. We recognise that the potential public concern about the costs of an increase would grow. On the other hand, we also recognise that the benefits in terms of capacity and potential specialisation would continue to rise. However, in our view, the marginal gains would diminish quite rapidly. We are not, therefore, persuaded that the benefits for enhanced scrutiny of an Assembly of more than 90 Members would necessarily outweigh the resultant increase in costs.

¹² Morgan, R. (2017) *Rhodri: A Political Life in Wales and Westminster*, University of Wales Press, p.245

RECOMMENDATION

Recommendation 1. The size of the Assembly should be increased to at least 80 Members, and preferably closer to 90 Members, to ensure that the parliament elected in 2021 has sufficient capacity to fulfil its policy, legislative and financial scrutiny responsibilities, and that Members can also undertake their representative, campaigning, political and other roles.

03.17. A March 2017 opinion poll for BBC Wales showed that a majority of Welsh voters were keen for the Welsh Government to take more powers over day to day life in Wales, but did not support an increase in the number of Members.¹³ We recognise that it will always be challenging to make the case for more politicians. Clearly, any case for a larger Assembly must be based on robust evidence. As an independent, expert Panel, we are, therefore, well-placed to examine the case and make recommendations in a neutral and sustainable manner. Our recommendations will provide the basis for a sustainable legislature which will not need to revisit these issues in the foreseeable future. To ensure that this is the case, and that current pressures are alleviated rather than perpetuated, the Assembly must establish appropriate structures and ways of working, and deploy any additional capacity effectively.

¹³ BBC Wales, 'EU migrants should have skills, public tells BBC Wales poll', 1 March 2017

Financial implications

03.18. Table 1 provides an estimate of the additional recurrent annual costs which could arise from an additional 20 or 30 Assembly Members. These figures were provided to us by the Assembly Commission. For the purposes of these estimates, the Commission has split the additional recurrent annual costs into core and variable elements.

Table 1 Estimated recurrent annual costs of an additional 20 or 30 Members

	£000	
	20 additional Members	30 additional Members
Core recurrent annual costs	5,970	8,860
Variable recurrent annual costs	650	780
Total recurrent annual costs	6,620	9,640

03.19. The Commission's estimate of the additional recurrent annual costs associated with our proposals ranges, therefore, from some £6.6 million to £9.6 million per annum.

03.20. In 2017–18, the Commission's annual budget was £53.7 million. The additional recurrent costs in the table represent 12 and 18 per cent of that budget respectively.

03.21. In addition, there would also be some one-off costs associated, for example, with adjustment of the Siambur and Members' office accommodation. The Commission estimates that these would be approximately £2.4 million for 20 additional Members and £3.3 million for 30 additional Members. A more detailed breakdown of the costs, and the Commission's underlying assumptions, is set out at Annex F.

03.22. These costs are significant. However, they should be considered in the broader context of democratic representation in Wales. For example, one certain consequence of Brexit is that there will no longer be Welsh MEPs, with a corresponding and significant reduction in the cost of politics and representation in Wales. In response to a written question in 2013, HM Treasury estimated the expenditure per MEP was £1.79 million.¹⁴ Wales is represented by four MEPs.

¹⁴ **PQ HL4062** [on parliamentary costs], 8 January 2013. **Responding** to the resulting coverage, the European Parliament did not dispute the figures, but did highlight costs of translation, leasing office

03.23. The bulk of the recurrent costs identified are driven directly by the number of Members. These include, for example, the salaries of Members and their support staff, allowances available to Members, and the cost of running constituency offices. A smaller, but nonetheless significant, proportion is dependent on decisions taken by a future Assembly about its working practices and the consequent cost of parliamentary support services provided to Members by the Assembly Commission.

03.24. It is incumbent, therefore, on both the Remuneration Board and the Assembly Commission to consider in detail the financial implications of the models of support they put in place for an Assembly with enhanced Member capacity.

03.25. We recognise the recent attention given to the cost of the services to Members provided by the Assembly Commission, and some criticism of its overall increase, and note that the Chief Executive and Clerk is leading a review of its staffing capacity. Prior to the 2021 election, the Remuneration Board will review the financial support available to Members in the next Assembly.

03.26. The cost estimates provided to us are, necessarily, based on the services and system of financial support currently in place. Decisions taken by both the Remuneration Board and the Commission in the past, however, have been taken at least partly on the basis of compensating for the lack of Member capacity in an Assembly of only 60 Members. In a larger Assembly, those assumptions should be revisited so that, for example, the Commission attempts to avoid even the limited staffing growth suggested in the estimates provided to us, and the Remuneration Board considers whether there should be any reduction in the level of the staff and financial support it provides.

03.27. We urge both the Remuneration Board and the Assembly Commission to consider how the current levels of staffing, service provision and financial resources provided to support Members should be altered in the case of a larger Assembly, so that the cost of implementing our recommendations is kept to an absolute minimum. Popular acceptance of a larger Assembly could be dependent on this.

03.28. Ultimately, though, any consideration of cost must recognise that the scrutiny and oversight role of the Assembly, if carried out effectively, positively affects the lives of people in Wales by improving the quality of Welsh legislation, and influencing Welsh Government policy and decision-making. Although the cost

space, and the additional travel, staffing and building upkeep costs arising from the European Parliament's two working seats.

of parliamentary democracy in Wales is significant in absolute terms, it amounts to a very small proportion of the sums expended by the government it oversees. Even marginal improvements in the scrutiny of the Welsh Government's expenditure and policy-making would, therefore, reap significant dividends to the taxpayer. To this end, we agree with the view of the Silk Commission that:

“ Good scrutiny means good legislation, and good legislation pays for itself.¹⁵

RECOMMENDATION

Recommendation 2. The Remuneration Board and Assembly Commission should consider how the total staffing support, services and financial resources provided to Members can be altered in the case of a larger Assembly, so that the cost of implementing our recommendations is kept to an absolute minimum.

¹⁵ Commission on Devolution in Wales, *Empowerment and responsibility: legislative powers to strengthen Wales*, 2014



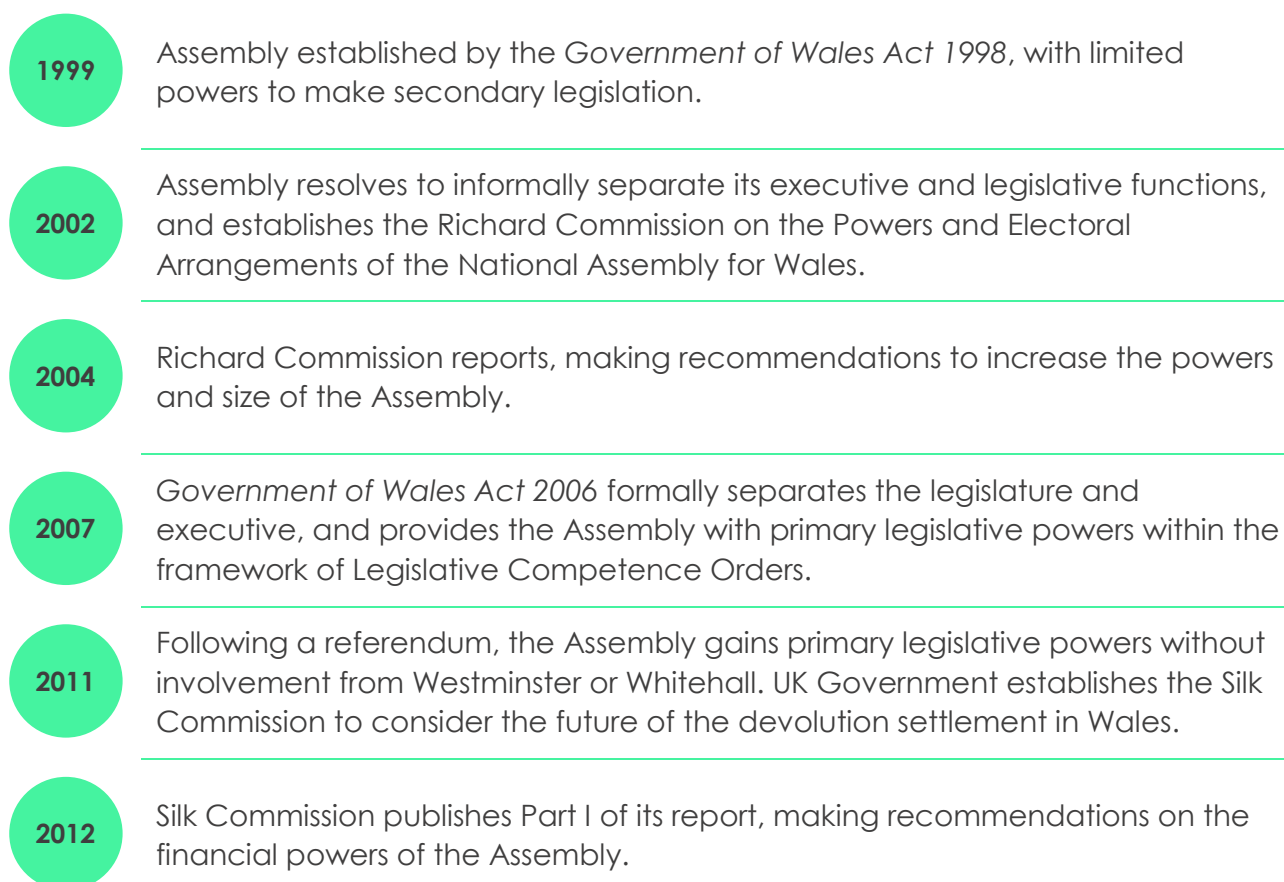
04. THE CHANGING ROLE OF THE ASSEMBLY

Development of the Assembly's role and powers

04.01. The present Assembly is substantially different from that first elected in 1999. As Figure 1 shows, over time the institution has acquired greater legislative, policy and fiscal responsibilities, and there are further changes ahead. The *Wales Act 2017* will introduce a reserved powers model of devolution, the first Welsh taxes in 800 years are starting to come on stream, and the Assembly will have income tax-varying powers with effect from 2019.

04.02. Nevertheless, while the role and responsibilities of the Assembly and its Members have changed significantly since 1999, these very different functions are still carried out by 60 individuals.

Figure 1 Development of the Assembly's role and powers since 1999



2014

Silk Commission publishes Part II of its report, making recommendations on the Assembly's future legislative powers and arrangements.

2015

UK Government publishes *Powers for a Purpose*, providing the basis for the development of a reserved powers model of devolution for Wales.

2016

Assembly passes *Tax Collection and Management (Wales) Act 2016*, in preparation for exercising the taxation and borrowing powers devolved by the *Wales Act 2014*.

2018

Commencement of reserved powers model of devolution under the *Wales Act 2017*, and coming on stream of Welsh taxes.

2019

Activation of income tax-varying powers, as provided by the *Wales Act 2014*.

Brexit and the future of Wales and the UK outside the European Union

04.03. The UK's decision to leave the EU is likely to bring further changes to the Assembly's role and workload. The Assembly has a critical role in ensuring that the voice of the Welsh people is heard in the Brexit negotiations. It will need to play its part in overseeing the negotiations, and scrutinising the legislation which will follow.

04.04. The precise nature of the impact of Brexit on the Assembly's role, powers and workload is not yet clear, as we cannot know with any certainty at this point what the constitutional arrangements will be in the post-Brexit UK, nor what the repatriation of powers from the EU will mean for the responsibilities and legislative competence of the Assembly. However, the UK Government has indicated that it anticipates the responsibilities of the Assembly, the Northern Ireland Assembly and the Scottish Parliament will increase. Speaking in the House of Commons in March 2017, the Secretary of State for Exiting the EU stated that following the UK's exit from the EU:

“ We will see a significant increase in the amount of powers given to the devolved institutions...¹⁶

04.05. This was reiterated by the Secretary of State for Wales in September 2017:

“ We are now in another period of change for Welsh devolution—the devolution of powers that are repatriated when we leave the EU. We have been clear from the outset that the outcome of the process will be an increase in the decision-making powers of the Assembly and the Welsh Government.¹⁷

04.06. We note that the Welsh Government has expressed concern that the *EU (Withdrawal) Bill* could reduce the powers available to the Assembly. In a press release accompanying the publication of a Legislative Consent Memorandum which sets out the Welsh Government's view that the Assembly should withhold its consent to the Bill as currently drafted, the First Minister stated:

¹⁶ House of Commons, 30 March 2017 c440

¹⁷ Wales Office, 'Welsh Secretary marks 20 years of devolution in Wales', 18 September 2017

“ The *EU (Withdrawal) Bill*, as it currently stands, would allow the UK government to hijack powers which should come to Wales post-Brexit.

Our position is clear and unequivocal; we do not accept the bill in its current form and recommend that the Assembly does not grant its consent.

This is not about stopping Brexit. This is about protecting the interests of the people of Wales. We simply cannot back any law which would see Wales lose influence over areas that are rightfully ours to control.¹⁸

04.07. The UK Government has also indicated its view that, post-Brexit, certain policy areas would benefit from the establishment of common frameworks across the UK. Huw Irranca-Davies AM, Chair of the Assembly's Constitutional and Legislative Affairs Committee, stated in June 2017 that:

“ Overall, the key issue that needs to be addressed by the UK Government is the creation of a legal and constitutional context that serves the devolved nations and UK following exit from the EU. That context needs to be developed in partnership with devolved nations rather than being imposed upon them.¹⁹

04.08. It is clear that the Assembly will have a role to play in scrutinising the establishment and operation of any such legal, constitutional and policy frameworks, whatever form they take. We can therefore expect that the Assembly's role during the Brexit process, and within the post-Brexit UK, will include shaping public policy in Wales in areas previously reliant on approaches set at European level; scrutinising a large volume of primary legislation, secondary legislation and Legislative Consent Memoranda; scrutinising intergovernmental working; facilitating and undertaking joint scrutiny with other legislatures; and influencing the debate on where powers returned from the EU should lie.

04.09. While there may be uncertainty about the powers the Assembly has as a consequence of Brexit, it is clear that its workload will certainly not be reduced and is likely to grow.

¹⁸ Welsh Government, '**First Minister takes step to protect Wales post-Brexit**', 12 September 2017

¹⁹ Constitutional and Legislative Affairs Committee, '**Brexit cannot be imposed on devolved nations, says National Assembly committee**', June 2017

05. INCREASING CAPACITY WITHOUT MORE MEMBERS

Background

05.01. During our work, the McCormick Commission on Parliamentary Reform published its report, setting out recommendations for the reform of the Scottish Parliament.²⁰ In its report, the McCormick Commission encouraged the Scottish Parliament to explore options to maximise the capacity of the existing Parliament before more radical proposals, for example an increase in the number of Members, are considered.

05.02. Similarly, and in the light of the anticipated changes to the Assembly's role outlined in chapter 04, we have considered whether there is potential to increase the capacity of the Assembly without an increase in the number of Members.

Could the Assembly find new ways of working?

05.03. Speaking in 2013, the then Secretary of State for Wales, the Rt Hon David Jones MP, recognised that the Assembly was an evolving institution, but suggested that it should focus on how it operated and engaged with the people of Wales:

“ My challenge to the Assembly—and remember that I speak as a friend and former Assembly Member—is to grow as a democratic institution, find a way of engaging more purposefully with the people Wales who elect it, and connect more directly in the debating chamber with the devolved issues that really matter to their electors. What we need is not a Cardiff Bay bubble, but a legislature that is truly representative of the people of Wales and which robustly reflects their sometimes widely divergent views.²¹

05.04. We agree that such a focus is vital for any legislature—no parliament or assembly should be complacent about its procedures or practices, or the way it listens to and engages with the people it represents. Nevertheless, we are also mindful of the note of caution put forward by a former Clerk of the House of Commons, Lord Lisvane, who stated:

²⁰ Commission on Parliamentary Reform, *Report on the Scottish Parliament*, June 2017

²¹ Wales Office, 'Speech: Wales in the continuing union', 24 June 2013

“New ways of operating” is also a tempting concept, and new technology has a part to play. But unless you are prepared to make profound changes (such as a virtual Chamber and virtual committees, so that Members need not be present, and Parliamentary buildings become irrelevant) the currency is always going to be Member time, whether Chamber time or Committee time.²²

05.05. The Assembly's procedures and ways of working have evolved and developed throughout its lifetime, both in response to the changing devolution settlement and to developments in technology and best parliamentary practice.

05.06. Plenary procedures have developed and evolved to ensure they are relevant, engaging for the public, and effective tools for Members to scrutinise the Welsh Government. For example, in the Fifth Assembly, Standing Orders have been changed to introduce:

- Topical questions and emergency questions, in place of the previous system of urgent questions;
- Opportunities for committee chairs to make statements about committee inquiries, consultations or activity;
- 90 second statements, enabling Members to raise the profile of specific issues of importance to them and their constituents;
- Debates on an individual Member's legislative proposals, increasing the range of ways in which backbench Members can raise issues in the Siambr and present their alternative visions for Wales.

05.07. Similarly, committees have explored different ways of working. For example, in the Third and Fourth Assemblies, committees made use of their powers to establish subcommittees to increase their capacity to undertake scrutiny work. However, this proved challenging and limited in its effect because of the small size of the Assembly. Nevertheless, it remains an option open to committees, and in October 2017 the External Affairs and Additional Legislation Committee established a subcommittee for the purpose of scrutinising the *Regulation of Registered Social Landlords (Wales) Bill*. Committees have also approached scrutiny in innovative ways, for example by making greater use of public engagement, digital outreach, visits and social media. Throughout the Fourth and Fifth Assemblies, committee chairs, individually and through the establishment of a

²² EP03 Lord Lisvane

Chairs' Forum, have driven an increased focus on strategic planning of work programmes and improved communication of committees' work to aid public and stakeholder understanding.

Could non-Members play a greater role in scrutiny?

05.08. There have been suggestions that the scrutiny capacity of the Assembly could be increased by making more effective use of non-Members, for example by involving MPs or councillors in pre-legislative scrutiny or the oversight of the Welsh Government.²³ This was also considered by the Silk Commission, which stated in its 2014 report that:

“ A number of possible remedies to the ‘capacity gap’ have been suggested. One is to add unelected, non-voting members to committees, or to create a second Chamber. These are democratically problematic and we do not recommend them. Greater flexibility on the number and size of committees; increased research staff capacity; and better use of Assembly Members' time—‘smarter working’—are other suggested remedies. Each may bring some relief, and we encourage the National Assembly and its Business Committee to consider them. However, they cannot provide the long-term solution needed. We are convinced that the National Assembly requires more backbench members who will be able to scrutinise Welsh Government legislation and policy more thoroughly.²⁴

05.09. The Assembly's committees draw on external expertise and advice to assist them in their work. A budget is available to them to retain specialist expert advice or to commission research. Committees have used these funds in a variety of ways, including the establishment of stakeholder reference groups, and the appointment of expert advisers. Committees have also embedded public engagement and outreach in their approach to scrutiny, to bring the perspective of members of the public, stakeholders and experts into the design, delivery and evaluation of scrutiny. An academic fellowship scheme and PhD candidate internships have been established to assist committees and Members, via the Assembly's Research Service, to access expertise via briefings, Member enquiries and proactive Research Service publications. Assembly committees also undertake joint scrutiny

²³ UKIP, *Raising the dragon: UKIP manifesto Welsh Assembly elections 2016*, April 2016

²⁴ Commission on Devolution in Wales, *Empowerment and responsibility: legislative powers to strengthen Wales*, 2014

with other legislatures, for example holding concurrent sessions with the House of Commons Welsh Affairs Committee and working with other Westminster or Scottish Parliament committees on policy areas of mutual interest.

05.10. Similarly, Members also access additional expertise and work with stakeholders as members of cross-party groups, or by working in partnership with external organisations, campaign groups or groups of constituents as part of their representative roles.

Could the Assembly's working week be extended?

05.11. Formal business in the Assembly is undertaken between Mondays and Thursdays (see Table 2). In a typical week, Members travel to Cardiff on Monday mornings, and committees meet on Monday afternoons. Tuesday mornings see some committee meetings and group meetings for political parties. The first Plenary session of the week takes place on Tuesday afternoon. On Wednesdays, committees meet in the morning, and the second Plenary session takes place in the afternoon. Thursdays are dedicated to committee meetings. Fridays are reserved for constituency and regional business.

Table 2 Assembly working week

	AM	PM
Monday	Constituency/regional business and/or travel to Cardiff Bay	Committee meetings
Tuesday	Committee meetings and political party group meetings	Plenary
Wednesday	Committee meetings	Plenary
Thursday	Committee meetings	
Friday	Constituency/regional business	

05.12. With the exception of the Standards of Conduct, Petitions, and Scrutiny of the First Minister committees, Assembly committees meet weekly. Meeting slots are allocated by the Business Committee in a fortnightly timetable, in which the majority of the committees are allocated one Wednesday morning meeting slot and one Thursday all day meeting slot, giving them a day and a half of meeting time per fortnight. Committees can also seek permission from the Business Committee to hold additional meetings or undertake visits or informal engagement activity outside these slots. The alternating timetable, which was introduced at the beginning of the Fourth Assembly, increases the scope for committees to undertake visits or hold formal meetings away from the Assembly estate on Thursdays, when Members do not have competing Plenary

commitments. Further changes to the timetable took place at the beginning of the Fifth Assembly, when the number of committees meeting regularly on a Monday was increased from one to three.

05.13. The Hansard Society found that Members elected for the first time in 2011 found that the regimented nature of the Assembly timetable—combined with strict whipping arrangements resulting from the political balance in the Fourth Assembly, the small size of the Assembly and the associated visibility of any absences from committee or Plenary meetings—made it difficult to engage with other elements of the role, including engagement with external organisations, groups or the public.²⁵ For example, meetings had to be “squeezed in during the early morning before business starts, during the one-hour pause in business for lunch, or at the very end of the day”. These gaps are also targeted by lobbyists and campaigners, whether in person or by email. Campaigners also target Plenary times for email correspondence, as Members are at their computers.

05.14. One of the founding principles of the Assembly is that family friendly working should be embedded in its culture, ethos and procedures. We acknowledge that ‘family friendly’ can be interpreted in different ways by Members according to their personal circumstances. For example a Member representing a constituency or region within the inner area might find it more conducive to family life or the fulfilment of caring responsibilities if formal business were to be spread over a greater number of days, but finish earlier each day, whereas a Member representing a constituency or region in the outer area who is unable to commute from their family home to the Assembly each day might prefer the reverse. Nevertheless, the principle is given effect by Standing Order 11.10, which requires that the Assembly’s timetable must have regard to:

“ ...the family and constituency or electoral region responsibilities of Members and their likely travel arrangements; and should normally seek to avoid timetabling business before 9.00am or after 6.00pm on any working day.²⁶

05.15. Today, these parameters are not adhered to strictly (Plenary business frequently runs later, for instance) and it is, of course, within the gift of the Assembly to change its Standing Orders. Nevertheless, a significant move away from the

²⁵ Hansard Society, *Assembly Line? The Experiences and Development of New Assembly Members*, 2013

²⁶ **Standing Order 11.10**

principle of family friendly working would be a regressive step, and could present a barrier to the diversity of the institution's membership.

05.16. In addition, the requirement for Members to sit on multiple committees, which results from the Assembly's small size, places constraints on the number of committees which can meet simultaneously, limiting the scope to increase capacity by increasing the time available to each committee. Similar limits on the scope to increase meeting time, for example by the dual running of Plenary and committees, result from the expectation embedded in the Assembly's culture that there will be full attendance at committee and Plenary as far as possible. This has its roots in the recommendations made on the establishment of the Assembly by the National Assembly Advisory Group, and is given effect by the Assembly's *Protocol on Conduct in the Chamber* and the committee timetable established by the Business Committee.

05.17. There are also practical reasons for the expectation of full attendance—the small size of the Assembly means that a high proportion of Members are active in Plenary meetings each week compared to larger legislatures. Timetabling formal committee business during Plenary meetings would likely have a detrimental impact on attendance and participation in both committee and Plenary meetings. For example, Sophie Wilson of the Institute for Government highlighted the potential impact on parliamentary committees of poor or variable attendance at committee meetings, particularly in relation to larger committees:

“ Large committees often find that a slightly different cast list attends each meeting, so each member ends up hearing a different combination of evidence and drawing different conclusions.²⁷

05.18. Daniel Greenberg, a former Parliamentary Counsel, suggested that alleviation of the individual burden on Members, and thereby the barriers to effective scrutiny:

“ ...could be achieved in part by formalising work in preparation for and in connection with Committee membership, building on existing relationships between AMs' offices and Commission staff. Identifying an expanded formal work stream for Committee papers, for example,

²⁷ EP04 Institute for Government

could ring-fence time and attention both of AMs and, crucially, their support staff.²⁸

Could the number of sitting weeks be increased?

05.19. When it was established, in order to take account of the advice of the National Assembly Advisory Group in respect of family friendly working practices, the Assembly agreed to align recesses with school holidays where possible. In the early years of the Assembly, it sat for fewer weeks each year than the Westminster and Scottish Parliaments and the Northern Ireland Assembly. As the responsibilities and workload of the Assembly have increased, however, the number of sitting weeks has risen also so that, today, it is in line with the other parliaments of the UK.

05.20. In the last directly comparable year (a non-election year), September 2014 to September 2015, the Scottish Parliament sat for 36 weeks compared to the Assembly's 35. In 2016, the House of Commons sat for 36 weeks. Between September 2016 and September 2017 the Assembly and the Scottish Parliament both sat for 36 weeks. The House of Commons was programmed to sit for just over 35 weeks during the same period (had the UK general election not been called).²⁹

Could improved training increase capacity?

05.21. The increasing powers and responsibilities of the Assembly and its Members have brought a corresponding increase in the range and specialism of the skills they require. To help equip Members with the skills they need, the Assembly Commission established a Members' Professional Development team with responsibility for induction of Members and their staff, and an ongoing training and professional development programme.

05.22. The programme of professional development covers all aspects of Members' roles, including legislative scrutiny and amendment, questioning, and financial and policy oversight. Between April 2016 and March 2017, 44 Members and 162 Members' support staff participated in training and development activities.

05.23. The Hansard Society has noted that Members have been criticised publicly for the cost and subject of the training they have received, and suggested that this was "unfair and unhelpful". It noted that:

²⁸ EP01 Daniel Greenberg

²⁹ See chapter 06 for further discussion of recess periods.

“ ...training and development provision is commonplace in most work environments, and to deny AMs the opportunity to improve their scrutiny of government and their service to constituents seems perverse. People from a range of backgrounds will have a range of skills, and expecting every politician to arrive ‘fully-formed’ at election is unrealistic and would restrict representation only to those who have spent many years working in politics.³⁰

Are the right support and resources available to Members?

05.24. Members are provided with a range of different resources and support, primarily by the Remuneration Board and the Assembly Commission (see Figure 2 for examples). The Welsh Government provides additional support to Members who hold executive positions. Some resource and support is also provided by external organisations, for example groups or organisations may provide secretariat support to cross-party groups, or provide briefing material or research to Members.

³⁰ Hansard Society, *Assembly Line? The Experiences and Development of New Assembly Members*, 2013

Figure 2 Support and resources available to Members

ASSEMBLY BUSINESS

Support and resources include access to the Commission's research, library, legal, clerking, communications and translation services; the Policy, Research and Communications fund; Record of Proceedings and transcripts; ICT provision; comprehensive support for the development of Member Bills; support from the Members' Business Support service; Remuneration Board funds to employ Members' own support staff; specific support for office holders in the exercise of their functions; training and professional development; committee expert advisers or commissioned research; external advice from lobbyists or campaign groups.

CARDIFF BAY OFFICE

Including security, office accommodation support, office space and parking in Cardiff Bay, health and safety support, and canteen facilities.

CONSTITUENCY/REGIONAL OFFICES

Financial support to cover the cost of running a constituency or regional office, including the employment of support staff, and the provision of ICT and office equipment.

COMMUNICATIONS AND ENGAGEMENT

Including access to the Policy, Research and Communications fund, support for holding events on the Assembly estate, printing costs for Member surgeries, and postal services.

CONSTITUENCY/REGIONAL MATTERS AND CASEWORK

Including access to the Commission's research, library and legal services, casework software, translation services, as well as Members' own support staff.

POLICY DEVELOPMENT

Including access to the Commission's research, library and legal services, access to the Policy, Research and Communications fund, party group support (including group support staff) funded by the Remuneration Board, national party support, access to Electoral Commission Policy Development Grant, external advice from lobbyists or campaign groups, and cross-party groups.

WORKING AWAY FROM HOME

Including budgets for travel within Wales and extended travel elsewhere in the UK or EU, limited provision for international travel, limited provision for partner or dependant travel between constituency/region and Cardiff Bay, hotel stays for approved business away from Cardiff Bay, residential accommodation allowances for some Members, additional allowances for Members with caring responsibilities.

05.25. Despite this extensive range of provision, Lord Lisvane warned of the dangers of seeing staff support as an alternative to Member capacity:

““Better staff support” is a tempting option (to Members, at any rate) but it has potentially serious disadvantages. You cannot make up with staff for the non-engagement (for whatever reason) of Members, because you risk the political process being staff-driven, rather than Member-driven. That means in turn that non-elected staff have inappropriate political power, and that does not (or should not) play well with the public.³¹”

05.26. Nevertheless, both the Remuneration Board and the Commission have taken steps to adjust and improve the support available to Members with a view to maximising the capacity of the Assembly. This has included, for example, enhancement to Members' staffing support, changes to Commission staffing structures, and the development of tailored services to support Members.

Our conclusions

05.27. We have explored a range of ways in which the capacity of the Assembly could be enhanced without increasing the number of Members. Such alternatives should continue to be explored—like other legislatures, the Assembly must not become complacent. Nevertheless, none of these approaches can address the underlying limiting factor: the severely limited time available for the 60 elected Members to carry out the full range of their responsibilities. This is, necessarily, a limiting factor on the capacity of the Assembly to truly be a parliament that works for the people of Wales.

³¹ EP03 Lord Lisvane

06. THE ROLES OF ASSEMBLY MEMBERS

Background

06.01. The way in which the Assembly structures itself and the procedures it puts in place are significant factors in any assessment of the capacity of the institution and the way it fulfils its functions. A central part of the role of Assembly Members who are not part of the Welsh Government is the scrutiny of policy, spending, taxation and legislation. We explore this role in more detail in chapter 07. But, we are clear that it is not the only role which Members fulfil. As highlighted by the Assembly's Remuneration Board, there is no job description for an Assembly Member³² and so a further factor is the way in which Members individually, or within parties, choose to fulfil their roles.

Office holders

06.02. Between them, the 60 Assembly Members carry out a range of specialist roles and offices, including First Minister, Counsel General, Cabinet Secretaries, Ministers, Llywydd, Deputy Presiding Officer, committee chairs, Assembly Commissioners, party leaders and business managers. Like any legislature, the Assembly relies on these office holders to drive its work. The roles are common to any parliamentary body, regardless of size. However, in a small institution like the Assembly, while the number of offices is likely to be broadly similar to other legislatures, the smaller overall size means that they represent a higher percentage of the total membership. For example, Table 3 compares the proportion of Members undertaking executive or other office holder roles in the Assembly and the Scottish Parliament. In Wales there are 38 additional offices, representing 63 per cent of the membership. In Scotland there are 58 additional offices, but this comprises only 45 per cent of the membership.

³² National Assembly for Wales Remuneration Board, *Office Holder Remuneration*, July 2011

Table 3 Office holder roles in the National Assembly for Wales and the Scottish Parliament

	National Assembly for Wales		Scottish Parliament	
Members	60		129	
Total office holders	38	63%	58	45%
Comprising:				
<i>Executive roles</i>	14	23%	24	19%
<i>Llywydd/Deputy Presiding Officer</i>	2	3%	3	2%
<i>Committee chairs</i>	12	20%	14	11%
<i>Other office holders</i>	10	17%	17	22%

Notes: Assumes maximum size of Welsh Government permitted under the *Government of Wales Act 2006*. Figures for Wales exclude Business Committee and Scrutiny of the First Minister Committee. Figures for Scotland exclude equivalent of Business Committee, and Private Bill committees, the Standards Committee and Justice Sub-Committee. 'Other office holders' includes Commissioners or equivalent, non-government business managers, and non-government party leaders. In Scotland, figure includes four Government Whips (in addition to the Chief Whip who is included under 'Executive').

06.03. A similar comparison in February 2017 with the House of Commons showed that there were some 500 MPs who did not hold either executive or office holder roles. Of these MPs, 115 were backbench MPs who did not sit on any committee or hold any other additional roles.³³

Representing constituents

06.04. The formal legislative and scrutiny business of the Assembly cannot, and should not, be wholly separated from Members' roles as constituency or regional representatives.

06.05. Members are elected to the Assembly by their constituents, and a key element of their role is the representation of those constituents and their interests. Working in their constituencies or regions, Members provide support, advice and assistance to their constituents, take on casework for individuals or groups, and undertake local and national campaigning. They also see how policies and legislation operate in practice, which can provide valuable insight for their scrutiny and oversight work. In addition, Members are the public face of the Assembly as an institution.

06.06. In 2011 and 2012, research by the Hansard Society showed that, typically, Members held approximately four surgeries per month, had seven or eight other

³³ Figures provided by the House of Commons Library in February 2017.

local public engagements, and received many hundreds of emails per week.³⁴ Members are increasingly accessible to their constituents via email, text message and social media. This may have contributed to the findings of investigations by the Assembly's independent Remuneration Board, which have highlighted increases in the levels of constituency casework Members face, not least because of rising expectations from constituents and new technologies.³⁵ Lord Lisvane, a former Clerk of the House of Commons, noted that similar trends have been observed in Westminster:

“ ...over the last thirty years or so, the constituency demands upon Members of the House of Commons have increased hugely. This has meant that their physical availability for certain types of activity, and the time that they are able or prepared to devote, has declined markedly.³⁶

06.07. People in Wales are represented by their local councillors, their Assembly Members, their MPs and their MEPs. It is therefore legitimate to consider the ways in which these different representative roles intersect in relation to constituency representation. Using data from a survey of legislators in eight multi-level democracies and six unitary democracies, Andre, Bradbury and Depauw suggest that regional legislators, such as Assembly Members, “typically maintain closer contacts with constituents” than national legislators such as MPs. They demonstrated that:

“ ...national legislators [MPs] devote less time to constituency service in multi-level than in unitary democracies; and that regional legislators [AMs] devote more time than national legislators in multi-level democracies.³⁷

06.08. Their work took account of the distribution of policy issues between regional and national legislatures, and particularly where responsibility sat for those issues which matter most to constituents' daily lives. They also suggest that regional

³⁴ Hansard Society, *Assembly Line? The Experiences and Development of New Assembly Members*, 2013

³⁵ Ibid

³⁶ EP03 Lord Lisvane

³⁷ André, A., Bradbury, J. and Depauw, S. (2014) *Constituency Service in Multi-level Democracies*, *Regional & Federal Studies*, 24:2, 129-150

legislators may have more contact with local authorities and constituents' action groups than their national counterparts, leading to more time focusing on constituency or regional casework.³⁸ While there is no specific research on the importance to their constituents of elected Members' representative roles in Wales, the findings of research undertaken by Campbell and Lovenduski in relation to the House of Commons suggest that voters value such work.³⁹

06.09. The four Wales MEPs will be removed from the network of elected representatives when the UK leaves the European Union. If the review of Westminster constituency boundaries expected to be completed in 2018 is implemented, the number of MPs elected from Welsh constituencies will reduce from 40 to 29 in future UK general elections.⁴⁰ Both changes are likely to increase demand on Assembly Members.

Political party roles

06.10. Party is the basis of elective politics in Europe and most democracies, and Assembly Members are, for the most part, members and representatives of political parties. As such, they have responsibilities which they must fulfil. While some of those responsibilities are purely party political—such as campaigning for Assembly or other elections or attending party meetings and conferences—they still represent calls on Members' time, and are therefore relevant to our consideration of the capacity of the Assembly. Other party roles also play a role in the smooth and effective operation of the Assembly: for example party leaders, whips and spokespeople.

³⁸ André, A., Bradbury, J. and Depauw, S., **Constituency Service in Multi-level Democracies**, *Regional & Federal Studies*, 24:2, 2014, pp. 129-150

³⁹ Campbell, R. and Lovenduski, J., **What should MPs do? Public and parliamentarians' views compared**, *Parliamentary Affairs*, Volume 68, Issue 4, 1 October 2015, pp. 690–708.

⁴⁰ The Boundary Commission for Wales published its **2018 Review of Parliamentary Constituencies: Revised Proposals Report** on 17 October 2017. While the report makes some revisions to the boundaries proposed in its initial review in 2016, it still proposes a reduction in the number of MPs representing constituencies in Wales from 40 to 29.

Media and communications

06.11. As the public face of the institution, and in order to undertake their representative, Assembly business and political roles, Members must communicate effectively with their constituents, stakeholder groups, and the media. The impact of such activity on Members' workloads will depend in part on the way they choose to fulfil their roles, and any additional roles they hold. For example, a Member with responsibilities as an opposition party spokesperson on an issue which is the subject of public debate may have additional responsibilities for articulating their party's alternative policy vision in the media or at public events. At the launch of a committee report, committee chairs would be expected to be available for interview by media outlets. Many Members make active use of social media as a channel for communicating with their constituents or promoting campaigns on issues of local or national importance. Members of the public engaging with Assembly Members on social media are likely to expect a response in a short timeframe, regardless of the complexity of their inquiry.

Cross-party groups

06.12. Many Members are members of cross-party groups. Such groups are not part of the formal business of the Assembly, nor do they have a formal role in policy development. Nevertheless, they provide opportunities for Members to work on a cross-party basis to consider specific issues in depth, undertake research, produce reports making recommendations or articulating alternative policy visions, and to network and work closely with stakeholder or campaign groups.

Employers

06.13. In addition to their other roles, all Assembly Members are employers. The Remuneration Board's *Determination on Members' Pay and Allowances* provides that each Member may employ up to three FTE staff to assist them with their role as an Assembly Member. Party leaders may employ party group staff to support the Assembly group in their Assembly work. Members also establish offices in their constituencies and regions in order to engage with their electorate.

06.14. Assembly Members therefore have significant responsibilities as employers, to manage their staff effectively and in line with legislation and good practice, and to meet the statutory and other considerations that come with entering contracts, leasing property, meeting health, safety and accessibility obligations and so on.

What Members do

Priorities and workloads

06.15. After the election in 2011, the Hansard Society asked the 23 newly-elected Members about the time requirements of the role. Particular issues raised included the long hours and competing priorities. It found that two months after election Members were reporting working an average of 49 hours per week, plus an additional nine hours of travel. After a year in office this had increased to 57 hours per week on average (plus travel).⁴¹

06.16. Researchers asked the new Members to rank the different elements of their roles in order of priority. The results are shown in Table 4. After nearly a year in office, Members' priorities were largely unchanged, with the exception of the average ranking for 'holding the government to account' increasing from fourth to first, and 'championing constituency in the Assembly' decreasing from first to fourth.

Table 4 Hansard Society research on Members' priorities⁴²

How would you rank the following aspects of your job as an Assembly Member in order of priority?	July 2011 (average rankings)	April 2012 (average rankings)
Championing constituency in the Assembly	1	4
Scrutinising legislation	2	2
Helping individual constituents	3	3
Holding the government to account	4	1
Local campaigning	5	5
Commenting on political or constituency issues in the media	6	6
Supporting the party	7	7
National campaigning	8	8

06.17. The Hansard Society asked Members how they spent their time in a typical working week. In term time, Members spent on average 65 per cent in Cardiff Bay and 35 per cent in the constituency or region. In recess 15 per cent of Members' time was spent in Cardiff Bay and 85 per cent in the constituency or region. New

⁴¹ Hansard Society, *Assembly Line? The Experiences and Development of New Assembly Members*, 2013

⁴² Ibid

Members reported splitting their time roughly evenly between the Siambr (22 per cent), committee (21 per cent) and constituency work (21 per cent).⁴³

06.18. Members reported that the pressures on their time—for example the need to work through the weekend to attend local meetings, undertake research, or keep up with reading and paper work—affected the balance between their work and personal lives:

“ A number of AMs referred to the lack of reading time and thinking time available in their week: “Enormous time pressures, long commute, put on weight, little personal time”.

Time problems become even more apparent when asking AMs about their balance between work and personal time. Over the course of their first year new AMs' satisfaction with their work-life balance decreased considerably, reflecting their reported increase in working hours.⁴⁴

06.19. In 2014, Bangor University undertook research on the barriers to standing for election to the Assembly, and found that respondents:

“ ...strongly noted the work-life imbalance as a potential barrier, with respondents discussing both the stress of the role itself as well as the impact it has on their family and social lives.⁴⁵

⁴³ Members' remaining time was spent on constituency meetings/events (18 per cent), local campaigning (13 per cent) and national campaigning (7 per cent).

⁴⁴ Hansard Society, *Assembly Line? The Experiences and Development of New Assembly Members*, 2013

⁴⁵ Bangor University, *Evaluating barriers to entering the Assembly: what prevents us from standing?*, July 2014

Sitting weeks

06.20. Figure 3 provides illustrative examples of typical sitting weeks for two backbench Assembly Members. The examples do not reflect any specific week or any particular Member, rather they identify the potential commitments Members might have as a result of fulfilling their varied roles.

06.21. Case study 1 (Figure 3a) reflects a Member who:

- Is a spokesperson for an opposition party;
- Represents a constituency in the outer area (as defined by the Remuneration Board) meaning that they receive financial support for accommodation in Cardiff Bay;
- Is a member of Committee A, which meets on Tuesdays, and Committee B, which meets on alternate Wednesdays and Thursdays;
- Is an Assembly Commissioner.

06.22. Case study 2 (Figure 3b) reflects a Member who:

- Represents a region in the inner area, approximately 45 minutes from Cardiff Bay. This means that they do not receive financial support for accommodation in Cardiff Bay;
- Is a member of Committee C, which meets on a Monday, and chair of Committee D, which meets on alternate Wednesdays and Thursdays. As a chair, they are also a member of the Committee for the Scrutiny of the First Minister and the Chair's Forum.

Figure 3a 'Typical' sitting week: Member 1

	Morning				Afternoon			Evening				
Monday	Travel from Cardiff home to Assembly	Office meeting with Cardiff Bay support staff	Hold interviews for vacancy in Cardiff Bay office		Review Assembly Commission papers	Media interviews as party spokesperson	13:00-16:00 Assembly Commission meeting, including discussion of budget strategy		Respond to emails and social media enquiries	Read papers for Committee A (35 pages) and prepare questions for Cabinet Secretary	Travel from Assembly to Cardiff home	
Tuesday	Travel from Cardiff home to Assembly	09:00-11:00 Committee A meeting, including evidence session with Cabinet Secretary and forward work planning		Political party group meeting	Political party weekly press conference	Meet local school group visiting Assembly	13:30-18:00 Plenary, including questioning Cabinet Secretary on policy statement, speaking in Government debate, voting on motions. During Plenary, deal with correspondence, prepare ideas for Members' Bill ballot, read Committee B papers, leave Siambur for meetings with constituents and campaign groups, prepare press release for a local campaign and update social media on the issues raised in Plenary.			Speak at event in the Senedd, and network with stakeholders	Travel from Assembly to Cardiff home	
Wednesday	Travel from Cardiff home to Assembly	Meetings, for example with stakeholders or academics, constituents, lobby groups, petitioners. In between meetings, deal with queries from support staff on complex or sensitive casework.			Review and finalise speech for Plenary debate	Meeting with support staff to plan upcoming event	13:30-18:30 Plenary, including asking spokesperson questions to Cabinet Secretary, speaking in debate on Committee A report, voting on motions. During Plenary, leave Siambur to meet Committee B staff to discuss possible amendments to a Bill, to meet a Minister about a constituency matter, and to meet other Committee B Members to negotiate support for amendments.			Travel from Assembly to Cardiff home	Background reading for upcoming Committee B inquiry	
Thursday	Travel from Cardiff home to Assembly	9:15-15:00 Committee B meeting, including proposing, debating and voting on amendments to a Bill, and proposing idea for a future inquiry						Travel home from Cardiff Bay. During train journey, deal with correspondence, including queries from support staff on casework, questions from the media about the Bill Committee B is considering, and social media queries from constituents. Request Research Service enquiries on issues for Plenary the next week.				
Friday	Travel from home to constituency office	Constituency activity, for example including meetings with constituency office staff, advice surgeries, casework, visiting local schools, meetings with local authority, attending local events, and travelling around constituency				Respond to emails and social media enquiries	Political party policy committee meeting to prepare for upcoming conference	Travel from constituency office to home	Prepare speaking notes and questions for Plenary business next week			
Saturday	Constituency activity, for example including meetings with constituency office staff, advice surgeries, meetings with local businesses or organisations, attending and speaking at local events, media work, and reviewing and signing casework letters prepared by support staff									Attend local event in constituency		
Sunday	Political and constituency activity, for example including canvassing, attending local events, visiting local community groups, answering Facebook queries						Travel from home to Cardiff Bay. During train journey, read meeting papers and background briefings, deal with correspondence, review draft written questions prepared by support staff, reviewing cost and location options for constituency office move.					

Figure 3b 'Typical' sitting week: Member 2

	Morning				Afternoon				Evening				
Monday	Travel from home to Assembly	Read papers for Committee C meeting (55 pages) and background report relating to upcoming inquiry (50 pages)		Media interview as Committee D Chair	Meeting with Cross-Party Group Secretariat to agree agenda		12:00-15:00 Committee C meeting, including leading a roundtable discussion with stakeholders and receiving a technical briefing on a Bill		Meeting with Cardiff Bay office staff	Read papers for Committee D including reviewing and amending draft report prepared by committee support staff		Travel home from Cardiff Bay	
Tuesday	Travel from home to Assembly	Prepare for week's Plenary business	Meeting with Committee D support staff	Political party group meeting	Meet Committee D Member to discuss issues	Respond to emails and social media	13:30-19:30 Plenary, including asking supplementary question during FMQs, debating and voting on amendments to Bill and voting on motions. During Plenary, prepare for cross-party group meeting, and prepare speech for local event. Leave Siambr to meet Cabinet Secretary to discuss Committee D recommendations, and to record clips to promote upcoming Committee D Plenary debate.				Take part in panel debate and Q&A in the Pierhead	Travel home from Cardiff Bay	
Wednesday	Travel from home to Assembly	9:00-12:00 Chair Committee D meeting, including oral evidence sessions with witnesses and private consideration of draft report				Attend events and photo opportunities in the Senedd	13:30-18:00 Plenary, including questioning Cabinet Secretary, leading and responding to debate on Committee D report, and speaking in opposition debate. During Plenary, background research on issues in Committee C's portfolio, and prepare proposal for committee inquiry, strategic planning for upcoming local authority election campaign. Leave Siambr to meet Welsh Government adviser about upcoming regional event.				Chair Cross-Party Group meeting	Travel home from Cardiff Bay	
Thursday	Regional activity, for example including meetings with regional office staff, advice surgeries, casework, meetings with constituents or local community groups, returning calls, travelling around region, discussing complex casework with staff, answering social media queries										Discuss potential inquiry with Committee D stakeholders	Attend local event in region	
Friday	Prepare for Scrutiny of First Minister Committee	Travel from home to mid-Wales		10:45-12:30 Committee for Scrutiny of the First Minister meeting		Travel to regional office from mid-Wales		Media interviews on local campaign issue	Meetings with constituents to discuss local concerns and casework		Correspondence and casework, including dealing with support staff queries, reviewing draft responses, reading briefings etc.		
Saturday	Regional activity, for example including attending local events, speaking at public meetings, holding advice surgeries, dealing with casework, travelling around region, replying to emails, letters and social media enquiries, and visiting local hospital												
Sunday	Background reading and preparation for upcoming Assembly business					Political canvassing in the region, attending local litter picks or other community events, informal discussions with constituents at local farmers' market							

Recess

06.23. The Assembly sits for around 36 weeks per year. For the remaining 16 weeks, the Assembly is in recess. However, recess periods are not holidays for Members. The time is important in informing Members' decision-making and their day-to-day deliberations as policy makers, legislators, and constituency or regional representatives. Informal discussions with Members from different political parties suggest that they generally regard at least 12 recess weeks per year to be 'constituency weeks', during which they undertake a range of different activities, for example:

- **Engagement:** visits within the constituency or region; attending national or local events to support constituents; gauging constituents' views on specific issues for example by conducting surveys or holding public meetings; meeting with members of the third sector or local campaigning groups; using opportunities such as the summer shows to reach out to constituents they would not otherwise reach.
- **Advocacy:** holding additional surgeries and meetings with constituents; undertaking casework; meeting local authorities, health boards or other public service providers to pursue issues raised by constituents.
- **Campaigning:** running campaigns on local issues; pursuing issues not ordinarily within their party spokesperson portfolio; election campaigning;⁴⁶ attending party conferences and strategic events.
- **Office-related activities:** meaningful contact with staff (especially those based in constituency or regional offices) and updating them on developments in the Assembly; planning for the forthcoming sitting weeks; research and meetings to inform their formal Assembly business and scrutiny roles in the coming term; taking part in or providing personal and professional development activity and training for themselves or their staff.

06.24. Members highlighted the benefits of recess for high quality engagement with their constituents. It provides opportunities for Members to strengthen their understanding of the pressures facing public service providers and the issues of importance to constituents, local businesses, community groups and charities, and to take part in community celebrations and events. Such activity can enhance Members' formal Assembly business and scrutiny work, as well as contributing to

⁴⁶ In the past five years, elections or referenda of national importance have been held in Wales in May 2012, May 2014, May 2015, May 2016, June 2016, May 2017 and June 2017. In addition, in Ynys Môn, local elections were held in May 2013 and an Assembly by-election in August 2013.

their local accountability and the transparency of the Assembly's work. One Member told us:

“ ...it's very easy to exist in a bubble in Cardiff Bay and not understand the very real pressures facing people, businesses and services which is why the recess period is an important time to engage with our local communities.⁴⁷

06.25. Another Member, who represents a constituency some distance from the Assembly, noted that many of the important community events, for example farmers' markets or community council meetings, take place during the Assembly working week. Recess therefore provides an opportunity which is not available in term time to attend such events, and engage with the local community.

06.26. Recess periods also provide Members with opportunities to take holidays, spend time with their families, and maintain healthy and happy personal lives. This is particularly important for Members living a distance away from the Assembly who may be away from home, partners and children three or four nights per week during term time.

Our conclusions

06.27. While much of our focus has been on the capacity of the Assembly to fulfil its scrutiny and oversight functions, Members' roles are much broader than their participation in formal Assembly business. Members have a range of calls on their time, including representing their constituents, undertaking constituency or regional casework, party political responsibilities, and responsibilities as employers.

06.28. There is some evidence to suggest that the volume of constituency and regional casework has increased, in part because of constituents' expectations and new technologies, and in part because of the proactive approach taken by Members and their staff. There is also considerable evidence to suggest that such work is important to constituents, as well as to Members themselves.

06.29. We strongly believe that Members' representative, casework and political roles cannot and should not be separated from their formal Assembly business roles—casework and campaigning can provide insight into the operation of policy or legislation on the ground which can enhance scrutiny, and help to ensure that the voice of citizens is heard in formal Assembly business. Similarly Members'

⁴⁷ Informal discussions with Members

scrutiny and oversight work, and the expertise they build in specific subject areas, enhance their constituency and campaigning work.

06.30. While Members have no defined job description they consistently report working long hours to fulfil a wide range of different tasks. On top of their working hours, many have lengthy travel times or are away from home for much of the week. The resultant impact on Members creates a barrier for some—for example those with caring responsibilities—who might otherwise stand for election, with a corresponding impact on the diversity of representation in the Assembly.⁴⁸

⁴⁸ We discuss the potential for Members to stand for election on the basis of job sharing in chapter 12. This flexibility could mitigate against some of the barriers presented by Members' roles.

07. SCRUTINY AND OVERSIGHT

Parliamentary scrutiny

07.01. The scrutiny and oversight of government is a core purpose of any parliament. This involves the examination and challenge of what the government spends, the decisions it takes, the policies and laws it puts in place, how it operates, and the opportunities and risks presented by different courses of action. Scrutiny and oversight also extends beyond government to a range of public bodies.

07.02. In carrying out their scrutiny functions, Assembly Members can focus on the outcomes and impact of government decisions, policies or legislation for the people of Wales. Scrutiny provides opportunities to consider what lessons may be learned from action that was taken, whether alternative approaches might have been more effective, and the processes by which decisions were taken or actions carried out.

07.03. In this way, Members hold the government to account by challenging Ministers or officials to explain the courses of action they have pursued or to justify their performance. Scrutiny also enables Members to seek out or gather information, whether from government, experts, stakeholders or the public. This information can then be used to inform questions, to improve public understanding of an issue, or as the basis for recommendations on how to approach things differently. And, increasingly, parliamentarians look to involve the public directly in their work so that the focus of the legislature, and the actions of government, are responsive to the reality of the lives of those they serve.

07.04. The aim of the scrutiny undertaken by the Assembly and its Members should be to improve outcomes for the people of Wales, whether by improving decision-making, processes or delivery. One way to assess the impact of scrutiny is to consider whether outcomes would have been better had the scrutiny not taken place. Peter Price, a former member of the Richard Commission, suggested that:

“ The people of Wales have much to gain from increased capacity leading to a more effective Assembly. A tiny increase in the

effectiveness of government in Wales would pay dividends in multiples of the cost...⁴⁹

07.05. However, it is not always straightforward to assess the impact of scrutiny objectively—clearly a change to policy as a result of scrutiny may be an improvement from one person’s perspective but not from another’s. The Institute for Government has identified a number of ways in which scrutiny can affect government.⁵⁰ These include facilitating new evidence or analysis, greater openness, the potential for learning, improved processes, or shifting the context by influencing politicians, the media, the public or other stakeholders.

07.06. To be effective, scrutiny relies on the power of influence. It requires focus, resource and a strategic approach. It also requires effective engagement, involvement and input of experts, stakeholders, the public and the media. The Institute for Government argues that:

“ ...sometimes this web of scrutiny can create an environment that has a pre-emptive impact on the decisions of those who are scrutinised—motivating them to behave in ways that anticipate the potential impact of scrutiny rather than waiting for those impacts to happen.⁵¹

⁴⁹ EP33 Peter Price, *European Strategy Counsel*

⁵⁰ Institute for Government, *Parliamentary Scrutiny of Government*, January 2015

⁵¹ Ibid

Assembly scrutiny

07.07. The procedures and practices of the Assembly provide Members with many ways to fulfil their scrutiny roles, for example:

- Leading or participating in debates, voting on motions put to the Assembly for decision, and raising issues of importance to them and their constituents in order to raise the profile of issues or influence the Government;
- Asking oral or written questions of the Welsh Government to seek information on matters of importance to them and their constituents;
- Seeking to amend, and voting on, legislation put to the Assembly for decision;
- Voting on taxes and budgets.

07.08. In addition to their work in the Assembly's Siambr, as members of Assembly committees, Members undertake scrutiny in greater depth. They do so by holding inquiries, examining Welsh Government policy and legislation, holding the Welsh Government or other public bodies to account, gathering evidence for the purpose of analysis and making recommendations, and considering public petitions. They also engage the public directly in the work of the Assembly by inviting submissions, taking evidence, undertaking outreach work, and holding engagement events.

07.09. Substantive change is rarely purely a direct result of the recommendations made by a committee—rather the impact can be subtle and persuasive. For example, the impact of committee scrutiny can include giving greater profile or attention to a previously overlooked issue, setting the agenda by identifying areas in need of government intervention. Alternatively, it can contribute to existing sector-led pressure for action by providing a platform for good ideas or the 'rocket fuel' needed to help stakeholders' suggestions find traction. These effects may be realised well before a committee publishes a formal report or makes recommendations. While we acknowledge that there is a lack of formal research around the impact of parliamentary scrutiny at the Assembly and elsewhere, Figure 4 highlights some examples of the outcomes of Assembly scrutiny.

Figure 4 Case studies of the impact of Assembly scrutiny and oversight

EQUALITY, LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE INQUIRY INTO REFUGEES AND ASYLUM SEEKERS

On the basis of evidence from stakeholders that the Welsh Government's Syrian Refugee Taskforce and Operations Board perpetuated a perceived 'two tier' system between refugees arriving as part of the Syrian Vulnerable Person Resettlement Programme and refugees arriving spontaneously, the Committee pursued the issue with the Cabinet Secretary. The Welsh Government subsequently broadened the remit of the Board to cover all refugees. The Committee also pursued issues relating to the quality of accommodation for refugees and asylum seekers with the Home Office and Clearsprings (which provides accommodation), and subsequently heard via stakeholders that there was now positive engagement to explore issues relating to quality and complaints procedures.

PUBLIC ACCOUNTS COMMITTEE INQUIRY INTO HEALTH BOARD FUNDING

The Committee recommended in 2012 that local health boards would be able to improve financial planning in the medium to long term if their funding and financial planning took place on a three-year basis, in line with local authorities. The Welsh Government subsequently introduced legislation to set out a legal framework for three year plans for health boards' finances, and the *NHS Finance (Wales) Act 2014* was subsequently scrutinised and passed by the Assembly.

ENTERPRISE AND BUSINESS COMMITTEE INQUIRIES INTO TRANSPORT PLANNING FOR THE RUGBY WORLD CUP AND THE CARDIFF AIRPORT BUS LINK

Following a one-day inquiry into the experiences of fans who had queued for hours to leave Cardiff following games at the 2014 Rugby World Cup, the Committee made a series of recommendations for greater coordination and planning for future events. Subsequently, events at the Principality Stadium have trialled different approaches with a view to improving transport arrangements for large events. During an inquiry into ports and airports, the Committee identified that current public transport links were not providing attractive or effective access for passengers travelling to or from the airport. The Committee recommended an improved, dedicated bus service between Cardiff city centre and Cardiff airport. The Government subsequently introduced a half-hourly bus service from Cardiff Bay/Central Station to the airport.

HEALTH AND SOCIAL CARE COMMITTEE INQUIRY INTO PREVENTING THROMBOSIS AMONG HOSPITAL PATIENTS

The Committee's key recommendation, that reduction of hospital-acquired thrombosis should become a Tier 1 priority, was initially rejected by the Welsh Government. However, as witnesses stressed this particular recommendation was key to making improvements, the Chair and members of the Committee pursued this further during the Plenary debate, emphasising the evidence the Committee had heard during its scrutiny. In her response to the debate, the Minister agreed to overturn her original decision, and accepted the recommendation.

PETITIONS COMMITTEE WORK ON FAMILY HOLIDAYS DURING SCHOOL TERM TIMES

The Committee considered two broadly similar petitions relating to inconsistencies in the way in which schools and local authorities dealt with requests for absence from schools during term time. The Committee took oral evidence from the Minister, who then wrote to directors of education and regional education consortia to seek evidence that the Welsh Government's policy was being implemented fairly, and to headteachers to restate the policy and ensure schools were clear on the arrangements.

07.10. In addition to contributing to substantive change, scrutiny can also give rise to an engagement dividend. Increasingly, innovative outreach and engagement activities, whether through digital or more traditional methods, are a mainstream element of the work of the Assembly and its committees. Such activity benefits Members and committees—providing real world examples of policies and legislation in action, bringing technical subject matters to life, and demonstrating the impact of issues on individuals, groups and communities—as well as those who participate. For example, we heard about work undertaken by the Economy, Infrastructure and Skills Committee as part of its inquiry into business rates. The Committee involved individuals and businesses by inviting them to feature in a video and take part in a business breakfast event with Members. Evaluation of the feelings of participants before and after the event showed a stark uplift in the number who felt confident about taking part in future social or political action, and a rise in the number who felt that ‘people like me’ could have a say in the work of the Assembly.⁵²

Legislative scrutiny

07.11. Perhaps the most significant change in the Assembly’s work during the course of devolution in Wales has been the volume and complexity of legislative scrutiny:

- A total of 28 Assembly Acts became law in the Fourth Assembly, including one proposed by the Commission and two proposed by individual Members. It is reasonable to expect the level of legislative activity at least to remain the same in the Fifth Assembly. For example, the Welsh Government’s legislative programme for 2016–17 contained six Bills (including two relating to taxes), and the appetite of individual Members and committees to introduce legislative proposals is high;
- The size and complexity of Assembly Bills are comparable to those in other UK parliaments and assemblies. In addition, in Wales the entire legislative procedure—from introduction, through scrutiny and amendment, to final approval—is undertaken bilingually, as Assembly Acts have equal legal status in Welsh and English;
- The volume of subordinate legislation will increase as a result of Brexit-related statutory instruments;

⁵² National Assembly for Wales Outreach Team, ‘**Encouraging public participation in the work of the Assembly**’, January 2017

- The policy and constitutional significance of the Legislative Consent Memoranda considered by the Assembly has increased, and is likely to do so further as Brexit-related legislation unfolds.

07.12. The Assembly's legislative scrutiny process generally includes four stages:

- **Stage 1:** consideration of the general principles of the Bill by a committee, and the agreement of those general principles by the Assembly;
- **Stage 2:** detailed consideration by a committee of the Bill and any amendments tabled to that Bill;
- **Stage 3:** detailed consideration by the Assembly of the Bill and any amendments tabled to that Bill;
- **Stage 4:** a vote by the Assembly to pass the final text of the Bill;
- There is an optional additional amending stage—Report stage—which can take place between Stages 3 and 4, if proposed by the Member in Charge of the Bill and agreed by the Assembly.

07.13. The impact of Assembly scrutiny can be seen at different stages of the process. For example, unlike in Westminster, a key part of the Assembly's legislative process is Stage 1. During Stage 1 a policy and legislation committee and the Finance and Constitutional and Legislative Affairs Committees consider each Bill in detail, and usually publish reports making recommendations for the improvement of the legislation. The Welsh Government frequently accepts these cross-party committee recommendations, whether for the legislation to be amended, additional information to be provided, or for complementary non-legislative action to be taken. Members can also table amendments to Bills during amending stages. These might take the form of probing amendments, intended to ensure issues are debated or to secure commitments from Ministers, or amendments which seek to change the text of the Bill. In the period January to March 2016, 34 amendments tabled by non-Government Members were agreed by the Assembly in Plenary (of a total of 930 amendments tabled during the period).⁵³ Since the beginning of the Fifth Assembly in May 2016, the Assembly has considered four Bills in Plenary. In total, 150 amendments were tabled to these Bills at Stage 3, of which 109 were agreed. Of these 'successful' amendments, eight (7 per cent) were

⁵³ National Assembly for Wales Commission, *Delivery and transition Annual report and accounts 2015–16*, July 2016. Figures exclude any tabled amendments to amendments.

tabled by non-government Members. This represents 16 per cent of the 49 amendments tabled by non-government Members at Stage 3.⁵⁴

07.14. The Assembly's legislative scrutiny work also includes the scrutiny of subordinate legislation—primarily through the work of the Constitutional and Legislative Affairs Committee and Plenary, although other committees may also choose to scrutinise particular statutory instruments—and Legislative Consent Memoranda (the mechanism by which the Assembly considers whether to consent to Westminster legislation which touches on devolved subject matters or the powers of the Assembly).

07.15. In addition, there is increasingly a determination from Assembly committees to undertake more pre-and post-legislative scrutiny. Daniel Greenberg, a former Parliamentary Counsel, suggested that:

“ ...in many ways post-legislative scrutiny is a more important way of holding the Welsh Government to account in relation to legislation than is Committee scrutiny at the Bill stage, at which point predictions and concerns must largely be guesswork on both sides. Although the Assembly does have an emerging tradition of post-legislative scrutiny, there is considerable room for greater rigour and regularity, and pressure on Committees is one of the reasons why this is developing relatively slowly. [...] Expanding pre-legislative scrutiny of Bills would also be valuable; but this, of course, is in the hands of the Welsh Government, as it cannot be conducted unless the Welsh Government chooses to publish a draft Bill.⁵⁵

⁵⁴ Figures exclude any tabled amendments to amendments.

⁵⁵ **EP01(a) Daniel Greenberg**

07.16. This suggestion from Daniel Greenberg echoes the recommendations made by the Fourth Assembly Constitutional and Legislative Affairs Committee during its inquiry into making laws in Wales that:

“ ...there should be a presumption in favour of publishing draft Bills. This recommendation applies to the Welsh Government and Assembly Members given leave to introduce Bills.

[...]

...committees [should] aim to:

- (i) incorporate consideration of post-legislative scrutiny into their planning of the scrutiny of individual Bills referred to them by the Business Committee;
- (ii) re-visit their proposed approach after Stage 4 has been completed, taking into account issues raised during scrutiny.⁵⁶

07.17. Effective legislative, pre-legislative and post-legislative scrutiny are vital, whether of Bills, subordinate legislation or Legislative Consent Memoranda, particularly in a unicameral legislature such as the Assembly. Figure 5 provides examples of the impact of such scrutiny by Assembly committees.

⁵⁶ National Assembly for Wales Constitutional and Legislative Affairs Committee, *Making Laws in Wales*, October 2015

Figure 5 Case studies of the impact of Assembly legislative scrutiny

CHILDREN, YOUNG PEOPLE AND EDUCATION COMMITTEE SCRUTINY OF THE EDUCATION BILL

On the basis of evidence heard by the Committee during its Stage 1 scrutiny of the Bill, Members recommended that a Part of the Bill which made provision for additional learning needs should be removed. Opposition Members tabled amendments to this effect. Speaking in the debate on the amendments, the Minister indicated that he had considered the recommendation, and agreed to accept the amendments. The provisions were therefore removed from the *Education Bill*. Following further policy and legislative development work the Government subsequently published a draft *Additional Learning Needs Bill*, on which the Committee carried out pre-legislative scrutiny. The Bill has since been introduced in the Fifth Assembly, and is being scrutinised by the Committee's successor.

HEALTH, SOCIAL CARE AND SPORT COMMITTEE SCRUTINY OF THE PUBLIC HEALTH (WALES) BILL

Following Stage 1 scrutiny of the Bill, the Committee recommended the addition of 'sexual offences' to the list of offences which would prevent someone from being issued with a licence to undertake special procedures, such as acupuncture, tattooing, body piercing and electrolysis. The Minister accepted the recommendation, and tabled an amendment to give effect to it. The amendment was agreed and the Bill changed accordingly.

ENVIRONMENT AND SUSTAINABILITY COMMITTEE SCRUTINY OF THE SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM ON THE UK GOVERNMENT'S HOUSING AND PLANNING BILL

The Committee considered a Supplementary Legislative Consent Memorandum in relation to the inclusion of compulsory purchase provisions in the UK Government's *Housing and Planning Bill*. It noted that the UK Government had carried out its consultation on an England-only basis, whereas the provisions in the Bill would also apply to Wales. The lack of time to consult stakeholders in Wales on the application of technical provisions led the Committee to recommend that the Assembly did not give consent. The Assembly subsequently voted unanimously to withhold consent, and the UK Government amended the Bill.

CHILDREN, YOUNG PEOPLE AND EDUCATION COMMITTEE PRE-LEGISLATIVE SCRUTINY OF THE QUALIFICATIONS WALES BILL

The Welsh Government planned to establish a Qualifications Wales body with combined roles as regulator and awarding body. The role was amended to undertake only a regulatory role following scrutiny, and criticism, by the Committee.

HEALTH AND SOCIAL CARE COMMITTEE SCRUTINY OF THE CARE AND SUPPORT (ELIGIBILITY) (WALES) REGULATIONS 2015

During the Committee's scrutiny of the then *Social Services and Well-being (Wales) Bill*, it became clear that the *Care and Support (Eligibility) (Wales) Regulations* and accompanying code of practice would be key to the Act's implementation. The Committee scrutinised the draft regulations, gathering views from stakeholders and experts, and wrote to the Minister to highlight concerns relating to the code of practice. The Minister agreed to make changes to the code, and wrote to the Committee to outline the changes made in response to the Committee's concerns.

07.18. During its 2014–15 inquiry into the way legislation is made in Wales, the Constitutional and Legislative Affairs Committee took evidence on the capacity of the Assembly to undertake its legislative scrutiny functions. Views expressed by witnesses included:

- The Auditor General for Wales:

“ ...scrutiny relies on two things: it relies on the information by which you scrutinise, and it relies on time to scrutinise... [T]he Assembly really could do with more time to scrutinise legislation. That might mean that you need to look perhaps at pre-legislative consultation stages a bit more in order to ensure that the legislation itself—not just the intent behind legislation, but perhaps the draft Bill itself—is exposed to a degree of external scrutiny. Because, with the size of legislature that the Assembly is, it will be hard-pressed to scrutinise. I make the same point that I did when I was a member of the Richard Commission: I think that the Assembly needs more Members to do its job properly.⁵⁷

- The Hansard Society:

“ [the Assembly lacks] the capacity that leads to a backbench culture of a kind that you find in a bigger legislature. That has implications in terms of committee work and legislation...But that's always struck me as one of the issues that defines how Members engage with the work.⁵⁸

- The then Welsh Government Minister for Finance and Government Business, now Leader of the House and Chief Whip:

“ [there is] a lot of pressure on a small number of Members, which goes back to the bigger question about our capacity and our ability to actually handle a lot of legislation as an Assembly.⁵⁹

⁵⁷ Auditor General for Wales in National Assembly for Wales Constitutional and Legislative Affairs Committee, *Making Laws in Wales*, October 2015

⁵⁸ Hansard Society, *Ibid*

⁵⁹ Welsh Government, *Ibid*

Financial scrutiny

07.19. In addition to its policy and legislative scrutiny, key elements of the Assembly's responsibilities are the scrutiny of government spending and finances and, from the Fifth Assembly onwards, taxation. In 2017–18, the total budget subject to the scrutiny and approval of the National Assembly is some £15 billion.

07.20. The Assembly's Finance Committee has lead responsibility for oversight of this huge sum of public expenditure. Other committees also undertake financial scrutiny in the course of their inquiries and legislative scrutiny, as well as scrutiny of the budgets and in-year spending within their portfolios. The Assembly's Public Accounts Committee is responsible for scrutinising matters which relate to the economy, efficiency and effectiveness with which resources are employed in the discharge of public functions in Wales.

07.21. The Auditor General for Wales highlighted his concerns that the small size of the Assembly could limit its capacity to carry out its financial scrutiny work effectively, particularly as the powers of the Assembly increase with the devolution of tax powers:

“ ...it is worrying that resources spent on careful analysis by staff of the WAO may essentially come to be wasted by a lack of Members' reading time. I also find the research⁶⁰ troubling, though not surprising, from the point of view of my position as an office-holder affected by Assembly legislation. In particular, I think it helps explain why problematic provisions contained in the *Public Audit (Wales) Act 2013*, such as the over-complex and counter-productive provisions regarding audit fees, were passed by the Assembly.

[...]

While the number of Members will not be the only determinant of successful exercise of those further powers, I consider that 60 Members is too low a number to ensure that there are sufficient Members with the time and interest to apply consistent close scrutiny to Ministers' fiscal proposals. Fiscal proposals are fairly technical in nature, and consideration of their likely economic effects is not straightforward.

⁶⁰ National Assembly for Wales Commission, *The Future of the Assembly: ensuring its capacity to deliver for Wales*, January 2015

They are therefore likely to be somewhat more challenging for Assembly Members to subject to effective scrutiny than legislation in general.⁶¹

07.22. Following work led by the Finance Committee, the annual budget process has been amended with effect from 2017 to provide more scope, time and flexibility for Assembly committees to engage in in-depth scrutiny of the Welsh Government budget. While it will continue to be a matter for individual committees to decide how to prioritise their work programmes, it is likely that committees will seek to undertake more detailed budget scrutiny work, with a corresponding impact on committee workloads.

07.23. The *Wales Act 2017* gave the Assembly legislative competence to move away from the current budget process—which requires the Assembly to pass an annual budget motion—and instead place the process on a legislative footing. For example, this might take the form of taxation resolutions accompanied by legislation to authorise expenditure, or a Westminster-style model of a comprehensive Finance Bill which encompasses taxation and spending. The Assembly's Finance Committee is at an early stage in work to assess whether a legislative budget process would be appropriate for Wales once devolved taxes including landfill tax, land transaction tax and income tax-variation come on stream, and if so, what it might mean for the Assembly's procedures and workload.

Our conclusions

07.24. Effective policy, financial and legislative scrutiny and oversight are fundamental elements of the roles of parliamentarians. Such scrutiny can result in tangible outcomes for people and communities, whether through direct influence on government policy or spending decisions, by the indirect influence it brings to bear on government through increasing the profile of particular issues, or because cross-party committees can explore issues in detail and in the absence of some of the party political heat of the *Siambr*.

07.25. For such scrutiny to be effective, the Assembly and its Members must have sufficient time, resources and capacity to plan, deliver and follow up on their scrutiny work. Implementation of our recommendation to increase the size of the Assembly would provide capacity to exercise these scrutiny responsibilities far more effectively, with consequent benefits in terms of better law-making and government in Wales.

⁶¹ EP18 Auditor General for Wales

08. CAPACITY OF THE COMMITTEE SYSTEM

Background

08.01. Much of the responsibility for holding the Welsh Government to account, and for the detailed examination and amendment of legislation, falls to the Assembly's committees. We have therefore explored in detail how the current system operates, and what indications it provides of the number of Members the Assembly needs to fulfil its functions.

Committee structure

08.02. The design of the committee structure is largely a matter for the Assembly itself.⁶² Including the Business Committee (the formal channel for the organisation of Assembly business and the oversight of procedure) the Fifth Assembly has 14 permanent committees—two more than the Fourth Assembly. One of the additional committees was established to provide capacity for the scrutiny of Brexit-related matters and to help meet the overall demands of the Assembly's legislative workload. The greater number of committees has been enabled by each committee having fewer members when compared to the previous Assembly. For example, the seven policy and legislation committees each have a membership of eight (previously ten) and the Finance and Public Accounts Committees each have seven members (previously eight).

08.03. The majority of Welsh Government subject responsibilities are overseen by the seven principal policy and legislation committees and the Constitutional and Legislative Affairs Committee. The principal committees have dual responsibility for policy and legislation i.e. they undertake the work conducted by separate Select and Public Bill committees in the House of Commons. The dual responsibility model was first established in the Fourth Assembly. The main driver for the establishment of dual function committees was to bring to bear the policy expertise of Members on the examination of policy and legislation in the round. During the Third Assembly there were five dedicated legislation committees and four principal policy committees. While this gave the policy committees greater flexibility over their work programmes, it did not alleviate the pressure on the number of backbenchers required to fill committee positions.

⁶² The **Government of Wales Act 2006** requires the Assembly to establish a Public Accounts Committee.

08.04. A basic principle of good parliamentary operation is that all aspects of government policy, legislation and expenditure are open to scrutiny in committee. For the Assembly to fulfil this principle with 60 Members (of whom up to 14 may be part of the executive) the remits of its committees are necessarily broad—covering more than one Ministerial portfolio—and responsibilities carried by separate committees in other parliaments are combined. Given the breadth of the remits and the policy areas within which legislation tends to fall, we believe that broadening the remits further in order to reduce the overall number of committees would have a detrimental impact on committees' ability to provide effective oversight of government policy, spending and legislation.

08.05. The Assembly's 'specialist' committees—Constitutional and Legislative Affairs, Public Accounts, Finance, Scrutiny of the First Minister, Petitions, and Standards of Conduct—each fulfil specific and important functions which enhance the scrutiny performance of the institution, the engagement with the people of Wales, and uphold the high standards which people rightly expect from the Assembly. While the committee structure is a matter for the Assembly, it is difficult to see how any of these committees could be removed.

Committee membership

08.06. We considered whether the Assembly's overall capacity issues could be alleviated by reducing the size of committee memberships, which currently range between four and eight depending on the role of the committee.

08.07. There is no definitive mechanism for determining the optimum size for a committee. The Sir Bernard Crick Centre for the Public Understanding of Politics argued that:

“ What makes an effective scrutiny committee cannot be reduced down to the number of members but it can be related to having sufficient members with sufficient time and energy to really commit to an area of policy and to forge meaningful relationships with other members.⁶³

08.08. However, difficulties can arise if committees are either too large or too small. For example, a small committee may struggle to achieve a quorum consistently, particularly if Members serve on a number of different committees. A

⁶³ EP09 Sir Bernard Crick Centre for the Public Understanding of Politics, Sheffield University

large committee may struggle to achieve consensus. Sophie Wilson of the Institute for Government noted that:

“ A shared goal also means a committee is more likely to scrutinise issues in a sustained manner, reach a consensus and then speak with one voice—something that becomes more difficult, the larger the committee.⁶⁴

08.09. Professor the Lord Norton of Louth (author, academic and Conservative peer) suggested to us that the optimum range for the size of a committee is between six and sixteen, on the basis that a size within this range will help to avoid quorum issues, provide scope to reflect the overall political balance, allow Members to build on each other's scrutiny, and allow for effective exchange of ideas.⁶⁵

08.10. The *Government of Wales Act 2006* contained certain provisions in relation to the membership of committees. For example, section 29(2)(a) required that, so far as reasonably practicable, the membership of each committee reflected the overall political balance of the Assembly. This constraint was repealed by the *Wales Act 2017*, meaning that the Assembly now has greater flexibility over the size and composition of committees. We understand that the Assembly's Business Committee is considering what procedural changes may be required to give effect to the legislative change. It is good parliamentary practice to have in place suitable safeguards to ensure that the committee system is robust in its scrutiny of government, and that all parties and independent Members represented in the Assembly have appropriate voice and influence. It therefore seems unlikely that the Assembly, in line with other legislatures, would move far away from the principle that committees should reflect the overall political balance at least at an aggregate level, if not for individual committees.

08.11. Within the current Standing Order provisions, the minimum size of committee within which overall political balance is achievable depends on the political makeup of the Assembly. With the makeup of the Assembly immediately following the 2016 Assembly election, the closest reflection of party balance would have been achieved by committees of nine. Marginal changes to the political makeup of the Assembly can affect the calculation significantly—for example, in

⁶⁴ EP04 Institute for Government

⁶⁵ Discussion with Lord Norton on the capacity of the Assembly during Panel meeting in April 2017.

the Fourth Assembly the closest reflection of the political balance would have been committees of twelve.

08.12. The decisions taken by the Assembly in relation to its Fifth Assembly committee structure reflect political compromises and a collective willingness to deviate from the strict requirement for balance. The Assembly has taken conscious decisions in respect of the size of each of its committees to balance their responsibilities with the practical realities of the Assembly's size. The principal policy and legislation committees have eight members: sufficient to approximate party balance and create the potential for the establishment of subcommittees or working groups to maximise the volume of work that committees can undertake. Other oversight committees, where voting is less frequent, are smaller. The Constitutional and Legislative Affairs Committee and committees which deal with matters which are less party-political are smaller still. The variations in size represent negotiations and compromises made by parties willing to accept underrepresentation on individual committees in order to make the whole system viable.

Membership and chairing of committees

08.13. We also looked at how the committee system is populated. Not all the 60 Members are available to undertake committee work. Most obviously, some Members hold executive functions as members of the Welsh Government. A small number of other Members, for example the leaders of the larger opposition parties, do not currently sit on any committees. Nor does the Llywydd, other than in her capacity as chair of the Business Committee. The Deputy Presiding Officer chairs the Committee for the Scrutiny of the First Minister, but does not sit on any other committees.⁶⁶

08.14. Once these Members have been excluded from the total, it leaves just 44 Members to fill 83 committee places. Table 5 compares the number of Members sitting on multiple committees in the Assembly and the Scottish Parliament as at July 2017.

⁶⁶ Her predecessor in the Fourth Assembly also chaired the Constitutional and Legislative Affairs Committee.

Table 5 Number of Members sitting on multiple committees (July 2017)

	Number of committees	Number of Members	Number of Members sitting on:		
			One committee	Two committees	Three committees
National Assembly for Wales	12	60	12 (20%)	25 (42%)	7 (12%)
Scottish Parliament	16	129	51 (40%)	37 (29%)	5 (4%)

Notes: All figures are from July 2017. Figures for Wales exclude the Business Committee, and the Committee for the Scrutiny of the First Minister (which is chaired by the Deputy Presiding Officer and of which all committee chairs are members in an ex officio capacity). Figures for Scotland include one subcommittee, and exclude its equivalent of the Assembly's Business Committee and committees established to scrutinise Private Bills.

08.15. Backbench Members from all parties are affected by the requirement to sit on more than one committee. Table 6 shows the number of specialist roles to be filled by Members of each party represented in the Assembly, and the extent of 'doubling up' which is required. For example, the 17 backbench Welsh Labour Members remaining, once the members of the Welsh Government and the Deputy Presiding Officer have been excluded, must fill between them a place on the Assembly Commission, six committee chairs and 31 committee places. As there are four Labour places on each of the policy and legislation committees, the result is that more or less all the party's backbenchers will be in committee on Wednesday mornings and all day on Thursday, when four committees may be meeting concurrently.

Table 6 Roles and offices held by each party (July 2017)

	Welsh Labour	Welsh Conservative Group	Plaid Cymru	UKIP	Welsh Liberal Democrats	Independent	Total
Welsh Government	11	-	-	-	1	-	12
Llywydd	-	-	1	-	-	-	1
Deputy Presiding Officer	1	-	-	-	-	-	1
Assembly Commission	1	1	1	1	-	-	4
Party leader	-	1	1	1	-	-	3
Business manager	-	1	1	1	-	-	3
Committee chair	6	2	3	1	-	-	12
Committee places (excluding chairs)	31	14	14	10	-	2	71
Total roles	50	19	21	14	1	2	107
Total Members	29	12	11	5	1	2	60

Notes: Committee chairs and places exclude Business Committee and Committee for the Scrutiny of the First Minister. Welsh Labour party leader and business manager roles are fulfilled by the First Minister and the Leader of the House and Chief Whip respectively.

08.16. The workload involved in sitting on even one committee is significant. In addition to attending meetings, committee members must undertake a considerable volume of reading, research and preparation if they are to perform their scrutiny roles effectively. Daniel Greenberg notes:

“ The effectiveness of a Committee’s work in scrutinising policy or legislation, or in conducting an inquiry, depends much more on the effectiveness of the work that is done between sessions than it does on the formal conduct of the sessions themselves. And the more direct involvement Clerks and other Commission staff receive from AMs and their offices, the more penetrating and rigorous the result.⁶⁷

⁶⁷ EP01(a) Daniel Greenberg

08.17. We agree with this. However, anecdotally, we understand from Members that time available to them to prepare for meetings is limited to the extent that they may be unable to engage with the evidence or issues in sufficient depth. The result is that Members may solely rely on the suggested questions prepared for them by Commission staff. While this may result in scrutiny that is adequate, it is unsatisfactory and inhibits Members' ability to pose incisive questions from a political perspective or to follow up with effective and properly researched supplementary questions.

08.18. The burden on committee chairs is particularly acute. The role of committee chair is both critical to the effectiveness of the institution and demanding. For example, it entails the provision of strategic direction to the work of the committee and its support staff, and speaking for the committee during Assembly business, events or in the media. As at July 2017, eight chairs sat on one other major committee, and three chairs sat on two others. Only one chair specialised solely on their own committee.⁶⁸

08.19. The size of the Assembly makes membership of two, sometimes three, demanding committees inevitable for most backbench Members. This is damaging to the effectiveness of the Assembly. It constrains the time available for Members to read, research and prepare and has a corresponding effect on the capacity of Members to undertake high quality scrutiny, develop alternative policy thinking, and engage effectively with stakeholders and the public. For example, it is not uncommon for a committee to be undertaking several different policy inquiries and scrutinising one or more pieces of legislation concurrently, and therefore considering multiple different policy areas in a single meeting. Illustrating this, Figure 6 provides a snapshot of the policy inquiries and legislative scrutiny being undertaken by the Assembly's policy and legislation committees as at September 2017. These inquiries will be at various stages of completion, including initial research and consultation, evidence gathering, reporting or following up. Bills may be at Stage 1 (consideration of general principles) or Stage 2 (consideration of amendments).

⁶⁸ In addition, chairs of all committees are members of the Committee for the Scrutiny of the First Minister, which is chaired by the Deputy Presiding Officer. This does not include the Llywydd, who chairs the Business Committee.

Figure 6 Ongoing policy and legislation committee work as at September 2017

CHILDREN, YOUNG PEOPLE AND EDUCATION COMMITTEE

Policy inquiries: Flying Start; The Emotional and Mental Health of Children and Young People; Perinatal Mental Health; Teachers' Professional Learning and Education.

Legislative scrutiny: *Additional Learning Needs and Education Tribunal (Wales) Bill*; Legislative Consent Memorandum on the *Financial Guidance and Claims Bill*.

CLIMATE CHANGE, ENVIRONMENT AND RURAL AFFAIRS COMMITTEE

Policy inquiries: Future of Agricultural and Rural Development Policies in Wales; Management of Marine Protected Areas in Wales; Forestry and Woodland Policy in Wales; Rethinking Food in Wales.

CULTURE, WELSH LANGUAGE AND COMMUNICATIONS COMMITTEE

Policy inquiries: Historic Environment; Non-public Funding of the Arts; News Journalism in Wales; Funding for and Access to Music Education.

ECONOMY, INFRASTRUCTURE AND SKILLS COMMITTEE

Policy inquiries: Selling Wales to the World; Impacts of Congestion on the Bus Industry in Wales; City Deals and the Regional Economies of Wales; Apprenticeships in Wales 2017; Rail Franchise and the Metro; Digital Infrastructure in Wales.

EQUALITY, LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Policy inquiries: Human Rights in Wales; Poverty in Wales: Communities First—Lessons Learnt; Poverty in Wales: Making the Economy Work for People on Low Incomes; Poverty in Wales: Asset-based Approaches to Poverty Reduction; Fire Safety in High Rise Blocks in Wales.

Legislative scrutiny: *Abolition of the Right to Buy and Associated Rights (Wales) Bill*.

EXTERNAL AFFAIRS AND ADDITIONAL LEGISLATION COMMITTEE

Policy inquiries: Implications for Wales of Britain Exiting the European Union; Regional Policy—What Next for Wales?; The Great Repeal Bill and its implications for Wales; Implications of Brexit for Welsh ports.

HEALTH, SOCIAL CARE AND SPORT COMMITTEE

Policy inquiries: Physical Activity of Children and Young People; Use of Antipsychotic Medication in Care Homes; Loneliness and Isolation; Primary Care; Medical Recruitment; Sustainability of the Health and Social Care Workforce.

Towards a more sustainable and effective committee system

08.20. In 2004, the Richard Commission recommended that Members should sit on just one major subject committee in order to develop subject expertise and facilitate better scrutiny.⁶⁹ This sensible aim was also raised with us in evidence from Lord Lisvane, who suggested that:

“ ...being a member of more than one committee dilutes the effort and knowledge, and reduces effectiveness.⁷⁰

08.21. We discussed the issue with two leading parliamentary experts—Lord Norton and Greg Power (a specialist who has worked with parliaments and political institutions in more than 30 countries). Both agreed that it would be reasonable to apply the following principles to committee membership:

- i. Committee members should generally sit on no more than two committees;
- ii. Committee chairs should sit only on their own committee (unless harnessing their particular policy expertise, for example, to enhance financial scrutiny or the scrutiny of the First Minister).⁷¹

08.22. We endorse this position and suggest that the Assembly and political parties should adopt them as principles to be reflected in the design of any future committee system.

08.23. We considered the potential, in an Assembly of 60, for these principles to be applied. Table 7 shows the minimum number of Members who could be required to sit on multiple committees on the basis of the committee system and party balance in the Assembly as at July 2017, assuming that chairs also sit on multiple committees. Table 8 is based on these same assumptions, but applies the principle that committee chairs should not sit on committees other than the one they chair. An additional assumption, in both models, is that the Welsh Government comprises the maximum number of members permitted by section 51

⁶⁹ Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, *Report of the Richard Commission*, 2004

⁷⁰ EP03 Lord Lisvane

⁷¹ Discussion with Lord Norton and Greg Power on the capacity of the Assembly during Panel meeting in April 2017.

of the *Government of Wales Act 2006*. Table 7 shows that on the basis of these assumptions, all available Welsh Labour and UKIP Members would be required to sit on at least two committees, with around half of the available Welsh Labour Members and one UKIP Member required to sit on three. Nearly 90 per cent of Plaid Cymru Members would be required to sit on two committees, as would nearly half of the Welsh Conservative group. The result is that even if chairs sat on committees other than their own, nearly a fifth of available Members would be required to sit on three committees.

Table 7 Members required to sit on multiple committees if chairs sit on more than one committee

	Committee places	Available Members	Available Members required to sit on:					
			Two committees		Three committees		Four committees	
Welsh Labour	37	15	15	100%	7	47%	-	-
Welsh Conservative Group	16	11	5	45%	-	-	-	-
Plaid Cymru	17	9	8	89%	-	-	-	-
UKIP	11	5	5	100%	1	20%	-	-
Welsh Liberal Democrats	-	-	-	-	-	-	-	-
Independent	2	2	-	-	-	-	-	-
Total	83	42	33	79%	8	19%	-	-

Notes: In Table 7 and Table 8 the maximum size of the Welsh Government (14 and assumed for the purpose of modelling to be 13 Welsh Labour Members and 1 Welsh Liberal Democrat Member), Llywydd and Deputy Presiding Officer (2), and leaders of the two largest opposition parties (2) have been excluded to reach a total of 42 'available' Members who can take up committee chairs or membership. Business Committee and the Committee for the Scrutiny of the First Minister have been excluded from the calculations.

08.24. Table 8 applies the principle that committee chairs should not sit on committees other than the one they chair. Of course, while it would reduce the burden on these Members to focus on their roles as chairs, the impact on other Members of their party groups would be significant for most parties. For example, the nine remaining Welsh Labour Members would all have to sit on at least three committees, and four of them would need to sit on four. Similarly, all backbench Plaid Cymru and UKIP Members would have to sit on two committees, with two Members from each party having to sit on three. Self-evidently in the current Assembly, applying our second principle so as to improve the lot of committee chairs, would exacerbate the problem for other Members.

Table 8 Members required to sit on multiple committees if chairs sit only on their own committee

	Committee places (excluding chairs)	Available Members	Available Members required to sit on:					
			Two committees		Three committees		Four committees	
Welsh Labour	31	9	9	100%	9	100%	4	44%
Welsh Conservative Group	14	9	5	56%	-	-	-	-
Plaid Cymru	14	6	6	100%	2	33%	-	-
UKIP	10	4	4	100%	2	50%	-	-
Welsh Liberal Democrats	-	-	-	-	-	-	-	-
Independent	2	2	-	-	-	-	-	-
Total	71	30	24	80%	13	43%	4	13%

See notes to Table 7.

08.25. We therefore considered the extent to which our principles for committee membership could be met in Assemblies of different sizes. Table 9 shows a range of potential scenarios for Assemblies of 60, 75, 80, 85 and 90 Members. The table illustrates the effect of continuing the current committee structure, establishing an additional committee, or changing the size of the principal policy and legislation committees.

Table 9 Members required to sit on two or more committees in Assemblies of up to 90 Members

	Chairs	Available Members (excluding chairs)	Current committee structure			Additional policy and legislation committee			Nine member policy and legislation committees			Seven member policy and legislation committees			
			Places (excluding chairs)	Members on two or more committees		Places (excluding chairs)	Members on two or more committees		Places (excluding chairs)	Members on two or more committees		Places (excluding chairs)	Members on two or more committees		
60 Members	Welsh Labour	6	9	31	9	100%	35	9	100%	31	9	100%	24	9	100%
	Welsh Conservative Group	2	9	14	5	56%	15	7	88%	18	9	100%	14	5	56%
	Plaid Cymru	3	6	14	6	100%	15	6	100%	17	6	100%	14	6	100%
	UKIP	1	4	10	4	100%	11	4	100%	10	4	100%	10	4	100%
	Welsh Liberal Democrats	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Independent	0	2	2	0	0%	2	0	0%	2	0	0%	2	0	0%
	Total	12	30		24	80%		26	90%		28	93%		24	80%
75 Members	Welsh Labour	6	16	31	15	94%	35	16	100%	31	15	94%	24	8	50%
	Welsh Conservative Group	2	12	14	2	17%	15	4	36%	18	6	50%	14	2	17%
	Plaid Cymru	3	9	14	5	56%	15	6	67%	17	8	89%	14	5	56%
	UKIP	1	5	10	5	100%	11	5	100%	10	5	100%	10	5	100%
	Welsh Liberal Democrats	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Independent	0	3	2	0	0%	2	0	0%	2	0	0%	2	0	0%
	Total	12	45		27	60%		31	70%		34	76%		20	44%
80 Members	Welsh Labour	6	19	31	12	63%	35	16	84%	31	12	63%	24	5	26%
	Welsh Conservative Group	2	13	14	1	8%	15	3	25%	18	5	38%	14	1	8%
	Plaid Cymru	3	10	14	4	40%	15	5	50%	17	7	70%	14	4	40%
	UKIP	1	5	10	5	100%	11	5	100%	10	5	100%	10	5	100%
	Welsh Liberal Democrats	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Independent	0	3	2	0	0%	2	0	0%	2	0	0%	2	0	0%
	Total	12	50		22	44%		29	59%		29	58%		15	30%

	Chairs	Available Members (excluding chairs)	Current committee structure			Additional policy and legislation committee			Nine member policy and legislation committees			Seven member policy and legislation committees				
			Places (excluding chairs)	Members on two or more committees	Percentage	Places (excluding chairs)	Members on two or more committees	Percentage	Places (excluding chairs)	Members on two or more committees	Percentage	Places (excluding chairs)	Members on two or more committees	Percentage		
85 Members	Welsh Labour	6	21	31	10	48%	35	14	67%	31	10	48%	24	3	14%	
	Welsh Conservative Group	2	14	14	0	0%	15	2	15%	18	4	29%	14	0	0%	
	Plaid Cymru	3	11	14	3	27%	15	4	36%	17	6	55%	14	3	27%	
	UKIP	1	6	10	4	67%	11	5	83%	10	4	67%	10	4	67%	
	Welsh Liberal Democrats	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Independent	0	3	2	0	0%	2	0	0%	2	0	0%	2	0	0%	
	Total	12	55		17	31%		25	46%		24	44%		10	18%	
90 Members	Welsh Labour	6	24	31	7	29%	35	11	46%	31	7	29%	24	0	0%	
	Welsh Conservative Group	2	15	14	0	0%	15	1	7%	18	3	20%	14	0	0%	
	Plaid Cymru	3	12	14	2	17%	15	4	33%	17	5	42%	14	2	17%	
	UKIP	1	6	10	4	67%	11	5	83%	10	4	67%	10	4	67%	
	Welsh Liberal Democrats	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Independent	0	3	2	0	0%	2	0	0%	2	0	0%	2	0	0%	
	Total	12	60		13	22%		20	34%		19	32%		6	10%	

Notes: 'Available Members' excludes the Welsh Government (assumed to comprise 13 Welsh Labour Members and one Welsh Liberal Democrat Member), the Llywydd (Plaid Cymru) and Deputy Presiding Officer (Welsh Labour), and the leaders of the Welsh Conservative group and Plaid Cymru. Independent Members are assumed to be allocated two committee spaces. Party balance is assumed to be consistent with Assembly as at July 2017. Current structure includes seven policy and legislation committees with eight members (4 Welsh Labour, 1/2 Welsh Conservative group/Plaid Cymru and 1 UKIP), two committees with seven members and three with four members. If another policy and legislation committee were established, it is assumed it would be chaired by a Welsh Conservative group Member, and the number of available Members has been adjusted accordingly in the relevant columns. Policy and legislation committees of nine members assumes 4 Welsh Labour, 2 Welsh Conservative group, 2 Plaid Cymru and 1 UKIP. Policy and legislation committees of seven members assumes three Welsh Labour, 1/2 Welsh Conservative group/Plaid Cymru and 1 UKIP.

08.26. Our modelling shows that, if our principles of committee membership were applied to an Assembly with 75 Members, under the current committee system all parties but UKIP would see a reduction in the proportion of Members required to sit on two or more committees. As the size of the Assembly increases further, the proportion of Members required to sit on two or more committees decreases. At 80 Members, only 44 per cent of Members are required to sit on more than one committee. At 85 Members this falls to 31 per cent, and at 90 Members, to 22 per cent.

08.27. Our modelling is, necessarily, based on a range of assumptions, but conclusions can be drawn:

- A relatively small increase in the overall membership, for example to 75 or 80 Members, would allow more Members to specialise or to focus their time more effectively;
- However, the effect will be felt differently by parties of different sizes as the size of the Assembly increases. With smaller increases in the size of the Assembly, the effect will be more significant for the larger opposition parties. As the Assembly increases in size, the increases in capacity will also begin to benefit larger parties with executive roles, and smaller opposition parties.

08.28. We have focused our attention on the scrutiny capacity of the Assembly, and have assumed that the maximum size of the Welsh Government will remain at 14, as currently prescribed by section 51 of the *Government of Wales Act 2006*. All the evidence we have received has addressed the needs of the institution as a scrutiny body and legislature. We have received nothing arguing for an increase in the number of Ministers, and we do not believe that there is a compelling case for such an increase.

08.29. Indeed, should the Assembly choose to legislate to increase the limit on the number of Ministers in line with any increase in the size of the Assembly, the additional scrutiny capacity gained would be significantly affected. If the size of the Assembly were to increase from 60 to 80 and our principles of committee membership were applied, for example, all else being equal, a proportionate increase in the size of the Welsh Government from 14 to 18 or 19 would increase the percentage of Members required to sit on two or more committees from 44 per cent to 53 or 54 per cent. Clearly, the impact would be felt most directly by the backbenchers of any party in government.

08.30. Our recommendations on size and capacity therefore reflect an assumption that the Assembly will legislate to increase its size whilst maintaining the existing limit on the size of the executive.

08.31. If the size of the Assembly is to be increased, it is, of course, for the Assembly to decide how it structures and organises itself in order to make best use of its additional capacity. As Daniel Greenberg noted:

“ ...there is likely to become pressure to increase the number of Committees if the number of AMs is increased, and the creation of new Committees would come with a significant increased burden for support staff, who are again unlikely to be augmented at the same rate as the number of AMs, for entirely proper reasons of public economy.⁷²

08.32. At present, the Assembly's size means that small differences in the number of seats held by each party, or the number and size of committees, can have a big impact on demands placed on Members. All parties therefore have an interest in working hard to negotiate arrangements that manage these capacity constraints. We recognise that in a bigger Assembly this consensus might be harder to achieve given the differential impact on different parties. There might also be a temptation, at least at first, to imagine that all capacity concerns have been removed.

08.33. We caution the Assembly against this view. Even if our recommendations are implemented, the Assembly will remain a small parliament when compared to other, similar institutions elsewhere. Those charged with its operational design will need to deploy any capacity gains carefully if improvements to scrutiny, oversight and legislation are to be realised.

⁷² EP01 Daniel Greenberg

Our conclusions

08.34. We believe that the Assembly is too small to carry out its responsibilities effectively. An increase in the size of the Assembly would increase the capacity of the institution to fulfil its policy, legislative and financial scrutiny roles. Much of this capacity gain would be seen in the work of Members on committees, as the need for Members to sit on multiple committees would be reduced. However, the extent to which this will be realised in practice will depend on how the Assembly deploys the additional resource. It is not our role to prescribe how the Assembly should structure itself, whether in terms of the committees it establishes or the office holders it appoints. We are clear, however, that if the Assembly does not exercise restraint—for example in relation to the maximum size of the Welsh Government, the number of committees and the size of committees—the additional capacity and the subsequent benefits for the quality and quantity of scrutiny may not be realised, and the rationale which underpins our recommendations will be significantly weakened.

RECOMMENDATION

Recommendation 3. The Assembly must exercise restraint in the way it makes use of any increase in the size of the institution—for example in relation to the number and size of committees, the appointment of office holders, and the maximum size of the Welsh Government—in order to ensure that the potential benefits for the quality and quantity of scrutiny are realised and additional costs are kept to an absolute minimum.

09. UK AND INTERNATIONAL COMPARATORS

UK comparators

09.01. With only 60 elected Members, the Assembly has fewer elected members than many local authorities in Wales (Figure 7), and is by far the smallest of the devolved UK parliaments (Table 10). Like its fellow devolved legislatures, the Assembly is a unicameral institution—its Members therefore have to address every aspect of parliamentary responsibility without the safety net of a revising chamber to cause them to think again.

Figure 7 Number of councillors in local authorities in Wales

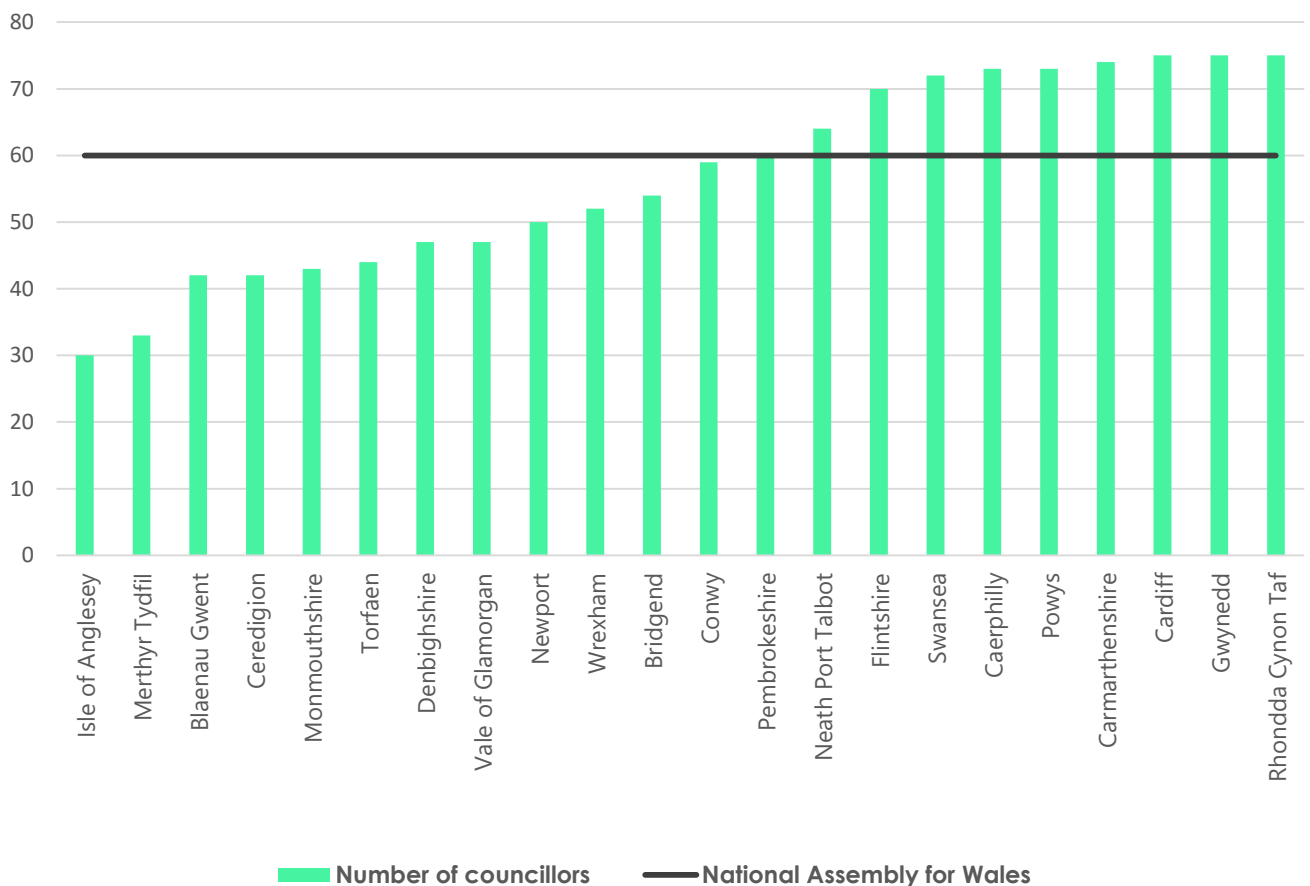


Table 10 Population per Member of UK devolved legislatures

	Population	Number of Members	Population per Member
Northern Ireland (pre-2017)	1,862,100	108	17,242
Northern Ireland (post-2017)	1,862,100	90	20,690
Scotland	5,404,700	129	41,897
Wales	3,113,200	60	51,887

Notes: population figures sourced from Office for National Statistics, **2016 mid-year population estimates**, June 2017

09.02. The asymmetric nature of devolution in the UK means that like for like comparison between the devolved institutions is not straightforward. That said, in 1999, when the devolved institutions were established, the role of Assembly Members in Wales was undeniably less demanding than those of their counterparts elsewhere.

09.03. By 2014, when the Assembly's independent Remuneration Board commissioned the Hay Group to undertake a benchmarking exercise to assess the roles of Members of the different parliaments, it was clear that the legislative responsibilities of Assembly Members were now significant, bearing no comparison with those carried by their predecessors in earlier Assemblies.⁷³

09.04. We believe that the successive changes to the devolution settlement in Wales, including the forthcoming income tax-varying powers, mean that, while the breadth of devolved policy responsibility varies (with the Assembly most conspicuously lacking justice and home affairs powers), the fundamental functions fulfilled by Members in Cardiff Bay are now comparable to those of Members in Holyrood, Stormont and Westminster.

⁷³ Hay Group, *Job evaluation and remuneration benchmarking for Assembly Members*, August 2014

International comparators

09.05. In 2014, the Silk Commission noted that:

“ ...the National Assembly is also more stretched than its international comparators, especially those where the executive is drawn from the members of the legislature.⁷⁴

09.06. In its 2013 report, *Size Matters*, the UK's Changing Union Project and Electoral Reform Society Cymru undertook detailed work on the size of the Assembly in an international context.⁷⁵ The analysis was based on the Regional Authority Index (RAI), which examines the relative autonomy of regions in 42 countries, and awards a score based on:

- Institutional depth (autonomy of regional government);
- Policy scope (range of policy responsibility);
- Fiscal autonomy (ability to independently tax its population); and
- Representation (extent to which the regional legislature and executive are independent).

09.07. *Size Matters* compared autonomous regions in Europe, North America and Australia. The Index scores were calculated in 2006—the report therefore compares pre-2007 Wales in the first instance. The RAI score for the Scottish Parliament was 13, broadly in line with regions in Italy, Spain, Germany, Canada and the USA (which ranged between 12 and 15). The scores for pre-2007 Wales and Northern Ireland were both 8. *Size Matters* then assessed the development of Wales's autonomy as the devolution settlement has changed, and in respect of the anticipated devolution of tax powers and police and justice recommended by the Silk Commission. *Size Matters* acknowledges that there is an international trend towards increasing regional authority, making it likely that the scores of the comparator regions may also have increased since 2006. Nevertheless, Table 11 shows that as the Assembly's powers have increased, Wales's RAI score is likely to be approaching the norm for other European, North American and Australian regions.

⁷⁴ Commission on Devolution in Wales, *Empowerment and responsibility: legislative powers to strengthen Wales*, 2014

⁷⁵ UK's Changing Union and Electoral Reform Society Cymru, *Size Matters: making the National Assembly more effective*, 2013

Table 11 Regional Authority Index scores for the National Assembly for Wales

	Institutional depth	Policy scope	Fiscal autonomy	Representation	Total score
1999–2006	3	2	0	3	8
2007–11	3	2	0	4	9
2011	3	3	0	4	10
With limited tax base	3	3	2	4	12
With limited income tax-varying powers, control of police ⁷⁶ and powers over own institutional arrangements	3	3	3	4	13

Notes: Adapted from UK's Changing Union and Electoral Reform Society Cymru, *Size Matters: making the National Assembly more effective*, 2013

09.08. *Size Matters* further assessed the size of European parliaments according to number of members and the ratio of members to population. It noted that:

“ It can be seen that the average size of the lower chambers of the parliaments in the countries of the EU is 267 members. If we take the countries of 10 million or less the average is 166, while those serving populations of between 1 and 6 million people is not much less, at 142.

Therefore, even excluding second chambers, it is clear that by comparison the National Assembly for Wales is a remarkably small institution. When looking at the electoral ratio—that is, how many elected representatives per head of population—Wales is again shown to be far less well represented than the EU average.

However, if we were to focus on smaller countries with populations below 10 million it is clear that the Welsh Assembly is by far the least representative in terms of elected representatives per head, with a ratio of one member per 51,058 people. The average in the EU as a whole on this score is one per 39,100. For countries up to 10 million it is

⁷⁶ The scoring was undertaken on the assumption that control of policing might be devolved. However, policing was subsequently included in the *Wales Act 2017* as a reserved matter.

one per 22,122, and for those in the population range of 1-6 million it is one per 23,566.⁷⁷

09.09. The research concluded that:

“ Moving to a National Assembly of 80 members would give Wales an electoral ratio of around the same level as Scotland, and close to the EU average. However, this would still be a low level for a small nation-state within the EU. To achieve the mean level for this category the National Assembly would require around 140 Assembly Members. Compared with other devolved institutions, Wales has a relatively small number of elected representatives. Even when we include all the smaller regions, those with fewer powers, and those that do not have executive functions, the average number is 76. When we exclude those regions, the average is 104.

This analysis of sub-national legislatures suggest that 80 members would be relatively small for a legislature such as the National Assembly that represents more than three million people. Indeed, the comparison suggests that 100 AMs would be closer to the norm.⁷⁸

Our conclusions

09.10. Direct comparisons between legislatures are not straightforward. Different institutions operate in different contexts and exercise different powers. Nevertheless, the Assembly is objectively small when compared to other UK or international comparators. If the Assembly had the same average number of Members per head of population as the 16 devolved institutions in Europe, Canada and Australia with populations between 2 and 4 million, it would have a membership of 86. If the nine states of the USA with similar populations were also included, the number would be 91.⁷⁹

⁷⁷ UK's Changing Union and Electoral Reform Society Cymru, *Size Matters: making the National Assembly more effective*, 2013

⁷⁸ UK's Changing Union and Electoral Reform Society Cymru, *Size Matters: making the National Assembly more effective*, 2013

⁷⁹ Figures sourced from *Size Matters*, *National Conference of State Legislatures*, and *US Census Bureau*



PART 3: THE ELECTION OF THE ASSEMBLY



10. THE ASSEMBLY'S ELECTORAL ARRANGEMENTS

Background

10.01. The implementation of our recommendation that the size of the Assembly should be increased to between 80 and 90 Members will require reform of the Assembly's electoral system. We were tasked with making recommendations for the electoral system which should be used to elect the Assembly at the next election in 2021.

A principles-based approach

10.02. Different electoral systems have strengths and weaknesses, and there is no one ideal electoral system. To help us assess which system, or systems, might be most suitable for the Assembly's particular context, we have drawn on our expertise and experience, as well as the academic literature and our analysis of debates in Wales and elsewhere, to identify principles against which to evaluate different electoral systems:

- **Government accountability and effectiveness:** the system should encourage the return of effective, accountable and stable governments, whether majorities or coalitions.
- **Proportionality:** the system should be no less proportional than the Assembly's current electoral arrangements, and preferably be more proportional.
- **Member accountability:** the system should ensure that all Members are clearly accountable to voters and able to represent them effectively and appropriately in the national interest.
- **Equivalent status:** as far as possible, the system should ensure that all Members are elected with broadly equivalent mandates which afford them equal status.
- **Diversity:** the system should encourage and support the election of a body of representatives which broadly reflects the population.
- **Voter choice:** where appropriate within its design, the system should allow voters to select or indicate a preference for individual candidates.
- **Equivalent mandates:** the system should reflect the general principle of electoral system design that votes should have approximately the same

value, with seats apportioned taking electorate numbers and geography into account.

- **Boundaries:** the system should be based on clearly defined geographic areas which are meaningful to people and take into account existing communities of interest, and existing electoral and administrative boundaries.
- **Simplicity:** the system should be designed with simplicity and intelligibility for voters in mind.
- **Sustainability and adaptability:** the system should be able to be implemented in 2021, and subsequently respond and adapt to changing political, demographic and legislative trends, needs and circumstances without requiring further fundamental change in the near future.

10.03. Clearly, no single electoral system can fully deliver against every one of our principles. Nevertheless, taken together they provide a robust framework against which to assess different electoral systems and reach impartial, politically neutral conclusions and recommendations.

10.04. In chapter 11 we outline the Assembly's current electoral arrangements, highlight key milestones in electoral reform affecting Wales since 1999, and explore the context for electoral reform in Wales.

10.05. In chapter 12 we consider issues relating to diversity of representation, and explore what legislative action could be taken to support and encourage the election of a diverse Assembly which reflects the population it represents. We also consider the potential of job sharing arrangements as a means of alleviating the barriers some people may face in standing for election, for example those with disabilities or caring responsibilities.

10.06. In chapter 13 we discuss electoral systems which we consider adequately meet our principles, and which could be used to elect an Assembly of at least 80 Members—this being the minimum number of Members we believe the Assembly requires to fulfil its functions effectively. We explore the strengths and weaknesses of each system, and highlight key features, for example boundaries, ballot structures and mechanisms for filling casual vacancies.⁸⁰ We also identify other

⁸⁰ We are aware that there has been some public debate about the circumstances under which a seat should become vacant. This is a matter for the Assembly to consider. Our focus, in the design of the electoral systems, is to ensure there are appropriate mechanisms for filling casual vacancies which arise.

electoral systems that we considered, which we believe do not satisfactorily deliver against our principles.

10.07. In chapter 14 we explore the mechanisms and structures which will need to be put in place to ensure that the implementation of our recommendations results in sustainable electoral arrangements for the Assembly.

How should the Assembly be elected in 2021?

Electoral systems

10.08. We have been tasked with making recommendations which could be implemented for the next Assembly election in 2021. While we have identified our preferred options, it is ultimately for the Assembly to determine the priorities and principles it wishes its electoral system to deliver.

10.09. We are confident that the three systems we have outlined in detail in chapter 13 could be put in place for 2021, and that each would operate effectively within the Welsh context. Each could deliver stable and accountable governments. Boundary or seat apportionment review mechanisms could be designed to enable each of the systems to be sustainable and adaptable. Each could be communicated in a way which is intelligible and understandable to the electorate.

10.10. Nevertheless, each system has specific strengths and some limiting factors which the Assembly will wish to consider carefully. **Our analysis of these strengths and weaknesses has led us to conclude that our preferred option, subject to the implementation of our recommendations for an integrated gender quota, is a Single Transferable Vote (STV) system.** Should our recommendations for an integrated gender quota not be implemented, a Flexible List proportional representation system would be a viable alternative to STV. We also outline a Mixed Member Proportional system (MMP), which represents a 'status quo' option.⁸¹ However, we do not favour such a system, because it limits the size of Assembly which could be elected in 2021 to 80.

⁸¹ Mixed Member Proportional systems are also known as Additional Member Systems.

Single Transferable Vote: our preferred option

10.11. STV delivers against our principles of proportionality, equivalent status for Members and voter choice. It would be sufficiently flexible to elect an Assembly towards the higher end of our recommended size bracket, enabling greater future-proofing and reducing the potential need for these issues to be revisited in the foreseeable future. STV is used in Northern Ireland to elect the Northern Ireland Assembly, and in Scotland for the election of local authorities. The Welsh Government is also considering STV as an alternative electoral system for local authorities in Wales, should individual authorities vote to adopt it. Because of this, within the Welsh context, it could also deliver simplicity and familiarity for voters. STV would reduce the influence that political parties have over which of their candidates are elected. However, as explored in detail in chapter 13, there is a risk that the level of Member accountability provided by STV could lead to a disproportionate focus on Members' representative roles, which could come at the expense of, for example, their formal Assembly business and scrutiny roles.

10.12. The Assembly is rightly commended for being one of the first parliamentary bodies in the world to achieve gender parity. However, since 2011, the percentage of female Members has fallen to 42 per cent. The electoral system is important if the achievements made by political parties in Wales in this field are to be safeguarded in the longer term. Our recommendations for an integrated gender quota, the enabling of job sharing arrangements, and the inclusion in Assembly reform legislation of provisions relating to the collation of information about candidates, provide mechanisms for this. If these recommendations are implemented, an STV system could also deliver against our principle of diversity of representation, and could therefore be the most appropriate electoral system for Wales.

Flexible List: a viable alternative

10.13. However, if the recommendations for promoting diversity of representation we outline in chapter 12 are not implemented—whether through lack of political consensus or the limits of the Assembly's legislative competence—we would be concerned about whether STV could be guaranteed to adequately achieve the election of an Assembly which fully reflects the population it represents. In these circumstances, we believe that a Flexible List system, and the potential encouragement it would provide for parties to implement their own arrangements to prioritise candidates with different protected characteristics, would be more likely to deliver a more representative Assembly. A Flexible List system of the nature we have outlined in chapter 13 would deliver flexibility over the size of the Assembly and equivalent status for Members. It would deliver a degree of voter choice, as candidates receiving sufficient personal votes would move up the party list, although the degree of voter choice is less than in an STV system. The extent to which a Flexible List system delivered against our principle of proportionality would depend on the details of the system.

Mixed Member Proportional: a 'status quo' option

10.14. If the Assembly does not implement either STV or a Flexible List, it might consider adapting the current electoral arrangements to elect an Assembly within our recommended size bracket. In chapter 13, we outline how this could be achieved. However, this is not our preferred option. It would not be possible to elect an Assembly larger than 80 Members without significant boundary review, which is not possible before the 2021 election, or the number of regional Members being greater than the number of constituency Members. The latter would not be desirable, not least because of the impact on the degree of voter choice should more than half of Assembly Members be elected on the basis of closed lists. While 80 is within the size bracket we identified in Part 2 of this report, it is the lowest point of that bracket. The capacity gains would not, therefore, provide the same degree of future-proofing as a larger increase in size.

10.15. There is a perception that the First Past the Post element of a Mixed Member Proportional (MMP) system would deliver most strongly against our principle of Member accountability. This must be offset against the perception that the closed list element does not provide for such accountability—a situation which would be exacerbated should the proportion of regional Members exceed the proportion of constituency Members. An MMP system, under which there are two routes to election, would also not deliver fully against our principle that Members should have equivalent status—although this can be mitigated to some extent by

the continued allowance of dual candidature. The closed list element of an MMP system would enable parties to implement arrangements to prioritise particular groups of candidates. The system has, perhaps, the advantage that it is the status quo option, with which voters will be broadly familiar, and makes use of the boundaries and ballot structure which have been in place for five Assembly elections since 1999.

RECOMMENDATION

Recommendation 4. If our recommendations on legislative interventions to support and encourage diversity of representation are implemented, the Assembly should be elected by Single Transferable Vote with effect from 2021. If, however, these recommendations are not implemented, the Assembly should be elected on the basis of a Flexible List electoral system with effect from 2021.

Electoral boundaries: STV and Flexible List

10.16. The Assembly's current boundaries are broadly co-terminous with Westminster parliamentary constituencies. However, the automatic link was severed by the *Parliamentary Voting System and Constituencies Act 2011*, and the constituency boundaries have already begun to diverge. If the current review of Westminster constituency boundaries, or any further boundary review, is implemented, then the current coincidence of boundaries, and the corresponding benefits of co-terminosity for parties and voters, will be lost. We considered whether it would be possible to retain these benefits by adopting the proposed Westminster boundaries for Assembly elections. However, in addition to the uncertainty about whether or when the boundary review proposals will be implemented, we believe that it would be inappropriate for the Assembly's constituency boundaries to be subject to change as a result of factors outside the Assembly's control or influence which may be driven by factors with little direct relevance to Wales. We therefore rejected the 29 proposed Westminster constituencies as the basis for the Assembly's electoral system.

10.17. However, by basing our proposed multimember constituencies on existing electoral and administrative areas, we have sought to retain some of the benefits of co-terminosity for parties and voters, including familiarity, clarity and simplicity for voters, as well as minimising, at least initially, the need for expensive and lengthy boundary review work.

10.18. In chapter 14 we have outlined two potential options for boundaries which could be used within an STV or a Flexible List electoral system, and which could be implemented for 2021 on the basis of minimal boundary review work—our preferred option of 20 constituencies based on pairings of the 40 current Assembly constituencies, and a viable alternative of 17 constituencies based on the existing local authority areas in Wales. Like all electoral boundary maps, each has its strengths and weaknesses.

10.19. The size of the Assembly to be elected under any new electoral system should be prescribed in primary legislation. In Part 2 of this report, we outline the case for the size of the Assembly to be increased to at least 80 Members and ideally closer to 90 to provide greater and more sustainable capacity gains. Both multimember constituency options offer some flexibility for the Assembly to determine precisely the number of Members for which it legislates. Consideration of where within our recommended bracket of 80 to 90 Members the size of the Assembly should be set should be based not only on the capacity gains at each size, but also on the district magnitudes of the multimember constituencies for

which Members would be returned.⁸² Higher district magnitudes create greater potential for proportionality. However, if constituencies become too big, it can result in hyperproportionality. As the Wales Governance Centre and the Electoral Reform Society Cymru highlighted in *Reshaping the Senedd*:

“ While a strong democracy requires the inclusion of a diversity of voices, there are also potential negative consequences for a political system when elected representation ‘fractionalises’ into a large number of small parties. Among these consequences can be that extremist parties, with limited public support, gain the legitimacy of an elected platform; that such parties may sometimes be in a strong bargaining position to influence government formation and policy; and that effective governments become more difficult to form and sustain across the multitude of parties.⁸³

10.20. Conversely, if district magnitudes are too low, the outcome may not be sufficiently proportional. In addition, it is widely accepted that district magnitudes of higher than three are more likely to support the return of a more diverse legislature.

10.21. Taking account of these factors, in our view, Assembly constituencies should return at least four Members. Ideally they should return no more than six Members, although a small number of seven seat constituencies may be tolerable. On the basis of our indicative modelling, this would suggest that the optimal size of the Assembly on the basis of district magnitudes should be:

- 83 or 84 Members on the basis of our 17 proposed constituencies formed by combining or splitting local authority areas;
- 89 or 90 Members on the basis of our 20 proposed constituencies formed by pairing Assembly constituencies.⁸⁴

⁸² District magnitude is the number of Members returned to represent an electoral area.

⁸³ Wales Governance Centre and Electoral Reform Society Cymru, *Reshaping the Senedd: how to elect a more effective Assembly*, November 2016

⁸⁴ Our modelling is based on electorate data from December 2016. Legislation to reform the electoral system would need to specify the electorate data upon which the apportionment of seats to constituencies would be based. This might result in some variation over where within our bracket of 80 to 90 Members lay the optimal size range for the Assembly on the basis of district magnitudes. Similar variation could result from changes to the Assembly franchise, for example a reduction in the minimum voting age.

20 paired existing Assembly constituencies: our preferred option

10.22. We conclude in chapter 03 that the capacity benefits resulting from additional Members increase as the size of the Assembly rises within our recommended size bracket. Our preference, therefore, is for the size of the Assembly to be at the upper end of our recommended bracket. This should be reflected in decisions taken by the Assembly about the boundaries upon which it is elected. Our modelling indicates that, of our two proposed multimember constituency models, this could better be achieved on the basis of 20 pairings of the current 40 Assembly constituencies.

10.23. In addition, the relative similarity in the size of the electorates in each of the 20 newly-formed constituencies would result in a relatively low variance in district magnitude between constituencies. Our modelling suggests that, if used to elect an Assembly of either 89 or 90 Members, all constituencies would return either four or five Members. Such low variation in district magnitude makes it more likely that the proportionality of the electoral outcomes across constituencies will be broadly similar, as well as delivering on our principle of equivalent mandates. A post-2021 boundary review could be used to equalise constituency sizes further, if that were to be considered desirable.

10.24. The existing 40 Assembly constituency boundaries have been used for Assembly elections since 1999, and therefore their use, albeit in combination, provides a degree of familiarity for voters. However, the sustainability of constituencies based on pairings of the current Assembly constituencies would require separate boundary review mechanisms to be put in place, with a new or existing boundary review body being charged to undertake periodic reviews of the boundaries.

17 local authority-based constituencies: a viable alternative

10.25. A set of boundaries based on local authority areas would use the existing electoral and administrative boundaries which are most likely to be familiar and relevant to the people of Wales. It would also provide political parties with some of the benefits of co-terminosity for internal party organisation, as parties should already have structures or arrangements in place to support organisation at a local authority level. In addition, the requirements for future boundary reviews would be minimised—there are already arrangements in place for the review of local authority boundaries, which generally focus on ward boundaries within local authority areas rather than external boundaries. There would need, instead, to be periodic recalculation of the seat apportionments to each Assembly constituency in order to respond to demographic or population changes. Were there to be significant changes to the organisation of local government in Wales, this would be within the control of the Assembly, which would be able to decide how and if Assembly constituencies should be adjusted.

10.26. However, the variance in the number of Members returned by each constituency in 2021 would be significantly broader than our preferred option of 20 constituencies based on pairs of current Assembly constituencies. Our modelling indicates that the differences in the electorate size of local authorities across Wales would lead to variances in district magnitude of between three and six Members in an Assembly of 80 or 81 Members, three and seven in an Assembly of 82 Members, and four and seven in an Assembly of 83 to 90 Members. This would have implications for the achievement of consistently proportional outcomes and the perceived equivalence of Members' mandates.

RECOMMENDATIONS

Recommendation 5. We recommend that the multimember Assembly constituencies upon which a Single Transferable Vote or Flexible List system are based should return no fewer than four and ideally no more than six Members.

Recommendation 6. Should the Assembly implement either a Single Transferable Vote or Flexible List electoral system in 2021, we recommend that an Assembly of 89 or 90 Members should be elected on the basis of 20 Assembly constituencies formed by pairing the current 40 Assembly constituencies. A multimember constituency model based on combining or splitting local authority areas could be a viable alternative for the election of an Assembly of 83 or 84 Members on the basis of either STV or Flexible List, should the Assembly decide that variations in district magnitude were acceptable.

Equivalent mandates

10.27. One of our principles is that votes should have approximately the same value, with seats apportioned taking electorate numbers and geography into account. Under the Assembly's current arrangements, North Wales is marginally overrepresented, reflecting, for example, its distance from Cardiff Bay and the extra time many Members need to travel within their constituencies. When reforming its electoral arrangements, the Assembly will need to consider whether it wishes this slight overrepresentation to continue. Our modelling is based on application of the Sainte-Laguë method purely on the basis of electorate numbers; alternatively, a weighted formula could be applied.

RECOMMENDATION

Recommendation 7. The Assembly should consider whether, in the apportionment of seats to constituencies or regions, additional weighting should be applied to voters in specific parts of Wales, for example on the basis of the distance from Cardiff Bay, rurality or deprivation of the area in which they are registered to vote.

Public awareness and information

10.28. Whichever electoral system or electoral boundaries are put in place, appropriate and effective communication, publicity, voter education and public awareness-raising activity will be vital to ensure that people in Wales understand how to cast their vote, and how their vote influences the Assembly which serves them. It will be important for the Assembly to work with the Electoral Commission and other relevant stakeholders to achieve this.

11. CURRENT ELECTORAL ARRANGEMENTS

The current Mixed Member Proportional system (Additional Member System)

Background

11.01. From the Assembly's establishment in 1999, the 60 Assembly Members have been elected by a Mixed Member Proportional (MMP) electoral system, also known as an Additional Member System. MMP is classified as a form of proportional representation. However the degree of proportionality which results depends on a range of factors, including the balance between the number of constituency and regional seats, the district magnitude of the region (i.e. the number of Members returned by each region), and the electoral formula which is used to allocate regional seats to political parties.

11.02. MMP systems are hybrids, providing two routes to election for Members. In Wales, this means that the Assembly comprises:

- **40 constituency Members elected by First Past the Post to represent individual constituencies.** Until 2011, when the *Parliamentary Voting System and Constituencies Act 2011* severed the link, the constituency boundaries were co-terminous with Westminster parliamentary boundaries.
- **20 regional Members elected via closed lists to represent five regions.** The regional boundaries were originally established between 1979 and 1994 for the election of Wales's MEPs.⁸⁵

⁸⁵ Since 1999, Wales's MEPs have been elected on an all-Wales basis.

Ballot structure

11.03. Voters each have two votes, one for their preferred constituency candidate and a regional vote for their preferred political party.⁸⁶ Voters can cast both votes for the same political party, or can vote for different political parties on their constituency and regional ballots as they choose. In Wales, there are separate ballot papers for the constituency and the regional list. Voters do not have to complete both ballots for their votes to be valid i.e. a voter could choose to vote for a constituency candidate but not for a political party on the regional ballot, or vice versa.

Counting methodology

11.04. The votes for constituencies are counted first—the winner of each constituency is the candidate who receives the most votes. The regional votes are then counted, and an electoral formula applied to allocate the regional seats to political parties. There are a number of different electoral formulae which can be used for this purpose; in Wales, the *Government of Wales Act 2006* specifies the D'Hondt electoral formula:

$$\frac{\text{Number of votes won by a party}}{(\text{Number of seats won so far} + 1)}$$

11.05. Each region in Wales returns four Members to the Assembly. Therefore, the allocation of seats comprises four stages. During each stage, the winner of the seat is decided through the application of the D'Hondt formula to the number of regional votes won by each party and the number of seats the party has won so far. This total includes the number of constituency seats won by the party in the region plus any regional seats it won in previous stages. Table 12 shows an example from the 2016 Assembly election.

⁸⁶ Or independent regional candidate.

Table 12 Allocation of seats in North Wales region in 2016

Party	Constituency seats won	Regional votes	Round 1	Round 2	Round 3	Round 4
Welsh Labour	5	57,528	$\frac{57,528}{(5+1)}$ =9,588	$\frac{57,528}{(5+1)}$ =9,588	$\frac{57,528}{(5+1)}$ =9,588	$\frac{57,528}{(5+1)}$ =9,588
Welsh Conservatives	2	45,468	$\frac{45,468}{(2+1)}$ =15,156	$\frac{45,468}{(2+1)}$ =15,156	$\frac{45,468}{(2+1)}$ =15,156	$\frac{45,468}{(3+1)}$ =11,367
Plaid Cymru	2	47,701	$\frac{47,701}{(2+1)}$ =15,900	$\frac{47,701}{(2+1)}$ =15,900	$\frac{47,701}{(3+1)}$ =11,925	$\frac{47,701}{(3+1)}$ =11,925
Welsh Liberal Democrats	0	9,345	$\frac{9,345}{(0+1)}$ =9,345	$\frac{9,345}{(0+1)}$ =9,345	$\frac{9,345}{(0+1)}$ =9,345	$\frac{9,345}{(0+1)}$ =9,345
UKIP	0	25,518	$\frac{25,518}{(0+1)}$ =25,518	$\frac{21,518}{(1+1)}$ =12,759	$\frac{21,518}{(1+1)}$ =12,759	$\frac{21,518}{(1+1)}$ =12,759

Notes: coloured cells indicate the party which won the seat in each round of calculations. Table only shows votes won by parties represented in the Assembly.

11.06. Unlike in some other countries which use MMP, for example New Zealand and Germany, the system used in Wales does not include any formal electoral thresholds, for example minimum numbers of constituency seats or a minimum vote share a party must win to be eligible to win a regional seat.

Mechanism for filling vacancies

11.07. Assembly elections take place every five years. Should any casual vacancies arise between elections—for example as the result of the resignation or death of a Member—the method by which the seats are filled depends on the route by which the outgoing Member was originally elected:

- **Constituency vacancies** are filled through by-elections. The date of the by-election, which is determined by the Llywydd, must be within three months of the vacancy occurring unless the vacancy occurs within six months of the next scheduled Assembly election. In such circumstances, the seat remains vacant until the scheduled Assembly election.⁸⁷
- **Regional vacancies** are filled by the next eligible person on the list of candidates stood by the relevant political party for that region at the last Assembly election. Individuals are eligible if they are willing to serve as an Assembly Member, are still a member of the relevant political party, and the relevant political party confirms they are eligible. If there is no eligible individual, for example if the outgoing Member stood as an independent or all the candidates on the party's list have either been elected or are otherwise no longer eligible to fill the vacancy, the seat remains vacant until the next Assembly election.⁸⁸

⁸⁷ Section 10 of the *Government of Wales Act 2006*

⁸⁸ Section 11 of the *Government of Wales Act 2006*

Election results since 1999

11.08. Table 13 shows the results of Assembly elections in Wales since 1999, and the proportionality of the result as calculated according to the Gallagher Index of disproportionality (the internationally accepted measure of proportionality).⁸⁹

Table 13 Assembly election results from 1999 to 2016

		Welsh Labour	Welsh Conservatives	Plaid Cymru	Welsh Liberal Democrats	UKIP	Other	Gallagher Index Figures
1999	Vote share	37%	16%	30%	13%	n/a	5%	8.6
	Constituency seats	27	9	1	3	0	0	
	Regional seats	1	8	8	3	0	0	
	Total seats	28	17	9	6	0	0	
2003	Vote share	38%	20%	21%	13%	3%	5%	10.3
	Constituency seats	30	5	1	3	0	1	
	Regional seats	0	7	10	3	0	0	
	Total seats	30	12	11	6	0	1	
2007	Vote share	31%	22%	22%	13%	3%	9%	11.1
	Constituency seats	24	5	7	3	0	1	
	Regional seats	2	7	8	3	0	0	
	Total seats	26	12	15	6	0	1	
2011	Vote share	40%	24%	19%	9%	2%	7%	10.4
	Constituency seats	28	6	5	1	0	0	
	Regional seats	2	8	6	4	0	0	
	Total seats	30	14	11	5	0	0	
2016	Vote share	33%	21%	20%	7%	13%	5%	13.0
	Constituency seats	27	6	6	1	0	0	
	Regional seats	2	5	6	0	7	0	
	Total seats	29	11	12	1	7	0	

Notes: election results sourced from National Assembly for Wales Research Service (2007 to 2016) and House of Commons Library (1999 to 2003). Where parties won Assembly seats, vote shares are shown by party. Where parties did not win seats, their vote shares are included under 'other'. UKIP did not stand candidates in the Assembly election in 1999. Gallagher Index Figures were calculated by Cardiff University's Wales Governance Centre.

⁸⁹ The Gallagher index of disproportionality measures the disproportionality of an electoral outcome; that is, the difference between the percentage of votes received and the percentage of seats a party gets in the resulting legislature. The lower the Gallagher figure, the more proportional the outcome.

Electoral reform in Wales since 1999

11.09. Figure 8 outlines key milestones in the development and reform of electoral arrangements in Wales since 1999.

Figure 8 National Assembly for Wales electoral reform since 1999



⁹⁰ From 1999 onwards MEPs were elected on an all-Wales basis.

⁹¹ Wales Office, *Green paper on future electoral arrangements for the National Assembly for Wales*, 2012

11.10. With effect from a Principal Appointed Day, to be specified in regulations by the Secretary of State for Wales—expected to be 1 April 2018—the Assembly will have competence over elections confined to Wales, including Assembly elections and local government elections. It is with a view to exercising such powers in relation to Assembly elections that the Llywydd and Assembly Commission have tasked us with reviewing the Assembly’s size and electoral arrangements.

11.11. The Welsh Government is also exploring how these new areas of competence might be exercised in relation to local government in Wales. Its consultation on local government electoral reform includes proposals not only for practical arrangements relating to electoral registration, and the administration and conduct of elections, but also for an extension of the franchise to include 16- and 17-year-olds, and for local authorities in Wales to be able to resolve to adopt the Single Transferable Vote system for their elections.⁹²

11.12. We are aware of the Welsh Government’s proposals, and grateful to the Cabinet Secretary for Finance and Local Government and his officials for the constructive and positive way in which they have engaged with our work. Our task is to make recommendations for the appropriate electoral system which should be used to elect the Assembly from 2021. Accordingly, we have developed our principles and undertaken our work with a focus on recommending electoral systems which are appropriate for the Assembly as the national legislature of Wales. Nevertheless, there is clear overlap between our work, and that of the Cabinet Secretary.

RECOMMENDATION

Recommendation 8. The Welsh Government, in developing its proposals for local government electoral reform, should have regard to our recommendations and report, particularly in relation to the design and operation of the Single Transferable Vote electoral system.

⁹² Welsh Government, *Electoral reform in local government in Wales*, July 2017

12. DIVERSITY OF REPRESENTATION

Legislative interventions to encourage diversity

Background

12.01. Diversity of representation is one of our principles. It has also been one of the hallmarks of the Assembly since its establishment, particularly in terms of gender balance. There are different ways in which diversity of representation can be encouraged and supported, for example:

- Features of some electoral systems, by their nature, support or encourage diversity, for example larger district magnitudes or greater proportionality;
- Positive interventions or features can be proactively integrated into electoral systems with the intention of encouraging diversity;
- Complementary measures or interventions can be put in place by political parties within their own candidate selection processes.

12.02. Parties in Wales have been particularly active in seeking to achieve gender balance among their candidates, as well as diversity in a broader sense, for example in relation to ethnicity or disability. Such measures, which we would wish to see continue, might take the form of candidate (or potential candidate) training, mentoring or financial support.

12.03. During our work, we have therefore focused on how our proposals for electoral systems could, by their nature or through proactive interventions, support and encourage the election of a diverse Assembly which reflects the people and communities it serves.

Candidate information

12.04. One of the challenges inherent in operationalising measures to support diversity is the difficulty in identifying and categorising those who embody different protected characteristics. Section 106 of the *Equality Act 2010* would, if commenced, improve the availability of information about candidate diversity. The UK Government has resisted calls for the section's commencement, most recently in a response to a House of Commons Women and Equality Committee report, in which it stated:

“ The proposal for publication of parliamentary candidate diversity data originated in the Speaker’s Conference on Parliamentary Representation. The Conference report recommended that political parties report on their candidate selections every six months, covering up to thirteen different fields. Both the Labour and Coalition governments expressed concerns about the potential regulatory burden which this would impose, particularly on smaller parties, and have worked with the political parties to encourage voluntary collection of diversity data on candidates.

[...]

The Government proposes to continue the process of engaging with the parties to ensure greater transparency on selected parliamentary candidates ahead of the next General Election, rather than imposing legislative requirements through section 106 of the *Equality Act*.⁹³

12.05. We acknowledge the UK Government’s concerns about the regulatory burdens on political parties, but believe that voluntary collection and publication of candidate diversity data is insufficient. During the course of our work we sought data on Assembly election candidates to inform our thinking on electoral systems; such information is not readily available. The lack of such information presents a barrier for parties and for campaigners who seek to encourage and support the selection and election of diverse candidates and representatives.

12.06. The power to commence section 106 resides with the Secretary of State. We believe that the Secretary of State should be asked to commence the provision in relation to Assembly elections, or to transfer the power to do so to the Welsh Ministers. Otherwise, the Assembly should, as part of legislation to reform the electoral system, introduce a provision in respect of Assembly elections that would secure the availability of information regarding diversity.

⁹³ UK Government, *Government Response to the Women and Equalities Committee Report on Women in the House of Commons*, September 2017

RECOMMENDATION

Recommendation 9. The Assembly should request that the Secretary of State commences section 106 of the *Equality Act 2010* in relation to Assembly elections, or transfers the power to do so to the Welsh Ministers. Otherwise, legislation to reform the Assembly's electoral arrangements should include provision that would secure the availability of information regarding diversity.

Gender representation and quotas

12.07. We strongly believe that the selection and election of a more diverse Assembly across the full range of protected characteristics⁹⁴ would enhance the operation of the Assembly, and the way it works for and represents the people of Wales. However, in addition to the challenges outlined above in relation to identifying and categorising people who embody some of the characteristics, we believe there is a distinction which can be drawn between gender and some other protected characteristics. For example, a specific ethnic group might be marginalised on the basis that they form a very small minority of the population within their constituency or within Wales. Their representation is important though, and barriers to their selection and election should be addressed, for example through parties' candidate selection processes. Nevertheless, women constitute 52 per cent of the adult population, and are, therefore, an underrepresented majority.

12.08. We acknowledge the intersectionality of individuals' identities—people's identities are multidimensional, and it may sometimes be problematic to consider the different characteristics they embody in isolation. However, for the reasons outlined above, we have focused primarily on ways to support and encourage balanced gender representation.⁹⁵

12.09. The National Assembly for Wales has a well-established international reputation for promoting gender equality. However, as Table 14 shows, since 2011 there has been a decline in the level of women's representation. Having once

⁹⁴ Section 4 of the *Equality Act 2010* provides for the following protected characteristics: Age; Disability; Gender reassignment; Marriage and civil partnership; Pregnancy and maternity; Race; Religion or belief; Sex; Sexual orientation.

⁹⁵ For the purpose of our work on the representation of women and men, we include transgender men and women on the basis of the gender with which they identify. We acknowledge that the increasing recognition of non-binary gender identities presents additional challenges to operationalising measures in relation to gender.

achieved a parity Assembly in 2003, women currently constitute 42 per cent of Members. While the Assembly is still relatively well-positioned in terms of women's representation—the international average is 23 per cent—reform of the electoral system provides an opportunity to safeguard and protect the Assembly's achievements, and those of political parties in Wales, in relation to gender representation.

Table 14 Gender representation in the Assembly since 1999⁹⁶

	Female Assembly Members		Male Assembly Members	
1999–2003	24	40%	36	60%
2003–2005	30	50%	30	50%
2006–2007 (following a by-election)	31	52%	29	48%
2007–2011	28	47%	32	53%
2011–2016	25	42%	35	58%
2016–2021	25	42%	35	58%

12.10. International evidence suggests that the use of gender quotas in parliaments across the world is increasing, and over half of the world's nations use some form of electoral quota.⁹⁷ Research by Norris and Krook in 2011 found that:

“ Among the twenty OSCE countries registering the sharpest growth in the proportion of women in parliament during the last decade...half had introduced legal quotas. By contrast, among the twenty OSCE countries lagging behind in growth...none had implemented legal quotas.⁹⁸

12.11. There is international backing for gender quotas. Various international institutions, including the United Nations Committee on the Elimination of Discrimination (CEDAW), the Beijing Platform for Action, the EU and the Council of Europe support their use. The international standard for 'good' parliaments according to the Inter-Parliamentary Union is a legislature that is:

⁹⁶ Adapted from Electoral Reform Society, *Women in the National Assembly*, April 2016

⁹⁷ Dalerup, D. for the Quota Project, *About Quotas*, 2009

⁹⁸ Norris, P. and Krook, M. for OSCE, *Gender equality in elected office: a six-step action plan*, 2011

“ ...truly *representative*, transparent, accessible, accountable and effective in its many functions.⁹⁹

12.12. Different types of gender quota are deployed in different countries, depending on the electoral system and local circumstances, for example:

- **Candidate quotas** which introduce a ‘floor’ for the proportion of male or female candidates a party stands for election. These could be applied in the form of constituency twinning for FPTP seats. They could also be applied to multimember systems such as STV or Flexible List at a constituency or a national level. Ireland has recently put in place a quota of this nature, requiring that at least 30 per cent of the candidates each party stands nationally are female (rising to 40 per cent after seven years). The percentage of women candidates increased 90 per cent at the 2016 election compared to the 2011 election, with a corresponding 40 per cent increase in the number of women elected—35 in 2016 compared with 25 in 2011.¹⁰⁰ Parties in Scandinavia, Spain and Austria have voluntarily adopted similar quotas, ranging from 33 per cent to 50 per cent.
- **Requirements for the ordering of candidates** on any list element of the system. Voluntary quotas of this nature have been used by parties in Wales in Assembly elections, for example zipping of regional candidate lists.¹⁰¹
- **‘Reserved seats’** to which only female candidates could be elected. This type of quota is widely used in South Asia, the Arab region and sub-Saharan Africa.

12.13. Gender quotas have been used voluntarily by parties in Wales since 1999, and made a significant contribution to the achievement of gender parity in 2003. In the run up to the first elections in 1999, the Labour Party in Wales used a form of quota known as twinning—when two constituencies are informally linked together, with one selecting a male candidate and the other a female candidate. Plaid Cymru adopted a ‘gender template’ for the regions where it expected to win seats, using zipping to place women first and third on the party’s lists. For the 2003

⁹⁹ IPU, *Parliament and democracy in the twenty-first century: a guide to good practice*, 2006 [original emphasis]

¹⁰⁰ Brennan, M. and Buckley, F. ‘The Irish legislative gender quota: the first election’, *Administration*, vol 65(2), May 2017

¹⁰¹ Zipping involves listing candidates alternately according to their gender; i.e. if the first candidate is a woman, the second must be a man, the third a woman, and so on.

election, the Labour Party used All Women Shortlists in six constituency seats,¹⁰² and Plaid Cymru placed women within the first two spaces on each of its regional lists. Ahead of the 2016 Assembly election, Plaid Cymru updated its Standing Orders to provide that if a male candidate were selected at the top of the list, a female candidate would be selected in second place, and if a female candidate were selected first, either a male or female candidate could be selected in second place.

Table 15 Gender representation by party in the Assembly since 1999

		Female Assembly Members		Male Assembly Members		Total
		Number	%	Number	%	
1999	Welsh Labour	16	57%	12	43%	28
	Welsh Conservatives	0	0%	9	100%	9
	Plaid Cymru	6	35%	11	65%	17
	Welsh Liberal Democrats	3	50%	3	50%	6
2003	Welsh Labour	19	63%	11	37%	30
	Welsh Conservatives	2	18%	9	82%	11
	Plaid Cymru	6	50%	6	50%	12
	Welsh Liberal Democrats	3	50%	3	50%	6
	Independent	0	0%	1	100%	1
2007	Welsh Labour	16	62%	10	38%	26
	Welsh Conservatives	1	8%	11	92%	12
	Plaid Cymru	7	47%	8	53%	15
	Welsh Liberal Democrats	3	50%	3	50%	6
	Independent	1	100%	0	0%	1
2011	Welsh Labour	15	50%	15	50%	30
	Welsh Conservatives	4	29%	10	71%	14
	Plaid Cymru	4	36%	7	64%	11
	Welsh Liberal Democrats	2	40%	3	60%	5
2016	Welsh Labour	15	52%	14	48%	29
	Welsh Conservatives	3	27%	8	73%	11
	Plaid Cymru	4	33%	8	67%	12
	Welsh Liberal Democrats	1	100%	0	0%	1
	UKIP	2	29%	5	71%	7

Notes: gender representation as at the relevant election. Does not take account of subsequent changes in group membership, by-elections or the filling of regional vacancies. In 2011 the South Wales Central seat won by the Welsh Liberal Democrats would have been taken by a man, but he was disqualified from membership of the Assembly. The second placed candidate on the regional list was a woman, who took up the seat and is therefore reflected in the table.

¹⁰² The use of All Women Shortlists led to dispute in one of the six constituencies, Blaenau Gwent, which led to the former Labour Member standing as an independent candidate and defeating the Labour candidate. However, this was an unusual exception.

12.14. Reform of the Assembly's electoral system provides an opportunity to embed equality into the future political life of Wales and its national institutions. The decline in women's representation suggests that the Assembly's reputation for gender equality is vulnerable. Writing before the Assembly election in 2016, McAllister noted that:

“ In both of the last two devolved elections, the number of women AMs elected has fallen, as women elected for the first time in 1999 retired and many were replaced by men. Early positive action by Labour and Plaid Cymru created an 'incumbency overhang': women first elected in 1999 or 2003 stood more of a chance of re-selection and re-election in subsequent elections, thus boosting the overall number of women in the Assembly. But as Labour and Plaid Cymru shied away from positive measures like twinning constituencies and reserved places at the top of regional lists, men began to replace women. Furthermore, at the 2011 election, some women from the 1999 and 2003 intakes retired and were often replaced by men. This creates a new incumbency overhang which works in favour of men, and challenges further drives towards gender equality.¹⁰³

12.15. Table 16 shows the gender imbalance in candidates standing at the 2016 Assembly election. Of the 524 candidates who stood, only 34 per cent were women.

¹⁰³ McAllister, L. in Electoral Reform Society Cymru, *Women in the National Assembly*, 2016

Table 16 Gender balance of candidates at the 2016 Assembly election

		Constituency		Region		Total	
		Number	%	Number	%	Number	%
Overall	Female	78	31%	98	36%	176	34%
	Male	170	69%	178	64%	348	66%
	Total	248		276		524	
Welsh Labour	Female	17	43%	11	50%	28	45%
	Male	23	58%	11	50%	34	55%
	Total	40		22		62	
Welsh Conservatives	Female	9	23%	8	29%	17	25%
	Male	31	78%	20	71%	51	75%
	Total	40		28		68	
Plaid Cymru	Female	10	25%	16	43%	26	34%
	Male	30	75%	21	57%	51	66%
	Total	40		37		77	
Welsh Liberal Democrats	Female	13	33%	16	46%	29	39%
	Male	27	68%	19	54%	46	61%
	Total	40		35		75	
UKIP	Female	9	24%	6	30%	15	26%
	Male	29	76%	14	70%	43	74%
	Total	38		20		58	

Notes: adapted from data provided by Cardiff University's Wales Governance Centre. Breakdown by party shown for parties represented in the Assembly. The 524 total candidates also includes independent candidates, and candidates standing for eleven other parties.

12.16. To seek to ensure that the reformed electoral system safeguards parties' achievements in gender representation in Wales, we recommend that gender quotas are integrated into the Assembly's electoral system. Such quotas should:

- Be prescriptive rather than permissive, i.e. introduce requirements to increase gender-balanced representation rather than introduce enabling measures;
- As far as possible, include targets with penalties at the selected level and incentives at the elected level, i.e. a party failing to treat men and women equally by selecting candidates in accordance with the quota (whether in terms of proportions of male and female candidates or zipped lists, for example) would be subject to penalties, whereas a party which succeeded in achieving gender balance in terms of women and men actually elected would receive incentives.

12.17. Such quotas can be set at different levels, and differ in their effects, depending on the way in which they are designed and the electoral system into which they are integrated. Ultimately, the success of a quota may depend on the way in which parties respond to them, i.e. the degree to which parties are free to make choices about where and how many candidates to stand, and whether parties (or factions within them) seek to subvert the quota.

12.18. We outline details of the quotas which we recommend integrating into the electoral systems we are proposing in chapter 13. In developing our proposals, we have considered the extent of the Assembly's legislative competence under the *Wales Act 2017*, as well as the extent to which different quota arrangements could be expected to be effective in supporting and encouraging the election of a gender-balanced parliament for Wales.

12.19. With effect from the commencement of the reserved powers model of devolution established by the *Wales Act 2017*, the Assembly will have general competence in relation to its own elections. We are aware that this general competence will be subject to the application of relevant reservations such as funding of political parties, and equal opportunities (and exceptions to those reservations). However, in our view, it would be anomalous if such reservations meant that the Assembly did not have competence to determine its own electoral arrangements, including gender quotas.

12.20. Such arrangements would need to include mechanisms for the enforcement of the quotas. This could be achieved, for example, by the rejection by local Returning Officers of slates of candidates as invalid if they did not meet certain criteria (for example requirements for candidate lists to be zipped, or be

gender-balanced). We have also considered whether incentives could be put in place to encourage compliance with a gender quota. Such mechanisms might include provision for additional payments by the Remuneration Board to support party groups in their Assembly work to be made to political parties which had selected a gender-balanced slate of candidates. Similar approaches are taken in:

- **Croatia:** where for each MP representing an underrepresented gender, political parties receive an additional 10 per cent of the amount envisaged per individual MP;
- **Bosnia and Herzegovina:** where 10 per cent of the funding provided to political parties is distributed to parties in proportion to the number of seats held by MPs of the gender which is less represented in the legislature.¹⁰⁴

12.21. Similarly, should the Assembly wish to incentivise gender balance among parties' candidates through the payment of electoral deposits—for example, two for the price of one deposits for two candidates of different genders—this would appear to us to be proportionate in the context of seeking to ensure that the gender balance in the Assembly reflects the gender balance in the communities it serves.

12.22. The intention of our proposals for gender quotas is to ensure that the Assembly is as representative as possible of the people of Wales. Diversity of representation is one of the principles against which we have evaluated different electoral systems, and is a factor which contributes to our rejection of some systems (see chapter 13). Similarly, in our consideration of electoral boundaries (see chapter 14), we reflect the general consensus in the academic literature that district magnitudes of at least three are required to support diversity of representation. We believe that the Assembly has some scope to legislate in a way which encourages gender-balanced representation, although we acknowledge there are significant constraints on its competence. While we recognise that the question of the Assembly's legislative competence is not one that falls to us to resolve, we urge the Assembly to explore the limits of its authority in order to find innovative ways of encouraging gender balanced-representation.

¹⁰⁴ OSCE Office for Democratic Institutions and Human Rights, *Handbook on promoting women's participation in political parties*, 2014

RECOMMENDATION

Recommendation 10. In order to safeguard the achievements of the Assembly and political parties in Wales in relation to gender-balanced representation, we recommend that a gender quota is integrated within the electoral system put in place for 2021. If this does not happen—whether through lack of political consensus or the limits of the Assembly’s legislative competence—we propose that political parties be expected to take steps to ensure their candidate selection processes support and encourage the election of a gender-balanced parliament for Wales. This should include voluntary adoption by parties of the quotas we have outlined.

Job sharing

12.23. One of the principles integral to the Assembly’s ethos is that, as far as possible, family friendly working should be embedded in its culture and procedures.¹⁰⁵ The Assembly has taken steps to develop its timetable and working practices in accordance with this principle, and Members do have considerable flexibility in how they approach some elements of their roles. Nevertheless, in common with other legislatures, the formal business elements of Members’ roles offer limited flexibility, which could represent a disproportionate barrier for some potential candidates. The Assembly’s independent Remuneration Board has commissioned Cardiff University’s Wales Governance Centre to conduct research into the barriers against and incentives for standing for election to the Assembly. We would encourage the Assembly, political parties, the Remuneration Board and the Assembly Commission to consider the findings of this research carefully.

12.24. In a pamphlet published by the Fawcett Society in September 2017, academics, politicians and experts have explored the potential for candidates to be selected and stand for election on the basis of job sharing arrangements (as a recent High Court case determined, this is not currently permitted under electoral law).¹⁰⁶ In her foreword to the pamphlet, Dr Sarah Wollaston MP stated:

“ It should be possible for two people to combine their candidacies and stand as the job-share MPs for a constituency. I job-shared as a GP

¹⁰⁵ See chapters 05 and 06 for further discussion on family friendly working and the Assembly.

¹⁰⁶ Fawcett Society, *Open House? Reflections on the possibility and practice of MPs job-sharing*, September 2017

before entering Westminster—providing there is good communication the arrangement can work well and broaden the skills and experience brought to the role, including for jobs involving complex decision-making. People have fair questions about how it would work—and candidates would need to lay out their process for making decisions and resolving conflicts to the public, and then, as ever, the electorate would have the final say. Permitting MP job-sharing would be a proportionate step towards making it possible for more people to consider standing and to diversifying Parliamentary representation.¹⁰⁷

12.25. While the pamphlet focuses on Westminster, many of the issues raised are equally relevant to Assembly Members. For example, Campbell and Childs highlight that job sharing arrangements could make it more accessible for people with disabilities or caring responsibilities to put themselves forward for election. They argue it could also:

“...counter the (much lamented) rise of the professional politician by allowing, for example, doctors, teachers, nurses or [...] scientists to become MPs whilst continuing to maintain their professional skills. Furthermore, there are risks and costs involved in standing in marginal seats, and allowing MPs to continue to pursue a career part time outside of politics might allow more people to consider standing for election. In an aging society, it would also permit the older MP to better balance work and retirement by enabling them to effectively work part-time in their later years. Or it might enable a sitting MP to stand for one Parliament as a job-share so they can take on a caring role for an elderly relative before returning full-time at a later election.¹⁰⁸

12.26. Enabling candidates standing for the same party or as independents to stand for election on the basis of job sharing arrangements could lead to an increase in the diversity of representation within the Assembly. The flexibility to stand on the basis of job sharing could be particularly beneficial for older candidates, those with disabilities, or those with caring responsibilities. Of course,

¹⁰⁷ Fawcett Society, *Open House? Reflections on the possibility and practice of MPs job-sharing*, September 2017

¹⁰⁸ Fawcett Society, *Open House? Reflections on the possibility and practice of MPs job-sharing*, September 2017

whether it did so would be a matter for electors, who would be able to decide whether or not to vote for candidates standing as a job share. It would be important for any candidates wishing to stand for election on this basis to clearly set out for the electorate how the arrangement would operate, for example in relation to constituency work. The Assembly's Standing Orders would need to make provision about matters such as voting or participation in formal business. Assembly procedures and electoral law would need to clearly specify what would happen if one job share partner were to resign or die, or there were a difference in opinion between the partners about whether to leave or join a political party. The central guiding principle for this is that job share partners should be treated as if they are one person. This means, for example, that should one partner resign their seat, the other would automatically be deemed to have resigned as an Assembly Member. There would also need to be clarity and transparency around the remuneration and financial support for such a job share arrangement. While it would be for the Remuneration Board to determine, our expectation is that job sharing should give rise to no additional costs beyond those of a single Assembly Member: the job share partners would share a single salary, be entitled to a single Member's office costs, staffing and accommodation allowances, and count as a single Member for the purposes of calculating financial support for political parties.

RECOMMENDATION

Recommendation 11. Electoral law, Assembly procedures and the Remuneration Board's *Determination on Members' Pay and Allowances* should be changed to enable candidates to stand for election on the basis of transparent job sharing arrangements. The guiding principles of such arrangements should be that candidates clearly articulate the basis of their job sharing agreement to voters, that job sharing partners are treated as if they are one person, and that job sharing Members should give rise to no additional costs beyond those of a single Assembly Member.

13. ELECTORAL SYSTEMS

Background and rejected systems

13.01. A wide variety of electoral systems are in use across the world. Different systems have different strengths and weaknesses, and deliver different outcomes. To determine which systems we would focus on, we first assessed a range of systems against our principles. This allowed us to narrow our focus by rejecting those systems which we were not confident could adequately deliver against our principles. Table 17 provides a brief overview of some of the systems we rejected, focusing on those which are widely used and/or have been advocated in Wales.

Table 17 Rejected electoral systems

System	Strengths	Weaknesses
First Past The Post	Perception of strong Member and government accountability. Equivalent status for all Members. Simple and intelligible for voters.	Less proportional than current electoral system. Unlikely to adequately encourage diversity of representation.
Multimember First Past The Post (for example one man and one woman per constituency)	Perception of strong Member and government accountability. Equivalent status for all Members. Simple and intelligible for voters. Reserved seats would mandate a gender-balanced Assembly.	Less proportional than current electoral system. Reserved seats limit voter choice of candidates.
Single national list	Single route to election for all Members. Could maximise proportionality and voter choice.	Loss of local link between Members and those they represent.
Closed List proportional representation	Single route to election for all Members. Could secure high proportionality. Could facilitate strong, cohesive political parties.	No choice for voters between individual candidates. No accountability for individual Members directly to voters.
Alternative Vote or Two-Round System	Greater voter choice than First Past the Post.	Potential to be less proportional than current system. Unlikely to adequately encourage diversity of representation. If a two-round system, additional expense.

System	Strengths	Weaknesses
Mixed Member Majoritarian	Similar in many respects to Mixed Member Proportional (Additional Member System) and therefore familiar in Wales.	Less proportional than current system. Two routes to election for Members. No voter choice among individual candidates in the list element.
Dual-Member Mixed Proportional	Single ballot paper for voters to complete.	Less proportional than current system. Unlikely to adequately encourage diversity of representation.

13.02. Through this process, we narrowed our focus to three electoral systems which we believe could operate effectively in Wales with effect from 2021:¹⁰⁹

- Mixed Member Proportional;
- Single Transferable Vote;
- Flexible List.

13.03. In this chapter, we consider the design and operation of each of these systems.

¹⁰⁹ An Open List proportional system might also have met our principles. However Open List systems are very close to STV in their effects. On the basis that STV is already used within the UK, we decided to focus our attention on STV rather than Open List proportional representation.

Mixed Member Proportional system

Background

13.04. Mixed Member Proportional (MMP) systems are used to elect legislatures in a number of different countries, for example New Zealand, Germany and Scotland. The Assembly is currently elected via an MMP system.¹¹⁰ We therefore explored how the current electoral arrangements could be adjusted to accommodate the election of an Assembly within our recommended size bracket of 80 to 90 Members.

Size of the Assembly

13.05. In an MMP system, the total area represented by the legislature is divided into regions, each of which is then divided into constituencies. One Member is returned for each constituency on the basis of First Past The Post. A number of Members are returned for each region on the basis of a list. The list element of the electoral system, which can be open, flexible or closed,¹¹¹ 'compensates' parties for the disproportionality of the First Past The Post element by applying an electoral formula on the basis of the number of votes received by each party and the number of constituency seats won within the region. In this way, the total number of seats won by each party is more closely aligned to the proportion of the votes each receives.

13.06. It would be highly unusual for the 'compensatory' or 'top-up' list seats to outnumber the First Past the Post constituency seats. Indeed, in no other MMP system does this arise. For this reason, and because voter choice would be unacceptably curtailed if more than 50 per cent of Members were elected by closed lists, we believe that it would not be desirable for this to be the case in Wales either. Should the Assembly retain an MMP system, therefore, the maximum size of Assembly which could be elected without substantial boundary review work to increase the number of constituency seats would be 80, comprising 40 constituency Members and 40 regional Members. Such substantial boundary review work could not be undertaken before 2021.

13.07. In principle it would be possible for an Assembly of 80 to be elected in 2021, before a further enlargement to 90 in 2026 on the basis of a post-2021 boundary review. To elect an Assembly of 90, such a review would have to increase the number of Assembly constituencies to a minimum of 45, and create corresponding

¹¹⁰ See chapter 11 for an overview of the current arrangements.

¹¹¹ Lithuania is the only country to use an open list within a Mixed Member Proportional system.

regions which would return between them 45 regional seats. In order to meet our principle that the electoral system should be at least as proportional as the current arrangements, and preferably more proportional, without exceeding the general rule that regional seats should not outnumber constituency seats, regional seats should comprise between 33 and 50 per cent of the total number of seats.

13.08. While a two-step increase of this nature is possible, it is not an approach we would recommend. It would be likely to attract criticism, not least because of the potential confusion and additional costs which could arise.

Electoral formula

13.09. A key factor in determining the outcomes of an MMP system is the electoral formula which is used to translate the votes parties receive into the number of regional seats won. Under the Assembly's current electoral arrangements, the D'Hondt formula is used for this purpose. While the D'Hondt formula generally produces less proportional outcomes than some other electoral formulae, on the basis that MMP would provide a 'least change' option, our view is that D'Hondt should continue to be used.

Dual candidature

13.10. There has been an ongoing debate in Wales about whether individuals should be able to stand as candidates for both a constituency seat and on the list for the relevant region. Dual candidature was permitted when the Assembly was first established in 1999, but was subsequently prohibited by the *Government of Wales Act 2006*. This prohibition was overturned by the *Wales Act 2014*, with the effect that dual candidature was permitted with effect from the 2016 Assembly election. Dual candidature is the norm in MMP systems (Wales used to be the only exception to this), and our view is that dual candidature should continue to be permitted in Wales. Without dual candidature, the field of candidates in an MMP system can be weakened, and there can be intra-party competition as regional candidates' chances of being elected are negatively affected by the success of their party's constituency candidates.

Electoral thresholds

13.11. To date, the size of Assembly regions (each of which returns four Members), is such that the effective electoral threshold is sufficient to avoid hyperproportionality¹¹² without the application of a legislative threshold. As set out in detail in chapter 14, the MMP system we outline would return 40 regional Members. Each region would return between seven and nine regional Members, and between seven and nine constituency Members.

13.12. We considered whether district magnitudes of this level could risk hyperproportional outcomes, in which parties which do not have a substantial level of support could win seats in the Assembly. Our indicative modelling suggests that the impact of electoral thresholds on the outcome of Assembly elections would be minimal. On this basis, and on the basis that MMP is the status quo option, we would not propose that an electoral threshold be applied.

Diversity of representation

13.13. As set out in chapter 12, our view is that an integrated gender quota should be included within the design of the Assembly's electoral system to support and encourage the election of a diverse legislature.

13.14. To this end, parties standing lists of regional candidates should be required to ensure that 50 per cent of their candidates in each region are female and 50 per cent are male.¹¹³ Parties should also be required to zip their lists, alternating female and male candidates. We believe strongly that these should be legislative requirements. However, if these provisions are not specified in legislation, then parties standing in elections in Wales should seek to fulfil these requirements voluntarily.

13.15. In addition, we would expect parties standing candidates in more than one region to seek to ensure that there is broad balance in how many of their lists have a woman at the top, and how many have a man at the top. While no formal legislative quota would apply to constituency seats, we would also expect parties to seek to ensure that 50 per cent of their candidates across Wales are female and 50 per cent are male. In selecting their candidates, parties should also have regard to broader issues of diversity across all the protected characteristics, to help

¹¹² See paragraph 10.19 for discussion of hyperproportionality.

¹¹³ If a party stands an odd number of candidates, this would be interpreted as 50 per cent of the total candidates plus or minus one.

support and encourage the election of an Assembly which truly reflects the communities it serves.

Mechanism for filling casual vacancies

13.16. Currently, vacancies which arise between elections, for example as a result of the death or resignation of a Member, are filled via by-elections or by the next eligible candidate on the list, depending on how the outgoing Member was elected. The current arrangements have been utilised in relation to constituency and regional Members.¹¹⁴ These arrangements have operated effectively, and should continue if the Assembly continues to be elected via a Mixed Member Proportional system.

Assessment against our principles

13.17. Table 18 provides an assessment of the Mixed Member Proportional system outlined above against our principles.

Table 18 Assessment of a Mixed Member Proportional system against our principles

Principle	Assessment
Government accountability and effectiveness	Modelling indicates broad proportionality, which suggests expectation would be relatively stable coalition governments.
Proportionality	Modelling on the basis of D'Hondt, 40 constituencies returning one Member and five electoral regions returning seven to nine Members suggests the results would be at least as proportional as the current system.
Member accountability	First Past The Post Members retain direct link between single local representative and a constituency. Closed lists for regional Members can result in confusion about whether individual Members are accountable to voters or party.
Equivalent status	Two different routes for election can result in tension between Members and confusion for voters.

¹¹⁴ By-elections to replace outgoing constituency Members took place in Swansea East in 2001, Blaenau Gwent in 2006, and Ynys Môn in 2013. Outgoing regional Members were replaced by the relevant list candidates in Mid and West Wales in 2000, North Wales in 2002 and 2015, South Wales East in 2010, and South Wales West in 2015.

Principle	Assessment
Diversity	Measures to support and encourage diversity of representation could be integrated into the system, for example candidate quotas or list zipping.
Voter choice	Voters can separately vote for a candidate for their constituency and a party for their region. Closed regional lists limits voter choice of regional candidates.
Equivalent mandates	Regional Members each represent a larger electorate than constituency Members. Apportionment of seats to regions could be on the basis of electorate numbers, or take account of local political geography.
Boundaries	Current constituency and regional boundaries are familiar. Separate boundary review arrangements would need to be established.
Simplicity	System has been used since 1999 in Wales, and is familiar to voters. Translation of votes into constituency seats is simple and intelligible for voters; translation of votes into regional seats is more complex. Complexity also arises from the use of regional seats to compensate parties for the disproportionality of the First Past The Post constituency seats, and from the differing mandates of constituency and regional Members.
Sustainability and adaptability	Full boundary review would be required before 2026. Without either substantial boundary review work or the number of regional Members exceeding the number of constituency Members, the maximum size of the Assembly is limited to 80.

Single Transferable Vote

Background

13.18. In a Single Transferable Vote (STV) system, voters express preferences for individual candidates to represent multimember constituencies. Each voter has a single vote, which can be transferred from the voter's first preference to their second, and so on, if their preferred candidate has either been eliminated or has sufficient votes already to be elected. Voters express their preferences for individual candidates; therefore votes can be transferred across parties. In order to be elected, candidates must achieve a quota based on the number of seats and the number of valid votes cast—the Droop quota.

13.19. STV is used in Ireland, Northern Ireland, Malta, the Australian Senate, and many state parliaments in Australia. It is also used to elect local authorities in Scotland. The Welsh Government is consulting on whether local authorities in Wales should have the option to adopt STV for their elections.

Casting a vote

13.20. In some STV systems, for example in Australia, voters are required to rank a minimum number of candidates in order for their ballots to be considered valid. In other systems, for example in Ireland, candidates are only required to mark a single preference, although they may also express as many preferences as they wish. Should STV be adopted in Wales, we believe the minimum number of preferences for a valid ballot should be one.

Translation of votes into seats

13.21. The Droop electoral quota (the minimum number of votes required for a candidate to be elected) is based on the number of valid votes cast and the number of seats to be filled:

$$\frac{\text{Valid votes}}{\text{Seats}+1} + 1 = \text{Droop quota}$$

13.22. Candidates who reach the quota on the basis of first preferences are elected automatically. If, following the tallying of the first preference votes, there are seats which have not been filled, a two-step process follows and is repeated until all seats are filled:

- First, preferences received by the elected candidates over and above the quota (surplus votes) are transferred to the unelected candidates ranked next on those votes. Candidates who then reach the quota are elected;
- Second, if there are still seats to fill and there are no surplus votes available, the lowest polling candidate is eliminated, and their votes are transferred to the candidates ranked next on those votes.

13.23. Table 19 provides a worked example of a hypothetical STV count for a constituency with a district magnitude of three, in which 1,500 valid votes are cast.

Table 19 Worked example of a hypothetical STV count

Candidate	First count	Second count		Third count		Fourth count	
		Transfer of D's votes (elected)		Transfer of A's votes (eliminated)		Transfer of C's votes (elected)	
A	225	1	226	-226	0	0	0
B	290	5	295	47	342	12	354
C	262	25	287	150	437	-61	376
D	415	-39	376	0	376	0	376
E	308	8	316	29	345	49	394
Total valid votes	1,500		1,500		1,500		1,500

Notes: there are 1,500 valid votes and 3 seats. The resulting Droop quota is therefore 376. Elected candidates are shaded in green. Eliminated candidates are shaded in red.

13.24. An important design feature of STV is the methodology by which surplus votes are transferred between candidates. The most thorough approach is known as the ‘Weighted Inclusive Gregory’ method. Alternative approaches, which are simpler to administer but can yield anomalies, are ‘Basic Gregory’ and ‘Inclusive Gregory’. Further details of these methodologies are set out in Annex G.

13.25. Which vote transfer methodology is selected will influence whether or not electronic counting is ‘necessary’ in order to avoid overly lengthy or complicated counts. Such complexity need not matter from a voter perspective, but does have administrative consequences. We are aware that electronic counting is one of the issues on which the Welsh Government is consulting in relation to its programme of local government electoral reform.¹¹⁵ While all the methods can be counted manually, the level of complexity potentially involved in the counting process leads us to conclude that:

- If electronic counting were to be adopted for use with STV in Wales, the most viable surplus transfer method is Weighted Inclusive Gregory (as used in local government elections in Scotland);
- If electronic counting were not an option, the most viable transfer methodology would be Basic Gregory (as used in elections to the Northern Ireland Assembly).

Diversity of representation

13.26. If the Assembly adopts STV, then parties should be required to ensure that at least 50 per cent of the candidates they stand in each constituency are female and 50 per cent are male.¹¹⁶

13.27. These should be legislative requirements. However, if the requirements are not provided for in legislation, parties standing in elections in Wales should seek to fulfil these requirements voluntarily.

13.28. When they are selecting their candidates, we would also expect political parties to have due regard to the gender balance of their candidates across Wales, and to the representation of other protected characteristics, to help ensure that Wales’s parliament properly reflects the people it serves.

¹¹⁵ Welsh Government, *Electoral reform in local government in Wales*, July 2017

¹¹⁶ If a party stands an odd number of candidates, this would be interpreted as 50 per cent of the total candidates plus or minus one.

Mechanism for filling casual vacancies

13.29. Casual vacancies arising between elections in legislatures elected by STV can be filled in a number of ways:

- **By-election** (used in Ireland and in Scottish local government elections)
On the basis that voters should have the opportunity to choose who takes up the seat, by-elections are run on the basis of Single Member STV. The result is a mathematical increase in the electoral quota to 50 per cent of the vote plus one vote. In a four seat constituency, the vacated seat may have been won on the basis of 20 per cent of the vote plus one vote—a successful by-election candidate will therefore need considerably higher levels of support.
- **Countback** (used in Western Australia, Tasmania and Malta)
On the basis of the argument that the voters decided at the most recent election who should hold the seat, the original ballot papers are recounted, excluding the outgoing Member, and the seat is awarded to the next best-placed eligible candidate. This may not be the ‘runner-up’ from the original election. A by-product of this method is an increase in voter choice at general elections, as parties are likely to stand more candidates in each constituency in order to ensure they have ‘spare’ candidates who would be eligible to take up seats arising from casual vacancies. In Australia and Malta, there is generally a high degree of intra-party solidarity in transfer patterns. The result is that the candidate elected on countback is likely to come from the same party as the outgoing Member. But high degrees of intra-party transfer solidarity cannot be guaranteed: for instance, in Ireland it is much lower. An alternative, therefore would be for countback to operate on the basis of the next best-placed eligible candidate representing the same party as the outgoing Member.¹¹⁷
- **Party appointment** (used in New South Wales, Victoria and Northern Ireland)
On the basis of the argument that the seat belongs to a party, the party represented by the outgoing Member at the point at which they were elected appoints an individual to take up the seat.

13.30. We believe that casual vacancies arising within a legislature elected by STV should be filled via countback. This mechanism allows the views of the voters at the time of the original election to be respected and reflected in the filling of the casual vacancy. It also encourages parties to stand more candidates, enabling

¹¹⁷ The party represented by the outgoing Member at the point at which they were elected.

greater voter choice. However, we also understand that political parties may feel that the views of the voters at the time of the original election as to which party should hold the seat should continue to be reflected in the filling of the casual vacancy. To this end, we propose that casual vacancies should be filled as follows:

- Countback of the original election, taking account only of candidates standing for the party represented by the outgoing Member at the time of the original election;
- If there are no remaining candidates for the party who are eligible or willing to serve, or if the outgoing Member originally stood as an independent, a by-election should be held.

13.31. The use of countback within a political party's candidates combined with the accompanying risk of a by-election if they do not have sufficient candidates to fill any casual vacancies which might arise will encourage parties to stand more candidates than they expect to win seats. This will have a positive impact on the degree of choice available to voters at elections. While by-elections can be costly, casual vacancies arise rarely at the Assembly—only eight times since its establishment in 1999. Provided, therefore, that parties stand sufficient candidates at elections, by-elections are likely to be extremely rare.

Assessment against our principles

13.32. Table 20 provides an assessment of STV against our principles.

Table 20 Assessment of a Single Transferable Vote system against our principles

Principle	Assessment
Government accountability and effectiveness	Modelling indicates broad proportionality, which suggests expectation would be relatively stable coalition governments.
Proportionality	Modelling suggests that the outcomes in Wales, given the parameters we have set for district magnitudes, would be more proportional than the current system. Factors affecting the proportionality at national and constituency level include the number of constituencies, the district magnitudes, and the variance in district magnitudes.
Member accountability	Maximises power of voters to express nuanced preferences for individual candidates (including independent candidates) rather than parties. It can be argued that this can lead to an imbalance in Members' focus on constituency matters to the detriment of other elements of their roles. Degree of power voters have in practice depends on how many candidates stand in each constituency for each party. Members returned for each constituency would have a direct constituency link with their electorate.
Equivalent status	All Members are elected by the same route and have the same mandate.
Diversity	Measures to support and encourage diversity of representation could be integrated into the system, for example candidate quotas. District magnitudes of three or more are generally agreed to be more conducive to the election of a more diverse legislature.
Voter choice	Maximises voter choice, enabling voters to express as many or as few nuanced preferences as they wish. Increased proportionality at a constituency level increases the potential for voters to be represented by a local representative of their choice.
Equivalent mandates	Seats can be apportioned using the Sainte-Laguë method based on electorate numbers, or taking account of specific local geopolitical factors.
Boundaries	Multimember constituencies based on either local authorities or current Assembly constituencies would provide a degree of familiarity and local identity for voters. Further discussion of boundaries, including potential boundary review arrangements, is set out in chapter 14.

Principle	Assessment
Simplicity	Voting by ranking preferences is unfamiliar in Wales, although this could be offset by a minimum requirement of a single preference. Method of translating votes into seats could be perceived as complex, although an outcome by which parties win broadly the same proportion of votes and seats could equally be seen to be simple. STV is also being considered by the Welsh Government for local government in Wales.
Sustainability and adaptability	Multimember constituencies provide flexibility about where in our recommended size bracket of 80 to 90 Members the size of the Assembly should be set, thus providing greater assurance about the future-proofing of any reform. The nature of any boundary or seat apportionment review arrangements would depend on the building blocks used as the basis for multimember constituencies. This issue is explored further in chapter 14.

Flexible List

Background

13.33. List Proportional Representation electoral systems are among the most commonly used electoral systems across the world, and are used in many European countries, including Belgium, the Czech Republic, Denmark and Sweden. While there are many different types of List PR systems, each of which operates in a different way, the common feature is that parties present lists of candidates to the electorate in multimember constituencies. Independent candidates are treated as a list of one. Voters commonly have one vote (although in some variants they may have more than one vote). Whether voters may cast their vote for a party or for an individual candidate depends on whether the list system is open, closed or flexible. In all cases, votes are aggregated across parties to determine the number of seats each party receives. Which candidates take up those seats depends on the degree to which parties control who appears on the ballot and the final ranking order of candidates. In Closed List systems, the order in which candidates will take up any seats won is determined by the party (usually on the ballot paper). In Flexible or Open List systems, the order is influenced to a lesser or greater extent by the voters.

Casting a vote

13.34. There are various different ways in which Flexible List systems can operate. In the variant we are proposing, voters would have a single vote. They could choose whether to cast the vote for a party¹¹⁸—which would be interpreted as a vote for the party's preferred candidate order—or for an individual candidate within a party's list. Votes cast for individual list candidates would first be counted as part of the aggregate total for the party to determine how many seats it won, and then separately to determine whether any candidate had received sufficient personal votes to move to the top of the party list. This is similar to the system used in Sweden.

13.35. We acknowledge that some voters, wishing to emphasise their support for a particular party and candidate, might mark on their ballot paper that they supported a particular candidate and the party for which they were standing. In keeping with the longstanding principle that votes are valid if the intention is clear, and that Returning Officers must use their judgement in such cases, our view is that such votes would be counted as valid votes for the party and personal votes for the relevant candidate.¹¹⁹

Translation of votes into seats

13.36. For all list systems, counting involves a number of different stages. First, if there is an electoral threshold in place i.e. parties must achieve a minimum percentage of the vote share in order to be eligible to be allocated seats, this is applied to the total vote shares received in the constituency or on a national level (depending on the nature of the threshold).

13.37. Second, an electoral formula is then applied to the vote shares of the eligible parties to determine which parties are allocated seats. Different electoral formulae may be used for this purpose; for example in Belgium the D'Hondt formula is used. In our modelling we have used both the D'Hondt and Sainte-Laguë formulae. Table 21a and Table 21b show worked examples of a hypothetical Flexible List count using the D'Hondt and Sainte-Laguë formulae, demonstrating that the same votes can lead to different outcomes.

¹¹⁸ Or for an independent candidate standing as a list of one.

¹¹⁹ Ballot papers with marks against an individual candidate standing for one party and against a different party would, necessarily, be considered invalid as the intention would be ambiguous.

Table 21a Worked example of hypothetical Flexible List count using D'Hondt divisors¹²⁰

Party	Votes	Total seats	Votes 1		Votes 2		Votes 3
A	350	2	350	1 st seat	175	3 rd seat	117
B	310	2	310	2 nd seat	155	4 th seat	103
C	150	1	150	5 th seat	75		50
D	120	0	120		60		40
E	70	0	70		35		23

Notes: there are 1,000 valid votes and 5 seats. Elected candidates are shaded in green.

Table 21b Worked example of hypothetical Flexible List count using Sainte-Laguë divisors

Party	Votes	Total seats	Votes 1		Votes 3		Votes 5
A	350	2	350	1 st seat	117	5 th seat	70
B	310	1	310	2 nd seat	103		62
C	150	1	150	3 rd seat	50		30
D	120	1	120	4 th seat	40		24
E	70	0	70		23		14

Notes: there are 1,000 valid votes and 5 seats. Elected candidates are shaded in green.

13.38. The Sainte-Laguë formula is generally accepted to produce more proportional outcomes than the D'Hondt formula. The indicative outcome modelling that we commissioned from Cardiff University's Wales Governance Centre suggested that D'Hondt could produce less proportional outcomes than the current system. We therefore propose that the Sainte-Laguë formula should be used if the Assembly adopts a Flexible List electoral system.

¹²⁰ Farrell, D. (2011) *Electoral systems: a comparative introduction*, Palgrave Macmillan/London

Flexibility of the list

13.39. Once it has been determined which parties have been allocated seats, the next stage is to determine which candidates are deemed elected. This depends on the flexibility of the list.

13.40. Flexible List systems balance party influence and voter choice over which candidates take up the seats won by a party. They come in many forms, which vary along two key dimensions: how flexible the lists are; and what mechanisms they use to determine the final ordering of candidates.

13.41. In terms of the first dimension, Flexible List systems can range from those in which lists are almost closed (so that party influence predominates) to those in which lists are almost open (so that voter influence dominates).¹²¹ In order to clearly differentiate the electoral systems that we consider from each other, we have sought to develop a Flexible List option that is substantially different in its effects from STV (where voter influence dominates) while also satisfying our criterion that voters should have meaningful choice among, and ability to influence the fortunes of, individual candidates. That is, we have sought to work up a system in which it is likely that a substantial number of Members would be elected through personal votes, but a substantial number would also be elected as a result of their position on their party's list.

13.42. In terms of the second dimension, Flexible List systems use a wide variety of mechanisms.¹²² The system we have developed uses flexible lists of the 'threshold' form. Under this system, parties determine the order in which candidates' names appear on the ballot paper. If no candidate receives sufficient personal votes to meet a specified candidate threshold, the party's preferred order is the order in which candidates take up any seats won by the party. If a candidate's personal votes pass the threshold, she or he moves to the top of the list. If several candidates pass the threshold, they are ordered by the number of votes they have each received. For example, in Sweden, candidates receiving 5 per cent or more of the votes received by the party list move to the top of the list. We have opted for this system because it is simple and therefore readily understood by parties, candidates and voters. While other forms of flexible list have certain advantages, we do not think these outweigh the value in the context of Assembly elections of the threshold system's simplicity.

¹²¹ Renwick, A. and Pilet, J. (2016) *Faces on the Ballot: The Personalization of Electoral Systems in Europe*, Oxford University Press/Oxford, p. 20

¹²² *Ibid*, pp. 27-8

13.43. The degree of flexibility of the lists in a threshold system is determined by the specific features of the electoral system and by how voters choose to cast their votes. The key features of the electoral system are:

- **The level at which the candidate threshold is set:** flexibility decreases as the level of the threshold increases.
- **The number of candidates for whom voters are allowed to vote:** flexibility decreases as the number of votes each voter may cast decreases.
- **The district magnitude:** flexibility decreases as the district magnitude increases (as the number of candidates over whom votes are likely to be spread increases).

13.44. As noted above, we propose that voters should be able to vote for one candidate. This is simple, and clearly differentiates the system from STV.

13.45. Table 22 illustrates the potential effects of different candidate thresholds on the order in which candidates take up seats won by a party.

Table 22 Worked example of allocation of seats to candidates in a hypothetical Flexible List system

Candidates	Personal votes	Order of election:				
		Party list order	3 per cent threshold	5 per cent threshold	8 per cent threshold	10 per cent threshold
Threshold level		n/a	270	450	720	900
Candidate A	0	1	5	4	3	2
Candidate B	500	2	3	3	4	3
Candidate C	770	3	2	2	2	4
Candidate D	1,000	4	1	1	1	1
Candidate E	280	5	4	5	5	5

Notes: the party received 9,000 votes (aggregate of 2,550 personal votes for individual candidates and 6,450 votes for the party list) and has won three seats. With a 3 per cent threshold, a candidate would need to receive 270 personal votes to move to the top of the list. They would need 450 personal votes with a 5 per cent threshold, 720 with an 8 per cent threshold and 900 with a 10 per cent threshold. Where more than one candidate achieves the relevant threshold, they move to the top of the list in accordance with the order of the number of personal votes they received. Elected candidates are shaded in green.

13.46. Determination of the appropriate threshold must inevitably involve some guesswork, as it is difficult to predict how voters might choose to use their votes. Evidence from European democracies that use list systems suggests that the proportion of voters casting a candidate vote varies significantly between

countries, and within countries over time—from below 1 per cent in Austria before the 1980s to over 50 per cent in recent elections in Belgium.¹²³ The most useful source of evidence for selecting a candidate threshold is Sweden. A Flexible List system was introduced for elections to the Swedish parliament (the Riksdag) in 1998. It initially applied an 8 per cent candidate threshold. A review was always planned, however, because of the uncertainty over whether this threshold would produce the intended results. In 2014 the threshold was reduced to 5 per cent, as the number of candidates elected by personal votes was low: only 8 of the 349 members of the Riksdag were elected because of candidates' personal votes in 2010.¹²⁴

13.47. We expect that, because voters in Wales are used to voting for individual candidates, they would likely continue to do so in large numbers under a Flexible List electoral system. This contrasts with Sweden, where lists were effectively closed before 1998 (and where, since 1998, around a quarter of voters have opted to cast a candidate vote). The district magnitudes that we propose (4 to 6; see chapter 14) are significantly lower than those in Sweden (on average around 15), with the result that any given threshold under our system would be easier to reach.

13.48. We are aiming for a level of list flexibility that is higher than was achieved by the 8 per cent threshold in Sweden. Given the considerations above, we think that a candidate threshold of around 10 per cent might achieve this. We emphasise, however, that this is only a rough estimate, as the proportion of voters who would in fact vote for individual candidates is very uncertain. If the Assembly decides to introduce a Flexible List system, it should review the candidate threshold after the first election.

¹²³ Renwick, A. and Pilet, J. (2016) *Faces on the Ballot: The Personalization of Electoral Systems in Europe*, Oxford University Press/Oxford, pp. 218-26

¹²⁴ *Ibid*, pp. 145-7

Diversity of representation

13.49. If the Assembly adopts a Flexible List system, we believe that parties should be required to ensure that 50 per cent of their candidates in each constituency are female and 50 per cent are male, and that their lists are zipped.¹²⁵ We strongly believe that these requirements should be placed on a legislative footing. However, if that does not happen, parties should adopt these criteria as principles for candidate selection.

13.50. We would also expect parties to ensure, if they stand candidates in more than one constituency, that they seek to balance the number of lists headed by women and the number headed by men. In addition, we would expect parties to seek to ensure that the candidates they stand across Wales are representative of the diverse communities they serve, in terms of all the protected characteristics, as well as being gender-balanced.

Mechanism for filling casual vacancies

13.51. Should casual vacancies arise during the course of an Assembly term, the appropriate mechanism for replacing the outgoing Member would be for the vacancy to be filled by the next eligible candidate on the relevant party's list.

13.52. Determination of who the next eligible candidate was would include consideration of the personal votes received by candidates i.e. the list would be considered in the order that candidates would have taken up seats at the election, taking account of any changes to the party's preferred order which had resulted from the receipt of personal votes.

¹²⁵ If a party stands an odd number of candidates, this would be interpreted as 50 per cent of the total candidates plus or minus one.

Assessment against our principles

13.53. Table 23 provides an assessment of the Flexible List system outlined above against our principles.

Table 23 Assessment of a Flexible List system against our principles

Principle	Assessment
Government accountability and effectiveness	Modelling indicates broad proportionality, which suggests expectation would be relatively stable coalition governments.
Proportionality	The proportionality depends on the electoral formula utilised. Our modelling suggests the Sainte-Laguë formula would produce more proportional outcomes than the current system. The D'Hondt electoral formula generally produces outcomes which are less proportional than the Sainte-Laguë formula, and sometimes less proportional than the current system. Factors affecting the proportionality at national and constituency level include the number of constituencies, the district magnitudes, and the variance in district magnitudes.
Member accountability	Members returned for each constituency would have a direct constituency link with their electorate. Degree of influence voters have over which candidates take up seats won by the party (and therefore the direct accountability of individual candidates (rather than parties) to voters) is influenced by the level at which the candidate threshold is set.
Equivalent status	All Members are elected by the same route and have the same mandate.
Diversity	Measures to support and encourage diversity of representation could be integrated into the system, for example candidate quotas or requirements for lists to be zipped. The effectiveness of zipping a list would be affected by the level at which the threshold for candidates' personal votes was set. District magnitudes of three or more are generally agreed to be more conducive to the election of a more diverse legislature.
Voter choice	Voters have flexibility to choose either a party or an individual candidate, providing a balance between voter choice and party influence. Where the balance is struck is influenced by the level at which the threshold for candidates' personal votes is set and the campaign strategies adopted by parties.
Equivalent mandates	Seats can be apportioned using the Sainte-Laguë method based on electorate numbers, or taking account of specific local geopolitical factors.

Principle	Assessment
Boundaries	Multimember constituencies based on either local authorities or current Assembly constituencies would provide a degree of familiarity and local identity for voters. Further discussion of boundaries, including potential boundary review arrangements, is set out in chapter 14.
Simplicity	Unfamiliar system in relation to Assembly elections, although similar to that used to elect Welsh MEPs. Voters would cast only one vote, but the choice between voting for a party or for a candidate could potentially cause confusion. Method of translating votes into seats won by a party, and which candidates take up those seats, could be perceived as complex, although an outcome by which parties win broadly the same proportion of votes and seats could equally be seen to be simple.
Sustainability and adaptability	Multimember constituencies provide flexibility about where in our recommended size bracket of 80 to 90 Members the size of the Assembly should be set, thus providing greater assurance about the future-proofing of any reform. The nature of any boundary or seat apportionment review arrangements would depend on the building blocks used as the basis for multimember constituencies. This issue is explored further in chapter 14.

Ballot paper design

13.54. We have reviewed sample ballot papers for each of our proposed electoral systems. Under the *Wales Act 2017*, the design of the ballot papers for use at Assembly elections will be a matter for the Welsh Ministers and the Electoral Commission.¹²⁶ When preparing for the Assembly election in 2021, we suggest that particular consideration is given to the following:

- **MMP:** continuing the current use of separate bilingual ballot papers for constituency and regional votes, and continuing the current practice of listing regional candidates' names under the relevant party on the regional ballot paper.

¹²⁶ Section 5 of the *Wales Act 2017* substitutes a new section 13 into the *Government of Wales Act 2006*, which gives the Welsh Ministers an order-making power to make provision about the conduct of Assembly elections, the questioning of such elections and the return of an Assembly Member otherwise than at an election. Any changes to the design of the ballot paper would be achieved through an order made by the Welsh Ministers under this section, and would require prior consultation with the Electoral Commission, pursuant to section 7(1) of the *Political Parties, Elections and Referendums Act 2000*.

- **STV:** grouping candidates by the political party for which they are standing,¹²⁷ the determination of the ordering of parties by lot,¹²⁸ and the clarity of the instructions on the ballot paper to ensure voters understand they may rank as many or as few candidates as they wish, and that they may do so across different parties.
- **Flexible List:** the clarity of the instructions on the ballot paper to ensure voters understand that they should mark only one cross, against either the party or the candidate for which they wish to vote.

13.55. The issues outlined above will need to be considered by the Welsh Ministers when making the relevant order before the election in 2021. If a new system is to be adopted, the Welsh Ministers should work closely with the Electoral Commission on the design of the ballot paper, to ensure it is appropriate for Wales.

RECOMMENDATION

Recommendation 12. Before making any order prescribing the design of ballot papers for use in Assembly elections, in addition to the consultation with the Electoral Commission required by section 7(1) of the *Political Parties, Elections and Referendums Act 2000*, the Welsh Ministers should also undertake such other consultation as may be appropriate, to ensure that the information included and the layout of the ballot paper is appropriate for the electoral system and for Wales.

¹²⁷ This is the basis on which STV ballot papers in Malta are arranged.

¹²⁸ The order of parties should be consistent across all constituencies for each election.

14. ELECTORAL BOUNDARIES AND SUSTAINABILITY

Background

14.01. In addition to the ballot structure of the electoral system by which Members could be elected with effect from 2021, we have also considered the electoral boundaries upon which the systems could be based.

Methodology

14.02. Our terms of reference require us to make recommendations which can be implemented for the 2021 Assembly election. Our first consideration, therefore, was the extent to which there was scope for substantial boundary review work to be undertaken before then.

14.03. We are grateful to the secretariats of the Boundary Commission for Wales and Local Democracy and Boundary Commission for Wales for the constructive way in which they have engaged with our work. Our discussions with them clearly indicated that there is insufficient time or capacity to carry out a full boundary review prior to 2021. We therefore ruled out the possibility of designing new, independent electoral areas for 2021. There remains, of course, potential for a full boundary review to be undertaken before 2026, to refine and adjust any electoral areas used for the purposes of the 2021 election.

14.04. We next considered the potential for existing or anticipated electoral or administrative areas in Wales to serve as building blocks for new Assembly constituencies. In addition to minimising the boundary review work required to combine or split some areas, this approach fulfils our principle that the Assembly's electoral system should be based on clearly defined geographic areas which are meaningful to people and take into account existing communities of interest, and existing electoral and administrative boundaries.

14.05. We considered whether this approach could be subject to legal challenge, if implemented by the Assembly. Legal advice given to us suggests that any such challenge would be unlikely, and even less likely to succeed, because of our independence, our use of existing electoral areas as building blocks, our accompanying proposals for full scale boundary review before 2026, the potential for the minimal boundary review work required to be undertaken by an independent boundary commission, the lack of existing mechanisms for Assembly

boundary review, and the fact that any legislation brought forward to implement our proposals will be subject to public consultation.

14.06. On this basis, we considered a range of different electoral and administrative subdivisions of Wales, including the current 40 Assembly constituencies, the 29 Westminster constituencies set out in the Boundary Commission's revised proposals,¹²⁹ the 22 local authority areas (also known as principal council areas), the seven local health board areas, the five Assembly electoral regions, the four regional education consortia regions, and the four Police and Crime Commissioner regions. We narrowed these options to three which merited more detailed consideration, and considered their strengths and weaknesses (see Table 24).

Table 24 Assessment of potential boundary building blocks

Boundaries	Strengths	Weaknesses
40 existing Assembly constituencies	Broadly similar electorate size leading to narrow distribution of district magnitudes. Familiarity for use in Assembly elections.	Separate boundary review mechanisms would be required after 2021. If Westminster parliamentary boundaries change, Assembly constituencies may appear disjointed.
29 proposed Westminster constituencies	Similar electorate size. Simplicity for voters, electoral administrators and political parties resulting from co-terminosity. Restoring the automatic link would negate the need for separate boundary review arrangements.	Subject to future changes as a result of factors not necessarily relevant to Wales. Uncertainty about the timing and likelihood of the proposals' implementation. Limited flexibility to set district magnitudes at levels which would encourage proportionality or diversity of representation.

¹²⁹ Boundary Commission for Wales, *2018 Review of Parliamentary Constituencies: Revised Proposals Report*, 17 October 2017

Boundaries	Strengths	Weaknesses
22 local authority areas	Familiar and meaningful boundaries with which voters identify. Simplicity for voters, electoral administrators and political parties resulting from co-terminosity between local authorities and Assembly constituencies. Not expected to change significantly in the medium term, and any change is within the control of the Assembly. Existing local authority boundary review arrangements could be utilised.	Vary significantly in size and population leading to wide distribution of district magnitudes.

14.07. On the basis of our assessment, and the ongoing uncertainty about the timing and likelihood of the implementation of the current boundary review, we ruled out basing our proposals on the 29 proposed Westminster constituencies. We recognise the advantages of co-terminosity between Assembly and Westminster constituencies for the public, electoral administrators and political parties. However, these advantages are outweighed by the lack of flexibility the 29 proposed constituencies provide for the size of the Assembly and for the electoral system which could be put in place. It would also not be desirable for Assembly constituencies to be sensitive to demographic or other changes elsewhere in the UK, rather than factors directly relevant to Wales.

14.08. We then considered how the remaining building blocks—the 40 existing Assembly constituencies and the 22 local authority areas—could be used to design boundaries to underpin the three electoral systems outlined in chapter 13.

Mixed Member Proportional system: boundaries

14.09. As outlined in chapter 13, our proposals for a Mixed Member Proportional (MMP) system are for the election of 40 constituency and 40 regional Members. In such a system, the 40 existing Assembly constituencies would each return a single constituency Member. We considered two options for Assembly regions: retaining the existing five regions, or splitting each in two to create ten new regions.

14.10. We considered the merits of splitting the existing regions. Doing so could preserve the use of four-Member regions, and a decrease in the geographic size of the larger regions could strengthen the link between regional Members and their electorates. On balance, however, we took the view that retaining the current Assembly regional boundaries has the advantages of simplicity, familiarity for voters, and no requirement for boundary review work to be undertaken before 2021.

14.11. On the basis of our principle that the system should reflect the general principle of electoral system design that votes should have approximately the same value, we used the Sainte-Laguë method to apportion 40 regional seats to the five electoral regions (see Table 25). To minimise the variation in the ratio of Members to electorate, the apportionment took account of the Assembly electorate and the number of constituency seats within each region.

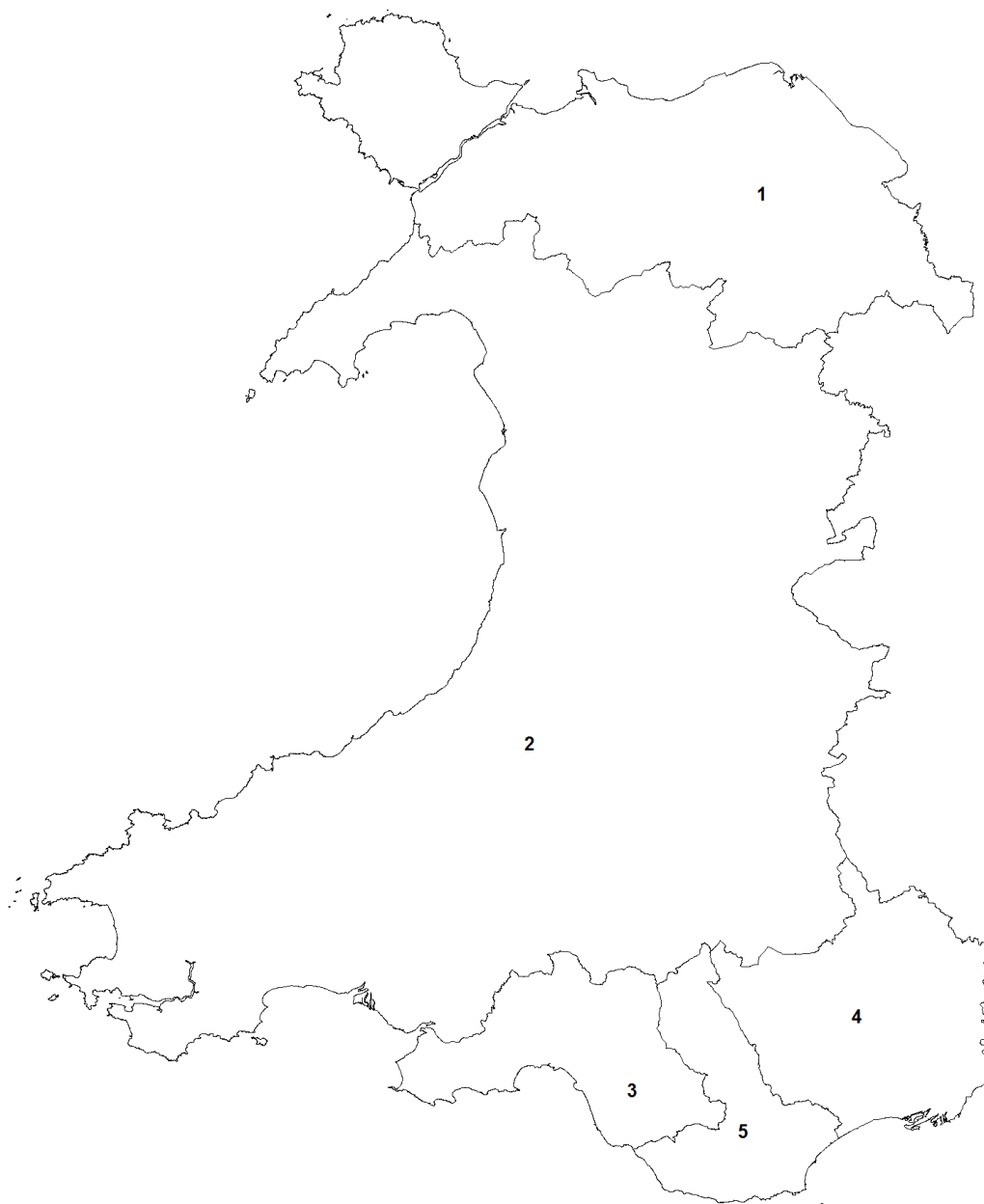
Table 25 Seat apportionment on the basis of 40 constituencies and five electoral regions (based solely on electorate)

Region	Constituencies	Constituency			Regional			
		Members	Total electors plus affainers	Variance	Members	Total electors plus affainers	Electorate per Member (taking constituency and regional Members into account)	Variance (taking constituency and regional Members into account)
Mid and West Wales	Brecon and Radnorshire	1	55,726	-2%	7	431,781	28,785	1%
	Ceredigion	1	52,599	-7%				
	Dwyfor Meirionnydd	1	43,543	-23%				
	Montgomeryshire	1	50,480	-11%				
	Carmarthen East and Dinefwr	1	56,020	-1%				
	Carmarthen West and South Pembrokeshire	1	56,821	0%				
	Llanelli	1	60,244	6%				
	Preseli Pembrokeshire	1	56,348	-1%				
North Wales	Aberconwy	1	44,490	-22%	8	472,582	27,799	-2%
	Arfon	1	39,456	-30%				
	Clwyd West	1	56,821	0%				
	Vale of Clwyd	1	56,456	-1%				
	Ynys Môn	1	50,855	-10%				
	Alyn and Deeside	1	61,944	9%				
	Clwyd South	1	55,693	-2%				
	Delyn	1	53,067	-7%				
	Wrexham	1	53,800	-5%				
South Wales Central	Cardiff Central	1	57,238	1%	9	498,768	29,339	3%
	Cardiff North	1	66,610	17%				
	Cardiff South and Penarth	1	77,114	36%				
	Cardiff West	1	66,587	17%				
	Cynon Valley	1	50,160	-12%				
	Pontypridd	1	59,360	5%				
	Rhondda	1	49,393	-13%				
	Vale of Glamorgan	1	72,306	27%				

Region	Constituencies	Constituency			Regional			
		Members	Total electors plus attainers	Variance	Members	Total electors plus attainers	Electorate per Member (taking constituency and regional Members into account)	Variance (taking constituency and regional Members into account)
South Wales East	Monmouth	1	64,403	13%	9	471,390	27,729	-2%
	Newport East	1	57,183	1%				
	Newport West	1	64,380	13%				
	Torfaen	1	60,613	7%				
	Blaenau Gwent	1	50,466	-11%				
	Caerphilly	1	63,266	11%				
	Islwyn	1	55,348	-2%				
	Merthyr Tydfil and Rhymney	1	55,731	-2%				
South Wales West	Gower	1	60,965	7%	7	395,920	28,280	0%
	Swansea East	1	57,930	2%				
	Swansea West	1	54,405	-4%				
	Aberavon	1	49,724	-12%				
	Bridgend	1	61,185	8%				
	Neath	1	55,908	-2%				
	Ogmore	1	55,803	-2%				
Total		40	2,270,441		40	2,270,441		
Average electors per constituency/ region			56,761			454,088	28,381	

Notes: Figures are based on December 2016 Assembly electorate plus attainers data provided by the Boundary Commission for Wales and Local Democracy and Boundary Commission for Wales on 28 June 2017. Attainers are persons who attain the age of 18 during the currency of the register for the date shown, and are entitled to vote at a National Assembly for Wales election on or after their eighteenth birthday. Source: StatsWales.

Figure 9 Existing Assembly regions¹³⁰



Key	Name
1	North Wales
2	Mid and West Wales
3	South Wales West
4	South Wales East
5	South Wales Central

¹³⁰ Produced by the National Assembly for Wales Research Service

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14.12. The Venice Commission's *Code of Good Practice in Electoral Matters*¹³¹ suggests that both electorate numbers and geography may be taken into account when apportioning seats to electoral areas. Our methodology of modelling equal mandates fits this. An alternative approach that also fits the principles would be to follow the current model, in which all Assembly regions return the same number of regional Members. This would mean that all regions would return eight Members. The result, as shown in Table 26 would be a slight underrepresentation of South Wales Central and South Wales East (a reduction from nine to eight regional Members each), and a slight overrepresentation of Mid and West Wales and South Wales West (an increase from seven to eight regional Members each).

¹³¹ The Council of Europe's European Commission for Democracy Through Law (Venice Commission), *Code of Good Practice in Electoral Matters: guidelines and explanatory report*, 2002

Table 26 Seat apportionment on the basis of 40 constituencies and five electoral regions (on the basis of eight Members per region)

Region	Constituencies	Constituency			Regional			
		Members	Total electors plus affainers	Variance	Members	Total electors plus affainers	Electorate per Member (taking constituency and regional Members into account)	Variance (taking constituency and regional Members into account)
Mid and West Wales	Brecon and Radnorshire	1	55,726	-2%	8	431,781	26,986	-5%
	Ceredigion	1	52,599	-7%				
	Dwyfor Meirionnydd	1	43,543	-23%				
	Montgomeryshire	1	50,480	-11%				
	Carmarthen East and Dinefwr	1	56,020	-1%				
	Carmarthen West and South Pembrokeshire	1	56,821	0%				
	Llanelli	1	60,244	6%				
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	Arfon	1	39,456	-30%				
	Clwyd West	1	56,821	0%				
	Vale of Clwyd	1	56,456	-1%				
	Ynys Môn	1	50,855	-10%				
	Alyn and Deeside	1	61,944	9%				
	Clwyd South	1	55,693	-2%				
	Delyn	1	53,067	-7%				
	Wrexham	1	53,800	-5%				
South Wales Central	Cardiff Central	1	57,238	1%	8	498,768	31,173	10%
	Cardiff North	1	66,610	17%				
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	Cardiff West	1	66,587	17%				
	Cynon Valley	1	50,160	-12%				
	Pontypridd	1	59,360	5%				
	Rhondda	1	49,393	-13%				
	Vale of Glamorgan	1	72,306	27%				

Region	Constituencies	Constituency			Regional			
		Members	Total electors plus attainers	Variance	Members	Total electors plus attainers	Electorate per Member (taking constituency and regional Members into account)	Variance (taking constituency and regional Members into account)
South Wales East	Monmouth	1	64,403	13%	8	471,390	29,462	4%
	Newport East	1	57,183	1%				
	Newport West	1	64,380	13%				
	Torfaen	1	60,613	7%				
	Blaenau Gwent	1	50,466	-11%				
	Caerphilly	1	63,266	11%				
	Islwyn	1	55,348	-2%				
	Merthyr Tydfil and Rhymney	1	55,731	-2%				
South Wales West	Gower	1	60,965	7%	8	395,920	26,395	-7%
	Swansea East	1	57,930	2%				
	Swansea West	1	54,405	-4%				
	Aberavon	1	49,724	-12%				
	Bridgend	1	61,185	8%				
	Neath	1	55,908	-2%				
	Ogmore	1	55,803	-2%				
Total		40	2,270,441		40	2,270,441		
Average electors per constituency/ region			56,761			454,088	28,381	

Notes: Figures are based on December 2016 Assembly electorate plus attainers data provided by the Boundary Commission for Wales and Local Democracy and Boundary Commission for Wales on 28 June 2017. Attainers are persons who attain the age of 18 during the currency of the register for the date shown, and are entitled to vote at a National Assembly for Wales election on or after their eighteenth birthday. Source: StatsWales.

Multimember constituencies: STV and Flexible List

Approach

14.13. We considered how our building blocks—the 40 existing Assembly constituencies and the 22 local authority areas—could be used to create constituencies which would provide an appropriate basis for the election of Members via either STV or Flexible List. Drivers for this stage of our work included the need to balance minimal boundary review work, the apportionment of seats on the basis of electorate numbers, and the fulfilment of our principles of proportionality, diversity of representation and equivalent mandates.

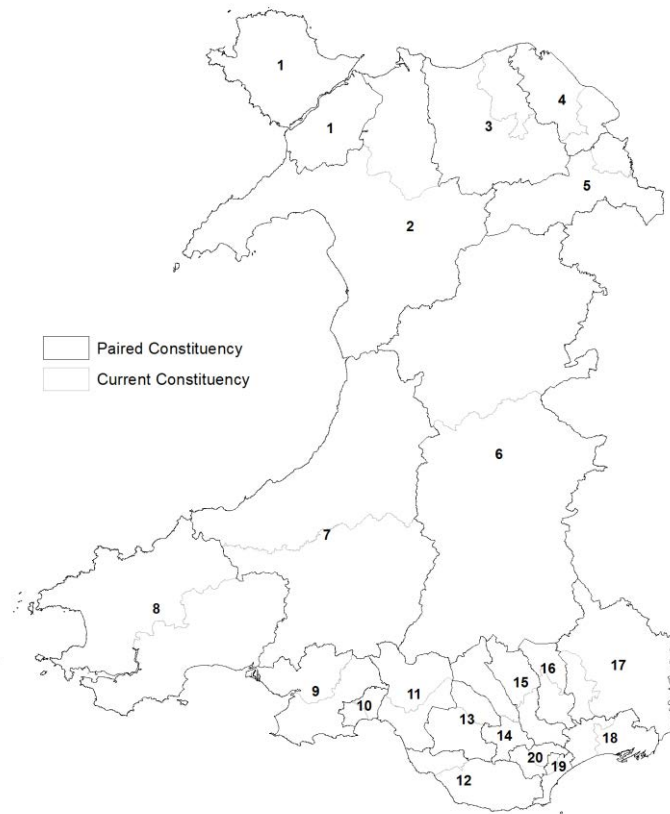
Option 1: using current Assembly constituencies

14.14. On the basis of our recommended size bracket for the Assembly of between 80 and 90 Members, we considered how the existing 40 Assembly constituencies could be utilised in accordance with the aims set out above. There is general agreement in the academic literature that three is the minimum district magnitude which can deliver proportionality and support diversity of representation. We therefore decided to pair the 40 current Assembly constituencies to create 20 new Assembly constituencies.

14.15. To achieve this, we started with Ynys Môn, which has only one geographical neighbour. Working on the basis of neighbouring constituencies, electorate numbers, and, as far as possible, local geographic circumstances, we created 20 pairs of constituencies with broadly equal representation (Figure 10).

14.16. Table 27 outlines the seat apportionments for each of our 20 proposed constituencies for Assemblies of between 80 and 90 Members. Seats have been apportioned using the Sainte-Laguë method.

Figure 10 20 multimember constituencies based on pairings of existing Assembly constituencies¹³²



Key	Name
1	Arfon and Ynys Môn
2	Dwyfor Meirionnydd and Aberconwy
3	Clwyd West and Vale of Clwyd
4	Delyn and Alyn and Deeside
5	Clwyd South and Wrexham
6	Brecon and Radnorshire and Montgomeryshire
7	Carmarthen East and Dinefwr and Ceredigion
8	Carmarthen West and South Pembrokeshire and Preseli Pembrokeshire
9	Gower and Llanelli
10	Swansea East and Swansea West

Key	Name
11	Aberavon and Neath
12	Bridgend and Vale of Glamorgan
13	Ogmore and Rhondda
14	Cynon Valley and Pontypridd
15	Caerphilly and Merthyr Tydfil and Rhymney
16	Blaenau Gwent and Islwyn
17	Monmouth and Torfaen
18	Newport East and Newport West
19	Cardiff Central and Cardiff South and Penarth
20	Cardiff North and Cardiff West

¹³² Produced by the National Assembly for Wales Research Service

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Table 27 Seat apportionment on the basis of 20 pairings of existing Assembly constituencies

		Aberavon & Neath	Aberconwy & Dwyfor Meirionnydd	Afon & Ynys Môn	Blaenau Gwent & Islwyn	Bridgend & Vale of Glamorgan	Caerphilly & Merthyr Tydfil	Cardiff Central & Cardiff South and Penarth	Cardiff West & Cardiff North	Preseli Pems & Carmarthen West and South Pems	Ceredigion & Carmarthen East and Dinefwr	Straight average
	Total electors plus attainers	105,632	88,033	90,311	105,814	133,491	118,997	134,352	133,197	113,169	108,619	113,522
80	Seats	4	3	3	4	5	4	5	4	4	4	
	Electors per Member	26,408	29,344	30,104	26,454	26,698	29,749	26,870	33,299	28,292	27,155	28,454
81	Seats	4	3	3	4	5	4	5	3	4	4	
	Electors per Member	26,408	29,344	30,104	26,454	26,698	29,749	26,870	26,639	28,292	27,155	28,121
82	Seats	4	3	3	4	5	4	5	5	4	4	
	Electors per Member	26,408	29,344	30,104	26,454	26,698	29,749	26,870	26,639	28,292	27,155	27,808
83	Seats	4	3	3	4	5	4	5	5	4	4	
	Electors per Member	26,408	29,344	30,104	26,454	26,698	29,749	26,870	26,639	28,292	27,155	27,505
84	Seats	4	3	3	4	5	4	5	5	4	4	
	Electors per Member	26,408	29,344	30,104	26,454	26,698	29,749	26,870	26,639	28,292	27,155	27,202
85	Seats	4	3	3	4	5	5	5	5	4	4	
	Electors per Member	26,408	29,344	30,104	26,454	26,698	23,799	26,870	26,639	28,292	27,155	26,904
86	Seats	4	3	4	4	5	5	5	5	4	4	
	Electors per Member	26,408	29,344	22,578	26,454	26,698	23,799	26,870	26,639	28,292	27,155	26,528
87	Seats	4	3	4	4	5	5	5	5	4	4	
	Electors per Member	26,408	29,344	22,578	26,454	26,698	23,799	26,870	26,639	28,292	27,155	26,240
88	Seats	4	3	4	4	5	5	5	5	4	4	
	Electors per Member	26,408	29,344	22,578	26,454	26,698	23,799	26,870	26,639	28,292	27,155	25,957
89	Seats	4	4	4	4	5	5	5	5	4	4	
	Electors per Member	26,408	22,008	22,578	26,454	26,698	23,799	26,870	26,639	28,292	27,155	25,590
90	Seats	4	4	4	4	5	5	5	5	5	4	
	Electors per Member	26,408	22,008	22,578	26,454	26,698	23,799	26,870	26,639	22,634	27,155	25,307

		Cynon Valley & Pontypridd	Alyn and Deeside & Delyn	Llanelli & Gower	Monmouth & Torfaen	Newport East & Newport West	Ogmore & Rhondda	Montgomeryshire & Brecon and Radnorshire	Swansea East & Swansea West	Ciwyd West & Vale of Ciwyd	Ciwyd South & Wrexham	Straight average
	Total electors plus attainers	109,520	115,011	121,209	125,016	121,563	105,196	106,206	112,335	113,277	109,493	113,522
80	Seats	4	4	4	4	4	4	4	4	4	4	
	Electors per Member	27,380	28,753	30,302	31,254	30,391	26,299	26,552	28,084	28,319	27,373	28,454
81	Seats	4	4	4	4	4	4	4	4	4	4	
	Electors per Member	27,380	28,753	30,302	31,254	30,391	26,299	26,552	28,084	28,319	27,373	28,121
82	Seats	4	4	4	5	4	4	4	4	4	4	
	Electors per Member	27,380	28,753	30,302	25,003	30,391	26,299	26,552	28,084	28,319	27,373	27,808
83	Seats	4	4	4	5	5	4	4	4	4	4	
	Electors per Member	27,380	28,753	30,302	25,003	24,313	26,299	26,552	28,084	28,319	27,373	27,505
84	Seats	4	4	5	5	5	4	4	4	4	4	
	Electors per Member	27,380	28,753	24,242	25,003	24,313	26,299	26,552	28,084	28,319	27,373	27,202
85	Seats	4	4	5	5	5	4	4	4	4	4	
	Electors per Member	27,380	28,753	24,242	25,003	24,313	26,299	26,552	28,084	28,319	27,373	26,904
86	Seats	4	4	5	5	5	4	4	4	4	4	
	Electors per Member	27,380	28,753	24,242	25,003	24,313	26,299	26,552	28,084	28,319	27,373	26,528
87	Seats	4	5	5	5	5	4	4	4	4	4	
	Electors per Member	27,380	23,002	24,242	25,003	24,313	26,299	26,552	28,084	28,319	27,373	26,240
88	Seats	4	5	5	5	5	4	4	4	5	4	
	Electors per Member	27,380	23,002	24,242	25,003	24,313	26,299	26,552	28,084	22,655	27,373	25,957
89	Seats	4	5	5	5	5	4	4	4	5	4	
	Electors per Member	27,380	23,002	24,242	25,003	24,313	26,299	26,552	28,084	22,655	27,373	25,590
90	Seats	4	5	5	5	5	4	4	4	5	4	
	Electors per Member	27,380	23,002	24,242	25,003	24,313	26,299	26,552	28,084	22,655	27,373	25,307

Notes: figures based on December 2016 Assembly electorate plus attainers data provided by the Boundary Commission for Wales on 28 June 2017. Attainers are persons who attain the age of 18 during the currency of the register for the date shown, and are entitled to vote at a National Assembly for Wales election on or after their eighteenth birthday. Source: StatsWales. The Sainte-Laguë formula has been applied by initially allocating three Members to each constituency to reach a total of 60 Members. The electorate figure for each constituency is then divided by the divisor which for 60 Members (20×3) is seven ($(2 \times 3) + 1 = 7$). This produces a new quotient for each constituency and the next seat is allocated to the constituency with the highest quotient. This procedure is repeated to allocate each additional seat. The additional seat apportioned for each size of the Assembly is shaded in green.

14.17. A key factor for consideration in determining the optimum size of Assembly within our bracket to be returned on the basis of 20 multimember constituencies is the distribution of district magnitudes at different sizes. Table 28 outlines the number of constituencies of each district magnitude as the size of the Assembly increases from 80 to 90. The variance in district magnitudes is relatively low, with the majority of constituencies returning either four or five Members.

Table 28 Distribution of district magnitudes for Assemblies of between 80 and 90 Members based on 20 constituencies

	3 seats	4 seats	5 seats
80	2	16	2
81	2	15	3
82	2	14	4
83	2	13	5
84	2	12	6
85	2	11	7
86	1	12	7
87	1	11	8
88	1	10	9
89	0	11	9
90	0	10	10

14.18. Three is generally accepted in the academic literature on electoral systems to be the absolute minimum constituency size. However, to fulfil our principles of proportionality and diversity of representation, and future-proof our proposals against demographic change, we believe that four should be the minimum district magnitude for any of our proposed multimember constituencies. This criterion, combined with our earlier conclusion that a size of Assembly towards the top of our recommended bracket would provide more meaningful and sustainable increases in the Assembly's capacity, leads us to conclude that **if our proposed 20 multimember constituencies based on current Assembly constituencies are implemented, they should be used to elect an Assembly of 89 or 90 Members.**¹³³

¹³³ Our modelling is based on electorate data from December 2016. Legislation to reform the electoral system would need to specify the electorate data upon which the apportionment of seats to constituencies would be based. This might result in some variation over where within our bracket of 80 to 90 Members lay the optimal size range for the Assembly on the basis of district magnitudes. Similar variation could result from changes to the Assembly franchise, for example a reduction in the minimum voting age.



Option 2: using local authority areas

14.19. We undertook a similar exercise on the basis of the 22 local authority areas in Wales (also known as principal council areas). The exercise was slightly more complex than for the existing Assembly constituencies, as there are considerable differences in the electorate size of each local authority area. We considered how local authority areas of different sizes could be combined to create meaningful new constituencies.¹³⁴

14.20. Again, we started with the Isle of Anglesey, on the basis that it has only one geographical neighbour. Working on the basis of neighbouring local authorities, electorate numbers, and, as far as possible, local geographic circumstances, we paired smaller and medium local authorities, while leaving the larger authorities unpaired, to create 15 new constituencies. This does not fit Cardiff, which is by far the largest local authority in terms of electorate size. Taking account of the current divisions of Cardiff into North, South, West and Central for the purposes of Assembly constituencies, we used the component electoral wards to split the Cardiff local authority area into two new constituencies.¹³⁵ The 17 proposed constituencies are shown in Figure 11.

14.21. Table 29 outlines the seat apportionments for each of our 17 proposed constituencies for Assemblies of between 80 and 90 Members. Seats have been apportioned using the Sainte-Laguë method.

¹³⁴ This is similar to an approach proposed by **Dr John Cox in his evidence submission**.

¹³⁵ The current Assembly constituencies are Cardiff Central, Cardiff North, Cardiff West, and Cardiff South and Penarth. Our proposed constituency of Cardiff South and Cardiff Central includes those electoral wards in Cardiff South and Penarth which fall within the Cardiff local authority area. Those wards which fall within the Vale of Glamorgan local authority area are included in our proposed Vale of Glamorgan constituency.

Figure 11 17 multimember constituencies based on local authority areas¹³⁶



Key	Name
1	Isle of Anglesey and Gwynedd
2	Denbighshire and Conwy
3	Flintshire
4	Wrexham
5	Powys
6	Ceredigion and Pembrokeshire
7	Carmarthenshire
8	Swansea
9	Neath Port Talbot

Key	Name
10	Bridgend
11	Rhondda Cynon Taf
12	Merthyr Tydfil and Caerphilly
13	Blaenau Gwent and Torfaen
14	The Vale of Glamorgan
15	Cardiff North and West
16	Cardiff South and Central
17	Monmouthshire and Newport

¹³⁶ Produced by the National Assembly for Wales Research Service

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Table 29 Seat apportionment on the basis of 17 constituencies based on local authority areas

		Blaenau Gwent & Torfaen	Bridgend	Caerphilly & Merthyr Tydfil	Cardiff North & West	Cardiff South & Central	Carmarthenshire	Ceredigion & Pembrokeshire	Straight average
	Total electors plus attainers	118,995	104,936	174,345	133,277	112,220	139,733	142,299	133,555
80	Seats	4	4	6	5	4	5	5	
	Electors per Member	29,749	26,234	29,058	26,655	28,055	27,947	28,460	28,525
81	Seats	4	4	6	5	4	5	5	
	Electors per Member	29,749	26,234	29,058	26,655	28,055	27,947	28,460	28,018
82	Seats	4	4	6	5	4	5	5	
	Electors per Member	29,749	26,234	29,058	26,655	28,055	27,947	28,460	27,769
83	Seats	4	4	6	5	4	5	5	
	Electors per Member	29,749	26,234	29,058	26,655	28,055	27,947	28,460	27,306
84	Seats	4	4	7	5	4	5	5	
	Electors per Member	29,749	26,234	24,906	26,655	28,055	27,947	28,460	27,062
85	Seats	4	4	7	5	4	5	5	
	Electors per Member	29,749	26,234	24,906	26,655	28,055	27,947	28,460	26,819
86	Seats	5	4	7	5	4	5	5	
	Electors per Member	23,799	26,234	24,906	26,655	28,055	27,947	28,460	26,469
87	Seats	5	4	7	5	4	5	5	
	Electors per Member	23,799	26,234	24,906	26,655	28,055	27,947	28,460	26,230
88	Seats	5	4	7	5	4	5	6	
	Electors per Member	23,799	26,234	24,906	26,655	28,055	27,947	23,717	25,951
89	Seats	5	4	7	5	4	5	6	
	Electors per Member	23,799	26,234	24,906	26,655	28,055	27,947	23,717	25,612
90	Seats	5	4	7	5	4	6	6	
	Electors per Member	23,799	26,234	24,906	26,655	28,055	23,289	23,717	25,338

		Flintshire	Gwynedd & Isle of Anglesey	Monmouthshire & Newport	Neath Port Talbot	Powys	Rhondda Cynon Taf	Swansea	The Vale of Glamorgan	Wrexham	Straight average
	Total electors plus attainers	115,011	133,854	178,050	105,632	106,206	170,965	173,300	94,358	103,378	133,555
80	Seats	4	5	6	4	4	6	6	3	3	
	Electors per Member	28,753	26,771	29,675	26,408	26,552	28,494	28,883	31,453	34,459	28,525
81	Seats	4	5	6	4	4	6	6	3	4	
	Electors per Member	28,753	26,771	29,675	26,408	26,552	28,494	28,883	31,453	25,845	28,018
82	Seats	4	5	7	4	4	6	6	3	4	
	Electors per Member	28,753	26,771	25,436	26,408	26,552	28,494	28,883	31,453	25,845	27,769
83	Seats	4	5	7	4	4	6	6	4	4	
	Electors per Member	28,753	26,771	25,436	26,408	26,552	28,494	28,883	23,590	25,845	27,306
84	Seats	4	5	7	4	4	6	6	4	4	
	Electors per Member	28,753	26,771	25,436	26,408	26,552	28,494	28,883	23,590	25,845	27,062
85	Seats	4	5	7	4	4	6	7	4	4	
	Electors per Member	28,753	26,771	25,436	26,408	26,552	28,494	24,757	23,590	25,845	26,819
86	Seats	4	5	7	4	4	6	7	4	4	
	Electors per Member	28,753	26,771	25,436	26,408	26,552	28,494	24,757	23,590	25,845	26,469
87	Seats	4	5	7	4	4	7	7	4	4	
	Electors per Member	28,753	26,771	25,436	26,408	26,552	24,424	24,757	23,590	25,845	26,230
88	Seats	4	5	7	4	4	7	7	4	4	
	Electors per Member	28,753	26,771	25,436	26,408	26,552	24,424	24,757	23,590	25,845	25,951
89	Seats	5	5	7	4	4	7	7	4	4	
	Electors per Member	23,002	26,771	25,436	26,408	26,552	24,424	24,757	23,590	25,845	25,612
90	Seats	5	5	7	4	4	7	7	4	4	
	Electors per Member	23,002	26,771	25,436	26,408	26,552	24,424	24,757	23,590	25,845	25,338

Notes: figures are based on December 2016 Assembly electorate plus attainers data provided by the Boundary Commission for Wales on 28 June 2017. Attainers are persons who attain the age of 18 during the currency of the register for the date shown, and are entitled to vote at a National Assembly for Wales election on or after their eighteenth birthday. Source: StatsWales. The Sainte-Laguë formula has been applied by initially allocating three Members to each constituency to reach a total of 51 Members. The electorate figure for each constituency is then divided by the divisor which for 51 Members (17×3) is seven ($(2 \times 3) + 1 = 7$). This produces a new quotient for each constituency and the next seat is allocated to the constituency with the highest quotient. This procedure is repeated to allocate each additional seat. The additional seat apportioned for each size of Assembly is shaded in green.

14.22. The variance in district magnitudes between our proposed local authority-based constituencies is more marked than for those based on Assembly constituencies, as shown in Table 30. This could lead to a perception of greater representation for particular areas in Wales, or greater likelihood of proportional outcomes or diversity of representation in some constituencies compared to others.

Table 30 *Distribution of district magnitudes for Assemblies of between 80 and 90 Members based on 17 constituencies*

	3 seats	4 seats	5 seats	6 seats	7 seats
80	2	6	4	5	0
81	1	7	4	5	0
82	1	7	4	4	1
83	0	8	4	4	1
84	0	8	4	3	2
85	0	8	4	2	3
86	0	7	5	2	3
87	0	7	5	1	4
88	0	7	4	2	4
89	0	6	5	2	4
90	0	6	4	3	4

14.23. We also considered whether the emergence from the modelling of seats with district magnitudes of seven could result in hyperproportional outcomes in those constituencies. Our modelling suggests that there is no strong argument that this would be the case. We therefore do not propose that legislative electoral thresholds are required. Nevertheless, our preference is that seven seat constituencies should be the exception and not the norm.

14.24. As with the 20 paired Assembly constituency model, in reaching our conclusions on the optimum size of Assembly to be elected via either STV or Flexible List, we have taken into account not only the greater benefits for capacity and sustainability of a number nearer the top of our recommended bracket, but also our view that district magnitudes of between four and six are to be preferred. On these bases, our indicative modelling suggests that **if our proposed 17 multimember constituencies based on local authority areas are implemented, they should be used to elect an Assembly of 83 to 84 Members.**¹³⁷

¹³⁷ Our modelling is based on electorate data from December 2016. Legislation to reform the electoral system would need to specify the electorate data upon which the apportionment of seats to constituencies would be based. This might result in some variation over where within our bracket of 80 to 90 Members lay the optimal size range for the Assembly on the basis of district magnitudes. Similar variation could result from changes to the Assembly franchise, for example a reduction in the minimum voting age.

Sustainability and review

14.25. We recognise that the way in which we have combined or split existing Assembly constituencies or local authority areas to reach our proposals will be of interest to the public, parties and stakeholders, and that some combinations or splits will attract greater consensus than others. Nevertheless, we are confident that our proposals could be implemented for 2021, if the Assembly decided to proceed on the basis of multimember constituencies. If it did so, we recommend that before the 2021 election, a boundary commission is tasked with calculating the Members to be returned for each of our proposed new constituencies, using the Sainte-Laguë method of apportionment. Our apportionments have been carried out on the basis of electorate numbers alone. If the Assembly wished to compensate for rurality or distance from Cardiff Bay an alternative would be to introduce weighting into the Sainte-Laguë formula.

14.26. The Venice Commission suggests that such weightings, which might be on the basis of geographical, administrative or historical factors, should not generally permit variation from the norm of more than 10 per cent of the electorate, although up to 15 per cent may be permissible in special circumstances, which it suggests might include “protection of a concentrated minority” or a “sparsely populated administrative entity”.¹³⁸

14.27. Regardless of which system the Assembly implements—MMP on the basis of 40 constituencies and five electoral regions, or either STV or a Flexible List on the basis of 17 or 20 multimember constituencies—any legislation reforming the Assembly’s electoral system must put in place arrangements for boundary or seat apportionment review before 2026, and at suitable intervals thereafter. The Venice Commission suggests intervals of no more than ten years between reviews of the distribution of seats or the definition of electoral boundaries.¹³⁹

14.28. Boundaries which are independent of other electoral or administrative areas, i.e. the 40 constituencies and five electoral regions used for MMP, or the 20 proposed constituencies based on existing Assembly constituencies, will require independent review mechanisms. Conversely, review of constituencies based on existing local authority areas could be undertaken as part of existing local authority boundary review mechanisms. Such review generally involves the adjustment of internal ward boundaries rather than external local authority

¹³⁸ The Council of Europe’s European Commission for Democracy Through Law (Venice Commission), *Code of Good Practice in Electoral Matters: guidelines and explanatory report*, 2002

¹³⁹ Ibid

borders, and the Assembly constituency review work would therefore largely consist of reviewing the apportionment of seats to constituencies to respond to changes in the electorate.

14.29. There are two boundary commissions active in Wales:

- The **Boundary Commission for Wales** (BCW) is responsible for the review of Westminster parliamentary constituencies. Until 2011 the BCW was also responsible for Assembly constituencies, as a result of the automatic link between Westminster and Assembly constituencies. The BCW is a reserved authority under the *Wales Act 2017*, meaning that the Assembly would require the UK Government's consent before conferring any functions on it.
- The **Local Democracy and Boundary Commission for Wales** (LDBCW) is responsible for reviewing the boundaries of local authorities and their constituent electoral divisions, and identifying the appropriate number of councillors to represent each. The Assembly already has full legislative competence over the LDBCW in relation to local government, and under the *Wales Act 2017* will have legislative competence to confer functions on it in relation to Assembly elections with effect from the Principal Appointed Day (expected to be 1 April 2018).

14.30. However, there are no statutory provisions allowing for either of these bodies to review Assembly boundaries. This has been the case since 2011, when the automatic link between Westminster parliamentary constituencies and Assembly constituencies was severed by the *Parliamentary Voting System and Constituencies Act 2011*. In 2012, the UK Government published a *Green Paper on future electoral arrangements for the National Assembly for Wales*.¹⁴⁰ However, the decision not to pursue the proposals meant that the Assembly's constituency boundaries are now ossified as those provided for by the *Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006* as modified by the *Parliamentary Constituencies and Assembly Electoral Regions (Wales) (Amendment) Order 2008*.

14.31. The Assembly is anomalous in this regard, and it is not appropriate that such ossification of the boundaries should continue. Our proposals for electoral systems therefore include mechanisms to ensure their sustainability. In each case, we recommend a full review is undertaken after the next election. Our view is that this

¹⁴⁰ Wales Office, *Green paper on future electoral arrangements for the National Assembly for Wales*, 2012

boundary review should be undertaken by an independent boundary commission wholly within the legislative competence of the Assembly. However, even if our proposals are not implemented, legislative action must be taken to put in place mechanisms to review the current boundaries before the 2026 election.

14.32. Our work on electoral boundaries is based on Assembly electorate data as at December 2016. However, if our recommendation on the extension of the franchise to 16- and 17-year-olds is implemented, or indeed any other changes to the franchise are made, there will be significant changes to the electorate.¹⁴¹ Any boundary or seat apportionment review undertaken before 2026 must therefore be on the basis of the extended Assembly franchise.

RECOMMENDATION

Recommendation 13. Legislative action must be taken to put in place boundary or seat apportionment review mechanisms which provide for a full review before the 2026 election, whether or not our proposals for reform are implemented. Such mechanisms must take account of any changes to the Assembly franchise, as well as other demographic or population changes.

¹⁴¹ StatsWales 2016 mid-year population estimates by age indicate that there are 70,827 people aged 16 or 17 in Wales. This represents 2.8 per cent of the population of Wales who are aged 16 or over.





PART 4: THE ASSEMBLY FRANCHISE



15. THE MINIMUM VOTING AGE

Background and methodology

15.01. With effect from a Principal Appointed Day to be specified by the Secretary of State for Wales—expected to be 1 April 2018—the *Wales Act 2017* will give the Assembly legislative competence over the franchise for Assembly and local government elections.

15.02. We were tasked with considering and making a recommendation as to what should be the minimum voting age for Assembly elections. Our approach has been to:

- Review the existing evidence, research and literature, and add to this where necessary by seeking additional evidence and views from experts and key stakeholders about what the minimum voting age should be;
- Consider the current Assembly franchise, and the wider context in Wales, the UK and elsewhere;
- Consider the risks and opportunities which might be presented by any change, including any practical issues which might arise and complementary actions which would need to be taken.

UK and international context

15.03. In England, Northern Ireland and Wales the minimum voting age for all elections and referenda is 18, although the *Wales Act 2014* included provision that, should a referendum be held on the devolution of income tax-varying powers, the Assembly would be able to determine whether the minimum voting age for the referendum would be 16 or 18.¹⁴²

15.04. In Scotland, the franchise has been extended to 16 and 17-year-olds for Scottish Parliament and Scottish local elections. The franchise was first extended to 16- and 17-year-olds for the 2014 referendum on Scottish independence by the *Scottish Independence Referendum (Franchise) Act 2013*. This legislation put in place the required arrangements to ensure that 16- and 17-year-olds were able to vote, including appropriate safeguards to ensure that their personal data was treated sensitively and responsibly. The reduction in the voting age was

¹⁴² Section 13(2) of the *Wales Act 2014*. The requirement for such a referendum to be held has since been removed by the *Wales Act 2017*.

accompanied by significant education and public awareness work by the Electoral Commission and schools in Scotland.

15.05. The Scottish Parliament subsequently passed the *Scottish Elections (Reduction of Voting Age) Act 2015*, and 16- and 17-year-olds voted for the first time in the Scottish Parliament election in 2016 and the Scottish local elections in 2017.

15.06. The Welsh Government published a White Paper consultation, *Reforming Local Government: Resilient and Renewed*, in January 2017.¹⁴³ The White Paper included proposals to reduce the minimum voting age for local elections in Wales to 16. These proposals were reiterated in the Welsh Government's consultation on local government electoral reform, published in July 2017.¹⁴⁴

15.07. At present, the franchise for Assembly elections is tied to the franchise for local government elections in Wales, by virtue of section 12 of the *Government of Wales Act 2006*. Consequently, an individual who is 18 by or on the day of the election is able to vote in an Assembly election. If the local government franchise were to be extended to 16- and 17-year-olds, all else being equal, the Assembly franchise would also be extended. We understand, however, that any legislation brought forward by the Welsh Government in relation to the local election franchise is likely to sever the automatic link with the Assembly franchise, leaving the minimum voting age for Assembly elections at 18. In any case, as a matter of principle, the Assembly should determine its own franchise in legislation with that overt purpose.

15.08. Elsewhere in the UK, calls to reduce the voting age to 16 have increased since the early 2000s (see Figure 12 for an overview of key moments in the debate about the minimum voting age in the UK). Most recently, two Private Members' Bills have been introduced in the House of Commons, and one in the House of Lords, with the objective of reducing the minimum voting age for UK elections.¹⁴⁵

15.09. Similarly, during the passage of the *EU Referendum Bill*, attempts were made to extend the franchise for the referendum to 16- and 17-year-olds. An amendment was tabled in the House of Lords by Baroness Morgan of Ely (now a

¹⁴³ Welsh Government, *Reforming Local Government: Resilient and Renewed*, January 2017

¹⁴⁴ Welsh Government, *Electoral reform in local government in Wales*, July 2017

¹⁴⁵ Second Reading of Jim McMahon MP's *Representation of the People (Young People's Enfranchisement and Education) Bill 2017-19* is scheduled for November 2017. Second Reading of Peter Kyle MP's *Representation of the People (Young People's Enfranchisement) Bill 2017-19* is scheduled for May 2018. The date for Second Reading of Lord Adonis' *Voting Age (Reduction) Bill [HL] 2017-19* is yet to be announced.

Welsh Labour AM), who argued that the referendum was a once in a generation opportunity for 16- and 17-year-olds to vote on this significant issue, and highlighted the mixed messages for 16- and 17-year-olds in Scotland who had been able to vote in the Scottish independence referendum. The amendment was agreed in the Lords by 293 votes to 211, but was later overturned in the Commons.

Figure 12 Overview of calls for reduction in the voting age

- 1999

Unsuccessful attempt in the House of Commons to amend *Representation of the People Bill* to lower the voting age. Amendment was rejected by 434 votes to 36.
- 2002

Voting Age (Reduction to 16) Bill [HL] 2002-03 introduced by Conservative Peer, Lord Lucas. The Bill passed the House of Lords, but no time was found for it in the House of Commons.

UK Government's Children and Young People's Unit reported on falling voter turnout among young people, acknowledging calls for a reduction in the voting age, but stated this was not government policy.
- 2003

Electoral Reform Society organised a coalition of political parties, pressure groups and charities, and launched **Votes at 16** campaign.
- 2004

House of Commons Welsh Affairs Committee reported support in principle for voting age to be reduced.

Electoral Commission recommended the voting age remained at 18. Most of the public consultation responses supported reducing the voting age, but general opinion polling showed support for the status quo.
- 2005

Representation of the People (Reduction of Voting Age) Bill 2005-06 introduced by then Liberal Democrat MP Stephen Williams. The Bill did not receive a Second Reading.
- 2006

Power Commission reported on British democracy and people's disengagement from politics. The **final report** recommended reducing the minimum voting age.
- 2007

Voting Age Reduction Bill 2007-08 introduced by then Labour MP (now AM) Julie Morgan. The Bill received a Second Reading, but did not progress any further.
- 2009

Youth Citizenship Commission **reported**, noting that there was not sufficient evidence on which it could base a recommendation for reduction in the voting age.
- 2010

Unsuccessful attempt to amend the *Parliamentary Voting System and Constituencies Bill 2010-11* to reduce the voting age for the referendum on the electoral system.

2012

Voting Age (Comprehensive Reduction) Bill [HL] 2012-13 introduced by the Liberal Democrat Peer Lord Tyler. The Bill did not progress beyond First Reading.

House of Commons Backbench Business debate on the reduction of the voting age for all elections and referendums in the UK. The motion was agreed by 119 to 46.

2013

Voting Age (Comprehensive Reduction) Bill [HL] 2012-13 introduced by the Liberal Democrat Peer Lord Tyler. The Coalition Government resisted the Bill.

Scottish Parliament passed the *Scottish Independence Referendum (Franchise) Act 2013*, enabling 16- and 17-year-olds to vote in the 2014 referendum on Scottish independence.

2014

House of Commons Political and Constitutional Reform Committee report called on the UK Government to lead a national discussion on reducing the voting age, and allow the House of Commons a free vote on the issue.

The Scottish independence referendum marked the first time in the UK that 16- and 17-year-olds were entitled to vote.

2015

Unsuccessful attempts to amend the *Cities and Devolution Bill* and *EU Referendum Bill* to extend the franchise. Amendments were agreed in the House of Lords, but later overturned in the House of Commons.

Scottish Parliament passed the *Scottish Elections (Reduction of Voting Age) Act 2015*, enabling 16- and 17-year-olds to vote in the Scottish Parliament election in 2016 and the Scottish local elections in 2017.

2016

Ten Minute Rule Bill introduced by the Green MP Caroline Lucas to introduce proportional representation for UK general elections and reduce the voting age to 16. The motion to introduce the Bill was defeated by 81 votes to 74.

For the first time, 16- and 17-year-olds were entitled to vote in the Scottish Parliament election.

2017

House of Lords Citizenship and Civic Engagement Committee established to consider citizenship and civic engagement in the 21st century, including engagement among young people.

For the first time, 16- and 17-year-olds were entitled to vote in the Scottish local elections.

15.10. The voting age in most EU countries is 18, although there are some exceptions. For example in:

- **Austria, the Isle of Man, Jersey and Guernsey:** the minimum voting age is 16;
- **Slovenia:** 16-year-olds may vote if they are in employment;
- **Hungary:** 16-year-olds may vote if they are married;
- **Norway:** 16-year-olds may vote in local elections in some municipalities;
- **Malta:** the minimum voting age for local elections is 16;
- **Italy:** only those over the age of 25 may vote in elections to the Senate.

15.11. Elsewhere in the world, minimum voting ages also vary:

Table 31 Minimum voting ages: international comparators

Minimum voting age	Country
16	Argentina; Brazil; Cuba; Ecuador; Nicaragua
17	Indonesia; Timor-Leste
19	Republic of Korea
20	Bahrain; Cameroon; Nauru
21	Cote D'Ivoire; Gabon; Kuwait; Lebanon; Malaysia; Oman; Pakistan; Samoa; Singapore; Tonga

Notes: sourced from **PARLINE database on national parliaments**. In some countries (for example the Dominican Republic and Niger) voters may vote at ages lower than 18 if they are married. There are also variations in how age thresholds are applied, for example date of registration, date of the poll, or the year the election takes place. Voting in Brazil is optional from 16- and aged 70+ and mandatory from 18-70.

Age thresholds

15.12. Much of the public discussion around the minimum voting age focuses on whether a lower age threshold would fit better or worse with the ages at which other rights and responsibilities arise. *Children in Wales* noted that the young people it works with highlight “what they perceive as the unfairness of the current situation”, and some of the rights and responsibilities which are currently available to 16-year-olds, for example to consent to medical treatment, obtain tax credits and welfare benefits in their own right or become a director of a company.¹⁴⁶ Conversely, Craig Johnson noted the lack of harmony in age thresholds, but stated that:

““ My submission is not to suggest that 16- and 17 year olds are cognitively incapable of exercising a right to vote. In fact, a fair response to somebody calling for votes at 16 would be to ask, “what do you have against 15 year olds”? It is to suggest that you have to set an arbitrary age, and at the moment most legal, political and social thresholds define adulthood as 18. I see no sufficient reason why the voting age should be any different.¹⁴⁷

15.13. We have considered the extent to which there is coherence or consistency in the age thresholds for different rights and responsibilities which apply in the UK (see Table 32).

¹⁴⁶ EP24 *Children in Wales*

¹⁴⁷ EP28 *Craig Johnson, Research Officer*

Table 32 Age thresholds

Age	Rights and responsibilities	Where
From birth	Apply for a UK passport (person with parental responsibility generally has to sign an application from those under the age of 16)	UK
	Liable to pay certain taxes	UK
5	Drink alcohol at home or other private premises	UK
8	Held to be criminally responsible	Scotland
10	Held to be criminally responsible	England, Northern Ireland and Wales
12	Can be criminally prosecuted	Scotland
14	Register to vote in Scotland (but cannot vote until the age of 16 in Scottish elections, or 18 for other elections)	Scotland
	Vote in Scottish Youth Parliament elections if registered to vote in Scotland	Scotland
16	Drink (but not buy) beer, wine or cider with a meal	UK
	Join the Army as a regular soldier (parental consent required)	UK
	Join the Royal Navy (parental consent required)	UK
	Change your name without parental consent (someone with parental responsibility can override your wishes in exceptional circumstances)	UK
	Enter into a legally binding contract	Scotland
	Hold a licence to drive a moped	UK
	Vote in Scottish Parliament and Scottish local elections	Scotland
	Register to vote (but cannot vote until 18)	England, Northern Ireland and Wales
	Receive a National Insurance number just before 16th birthday, and become eligible to pay National Insurance from 16 (specific provisions apply in relation to those under 21)	UK
	Default age for the ending of child tax credit (although it continues in relation to those still in education or training)	UK
	Buy National Lottery tickets and place bets on the football pools	UK
	Marry or enter into a civil partnership with parental consent, and become eligible for marriage-related income tax reliefs	England, Northern Ireland and Wales
	Marry or enter into a civil partnership without parental consent	Scotland
	Apply for a UK passport without a signature from a person with parental responsibility	UK

Age	Rights and responsibilities	Where
16	Have piercings without parental consent (there is no minimum age of consent in England, Northern Ireland or Wales for piercings generally)	Scotland
	Consent to lawful sexual intercourse	UK
17	Hold a licence to drive a car, a motorbike or a tractor	UK
18	Buy alcohol in licensed premises and consume alcohol in a bar	UK
	Apply to become a regular officer in the Army or a reservist soldier	UK
	Enter into a legally binding contract (under 18, contracts are legally binding only where they supply those under 18 with "necessaries" or goods and services which are deemed necessary or beneficial to them)	England and Wales
	Hold a licence to drive a medium-sized goods vehicle	UK
	Vote in all relevant elections and referendums	UK
	Place a bet	UK
	Serve as a juror in civil and criminal proceedings	UK
	Marry or enter into a civil partnership without parental consent	England, Northern Ireland and Wales
	Have an intimate piercing (as defined by the <i>Public Health (Wales) Act 2017</i>) without it being an offence to perform or make arrangements to perform the piercing	Wales
	Buy tobacco products or e-cigarettes	UK
	Receive tobacco, cigarette papers and nicotine products without it being an offence for them to be handed to you	Wales
	Get a tattoo	UK
21	Hold a licence to drive any vehicle subject to licensing requirements	UK
	Supervise a learner driver provided you have held a driving licence for at least three years	UK

15.14. We conclude that the reality is that there is no single age at which a young person takes on all the responsibilities and rights of an adult citizen. While comparisons between the ages at which young people acquire rights and responsibilities, or start to exercise those rights and responsibilities, may be relevant, we do not find them compelling in making the case for or against a reduction in the voting age.

Political participation

15.15. A frequently cited concern about any extension of the franchise is that lowering the minimum voting age could reduce overall turnout, because young voters are less likely to vote than older voters. We therefore considered whether enfranchising 16- and 17-year-olds could harm overall levels of political participation.

15.16. In his research on voter turnout and the dynamics of electoral competition, Franklin concluded that the reduction in the voting age from 21 to 18 in most democracies had the effect over time of reducing turnout by 5 percentage points.¹⁴⁸ However, he suggested that a further reduction from 18 to 16 would have the opposite effect. It is reasonable to suggest that 16- and 17-year-olds are, for the most part, still living at home and in education, whereas 18- to 21-year-olds are often away from home for the first time, finding their feet in new environments such as university or full-time employment, and may therefore be isolated from their established networks. Franklin argued that a person would be more likely to vote in her or his first election—and thereby begin to form the habit of voting—if she or he were based within their established networks rather than in a more transitional or mobile period.

15.17. A similar viewpoint was put forward by *Children in Wales*, which stated that its work with young people suggested that:

“ ...many young people are very interested in politics, and want to be active citizens. However young people believe that the potential gap between currently being able to vote at 18, and the reality of possibly not voting until they are in their early 20s, when they may be working

¹⁴⁸ Franklin, M. (2004) *Voter Turnout and the Dynamics of Electoral Competition in Established Democracies since 1945*, Cambridge University Press/Cambridge

away from their family home or have a young family of their own, contributes to political disengagement.¹⁴⁹

15.18. In addition to the potential greater stability available to 16- and 17-year-olds, the school and college environment also provides opportunities to embed preparation for voting into the curriculum. On these bases, Franklin stated:

“...ironically, almost any other age [than 18] from fifteen to twenty-five would be a better age for individuals to first be confronted with the need to acquire the skills and knowledge necessary for casting a vote; and since it would be politically difficult or impossible to now re-establish an older voting age, the most promising reform that might restore higher turnout would be to lower the voting age still further, perhaps to fifteen. Given the vote at fifteen, most children would face their first election while still in high school. They could then learn to vote in the context of a civics class project where they were graded on their ability to discover relevant information (including how to register and find the polling booth, where relevant) and assess party and candidate promises in the light of that information.¹⁵⁰

15.19. As few places have reduced the minimum voting age to 16, evidence allowing these arguments to be tested remains limited. However, what evidence there is tends to support the expectation that 16- and 17-year-olds are indeed more likely to vote than 18 to 24-year-olds, if their enfranchisement is part of a package that also includes the provision of information tailored specifically for this age group (see Figure 13).

¹⁴⁹ **EP24 Children in Wales**

¹⁵⁰ Franklin, M. (2004) *Voter Turnout and the Dynamics of Electoral Competition in Established Democracies since 1945*, Cambridge University Press/Cambridge, p.213.

Figure 13 Studies of rates of political participation

SCOTLAND

A study of two local pilots in 2010, in which 16- and 17-year-olds were allowed to vote in local elections, found this age group turned out at about half the rate of the electorate as a whole. However, the elections were low salience, and there appears to have been no effort to educate young voters.¹⁵¹ Evidence from later ballots carries more weight.

The minimum voting age for the 2014 independence referendum was 16. The referendum had been widely discussed in schools and colleges,¹⁵² and a survey conducted for the Electoral Commission found that turnout was:¹⁵³

Age group	Reported turnout
16-17	75%
18-24	54%
35-54	85%
55+	92%

16- and 17-year-olds were able to vote in the Scottish Parliament election of 2016 and the Scottish local council elections of 2017. Research by the Electoral Commission suggests that turnout in this age group was about the same as for 18–24-year-olds in 2016¹⁵⁴ and about 10 percentage points higher than among 18–24-year-olds in 2017.¹⁵⁵ In both cases, the Electoral Commission ran extensive programmes designed to raise awareness of the elections among 16- and 17-year-olds through traditional media, social media and schools.¹⁵⁶

¹⁵¹ Stewart, E., Wilson, I., Donnelly, P. and Greer, S., “‘I Didn’t Have a Clue What We Were Doing’: (Not) Engaging 16 and 17 Year Old Voters in Scotland”, *Scottish Affairs* 23, (2014), pp. 354–68.

¹⁵² Hill, M., Lockyer, A., Head, G. and MacDonald, C., “Voting at 16: Lessons for the Future from the Scottish Referendum”, *Scottish Affairs* 26, no. 1 (2017), pp. 48–68.

¹⁵³ Electoral Commission, **Scottish Independence Referendum: Report on the Referendum Held on 18 September 2014**, December 2014

¹⁵⁴ BMG Research, **Post May 5th Public Opinion Polling**, August 2016 and BMG Research, **Post May 5th Public Opinion Polling**, September 2016

¹⁵⁵ ICM, **May 2017 Post-Poll research**, 2017

¹⁵⁶ Electoral Commission, **The May 2016 Scottish Parliament election: Report on the administration of the 5 May 2016 Scottish Parliament election**, May 2016 and Electoral Commission, **Scottish council elections 2017: Report on the administration of the elections held on 4 May 2017**, September 2017



NORWAY

A study of local election pilots in 2011 was inconclusive with regard to turnout. The elections were low salience, and the study does not mention any efforts to engage young voters.¹⁵⁷



AUSTRIA

Studies in the only European country to have lowered the voting age to 16 for all elections find that turnout among 16- and 17-year-olds is higher than among 18 to 21-year-olds, although lower than for older voters.¹⁵⁸ Citizenship education in Austria was changed when the voting age was reduced, and there have been substantial efforts to engage young voters.¹⁵⁹

¹⁵⁷ Bergh, J., “Does voting rights affect the political maturity of 16- and 17-year-olds? Findings from the 2011 Norwegian voting-age trial”, *Electoral Studies* 32, no. 1 (March 2013), pp. 90–100

¹⁵⁸ Wagner, M., Johann, D. and Krytzinger, S., “Voting at 16: Turnout and the quality of vote choice”, *Electoral Studies* 31, no. 2 (June 2012), pp. 372–83; Zeglovits, E. and Aichholzer, J., “Are People More Inclined to Vote at 16 than at 18? Evidence for the First-Time Voting Boost Among 16- to 25-Year-Olds in Austria”, *Journal of Elections, Public Opinion and Parties*, 24 no. 3 (2014), pp. 351–61

¹⁵⁹ Schwarzer, S. and Zeglovits, E., “The Role of Schools in Preparing 16- and 17-Year-Old First-Time Austrian Voters for the Election”, in Simone Abendschön (ed.) (2013), *Growing into Politics: Contexts and Timing of Political Socialisation*, ECPR Press/Colchester, pp. 73–89

15.20. A key tenet of Franklin's argument is that instilling the habit of voting in a cohort of young voters, as a result of their voting for the first time during a relatively stable period in their lives, will help to address the long-term decline in voter turnout. While there is evidence of increased turnout in the short term, evidence of a longer term impact is not yet available because those places that have reduced the voting age to 16 have done so only recently. For example, the minimum voting age was reduced to 16 on the Isle of Man in 2006, in Austria in 2007, in Jersey in 2008, and in Scotland in 2014 for the independence referendum and 2015 for the Scottish Parliament and local elections in 2016 and 2017 respectively.

Political knowledge, maturity and independence of thought

15.21. We considered whether a reduction in the minimum voting age for Assembly elections could be harmful to the quality of decision-making, for example if it would result in the extension of the franchise to people who were not yet ready to take on such responsibility.

15.22. Concepts such as the political knowledge, maturity and independence of thought of 16- and 17-year-olds can be difficult to measure objectively. Studies of such matters can be divided into two categories:

- Those conducted in places where 16- and 17-year-olds are not eligible to vote; and
- Those conducted in places where the minimum voting age is 16.

15.23. Studies in the former category—where 16- and 17-year-olds have not been given the vote—produce mixed results. For example, on the basis of survey data from the UK, Chan and Clayton have found that 16- and 17-year-olds had lower political knowledge, lower interest in politics, lower attitudinal consistency and lower attitudinal stability than older voters.¹⁶⁰ The study included comparison of the 16- and 17-year-olds with the youngest currently enfranchised voters. However, there are some weaknesses in their data: for example, they had to rely on different surveys for the different age groups. By contrast, a study which used US survey data (which were comparable across the age groups) found little difference in political knowledge, efficacy, skills and interest between 16-year-olds and young

¹⁶⁰ Chan, TW and Clayton, M. "Should the Voting Age be Lowered to Sixteen? Normative and Empirical Considerations", *Political Studies* 54 (2006), pp. 533–58

adults (aged 18 to 30), and a marked difference between 16-year-olds and 14-year-olds.¹⁶¹

15.24. Studies conducted in places where the minimum voting age is 16 also vary in their findings, along similar lines to the variances in turnout highlighted in Figure 13. For example, in his study of voters in Norway, Bergh found a poorer base of understanding among 16- and 17-year-olds than among 18-year-olds. However, the study makes no mention of any efforts to engage young voters.¹⁶² In our view, the key evidence comes from those countries where the minimum voting age has been reduced and there has been concerted effort, for example in schools, to ensure young people are provided with information and understanding. Austrian studies of young voters, for example, do not find such differences in voter understanding between 16- and 17-year-olds and slightly older voters.¹⁶³ Zeglovits and Zandonella suggest that discussions in schools have been an important source of information and understanding for young voters in Austria. We are not aware of any comparable studies of understanding in Scotland. Nevertheless, research by the Electoral Commission finds that, in the 2017 local council elections, 16- and 17-year-olds found it easier to access information on how to cast their votes than did 18–24-year-olds, and that they were less likely to find it difficult to complete their ballot paper.¹⁶⁴

¹⁶¹ Hart, D. and Atkins, R., "American Sixteen- and Seventeen-Year-Olds Are Ready to Vote", *Annals of the American Academy of Political and Social Science* 633, no. 1 (January 2011), pp. 201–22

¹⁶² Bergh, J., "Does voting rights affect the political maturity of 16- and 17-year-olds? Findings from the 2011 Norwegian voting-age trial", *Electoral Studies* 32, no. 1 (March 2013), pp. 90–100

¹⁶³ Wagner, M., Johann, D. and Krytzinger, S., "Voting at 16: Turnout and the quality of vote choice", *Electoral Studies* 31, no. 2 (June 2012), pp. 372–83; Zeglovits, E. and Zandonella, M., "Political interest of adolescents before and after lowering the voting age: the case of Austria", *Journal of Youth Studies*, 16, no. 8 (2013), pp. 1084–1104

¹⁶⁴ Electoral Commission, **Scottish council elections 2017: Report on the administration of the elections held on 4 May 2017**, September 2017

Public opinion

15.25. We considered whether extending the franchise to include 16- and 17-year-olds could harm public confidence in the Assembly, if there were insufficient public support for such a change.

15.26. The submissions we have received from organisations that represent young people, for example NUS Cymru, *Children in Wales*, EYST and Urdd Gobaith Cymru,¹⁶⁵ indicate there is support from young people for a reduction in the minimum voting age. It should be recognised, however, that the responses are not necessarily representative of all young people.

15.27. The Fourth Assembly's Presiding Officer, Dame Rosemary Butler, led a consultation on whether 16- and 17-year-olds should be entitled to vote. Although not designed as a methodologically robust statistical exercise, over 10,000 young people from across Wales took part in the consultation. Of these, 53 per cent said yes to lowering the voting age, 29 per cent said no, and 18 per cent were unsure. The consultation also asked young people whether they would vote if they were eligible (58 per cent said they would and 23 per cent said they would not).¹⁶⁶

15.28. We considered a range of UK or Great Britain-wide surveys and polls on the minimum voting age (see Table 33).

¹⁶⁵ EP23 NUS Cymru, EP24 Children in Wales, EP29 Ethnic Minorities and Youth Support Team Wales and EP30 GirlGuiding Cymru

¹⁶⁶ National Assembly for Wales, *Should the voting age be lowered to 16? Summary of responses to the Presiding Officer's 'Votes@16?' consultation for 11-25-year-olds in Wales*, July 2015

Table 33 Opinion polls and surveys on the minimum voting age

Polling company (date)	Question	Population (sample)	Findings	
ICM for Electoral Commission (November 2003)	At what age do you think people SHOULD be able to vote in elections?	GB adults (1,089)	16	18%
			17	3%
			18	64%
			19+	13%
			Other/Don't know	2%
		16-17 (279)	16	25%
			17	6%
			18	52%
			19+	3%
			Other/Don't know	14%
BES CMS (July 2013)	Whether "people should first become eligible to vote when they are: (a) 16 years of age, (b) 18 years of age, (c) 21 years of age, (d) 25	GB adults (1,111)	Lower to 16	16%
			Keep at 18	61%
			Raise to 21	16%
			Raise to 25	2%
			Don't know	5%
YouGov (August 2013)	Whether in favour of "reducing the voting age to 16 for all UK elections"	GB adults	In favour	20%
			Against	60%
			Neither	16%
			Don't know	4%
		GB adults 18-24	Against	57%
ICM for Electoral Commission (post-Scottish referendum 2014)	Whether support allowing everyone to vote from age 16	Scottish eligible voters (16+)	Total support	60%
			Of whom strongly	43%
Panelbase (January 2015)	Broadly speaking, do you agree or disagree with each of the following? ... The voting age should be lowered to 16.	Scottish adults	Agree	43%
			Disagree	49%
			Don't know	7%
		Rest of the UK adults	Agree	25%
			Disagree	66%
			Don't know	8%
YouGov (20 April 2017)	To what extent would you support or oppose reducing the voting age to 16 for all UK elections?	UK adults (3,318)	Support	30%
			Neither	14%
			Oppose	48%
			Don't know	8%
		Midlands and Wales adults	Support	29%
			Neither	18%
			Oppose	48%
			Don't know	5%

Notes: ICM, *The Age of Electoral Majority*, November 2003, prepared for the Electoral Commission; Birch, S., Clarke, H. and Whiteley, P., "Should 16-Year-Olds Be Allowed to Vote in Westminster Elections? Public Opinion and Electoral Franchise Reform", *Parliamentary Affairs* 68 (2015), pp. 291–313, p. 302; YouGov, 'Public against lowering voting age to 16', August 2013; Electoral Commission, *Scottish Independence Referendum: Report on the Referendum Held on 18 September 2014*, December 2014, p. 65; Panelbase, *Online omnibus survey of adults resident in the UK*, January 2015. Note: In Scotland, Yes voters in the 2014 referendum favoured votes at 16 by 66 per cent to 27 per cent, while No voters opposed it by 66 per cent to 27 per cent; YouGov, *Polling data*, April 2017.

15.29. The results of such surveys and polls vary, but they consistently show limited support for a reduction. However, the issue would appear to be one of low salience to the majority of the public, and many people may be unlikely to have given much thought to the issue. It may therefore be misguided to presume that public opinion on this issue is fixed. We expect that the profile of the issue in Wales will be raised by our work, by any public consultation undertaken by the Commission in the development of its legislative proposals, and by the Assembly during its scrutiny of such proposals.

15.30. In addition, the Welsh Government's proposals to lower the minimum voting age for local government elections in Wales have highlighted this issue. In its response to its White Paper consultation, the Welsh Government noted that 19 of the 22 respondents who had expressed views on the minimum voting age for local elections in Wales had been in favour of a reduction to 16, with the main reason given for such support being that it would be a positive way to promote interest and participation among young people.¹⁶⁷

15.31. We asked groups who represent young people to share their views on:

- What young people think about the minimum voting age;
- Whether young people had made any comments about not being able to vote in recent elections and referenda; and
- What impact any reduction in the voting age might have on political participation among young people.

15.32. GirlGuiding Cymru carried out a survey of its senior section members (primarily aged between 15 and 25). Of the 53 people who responded, 68 per cent were in favour of a reduction in the voting age. Comments from those under 18 who responded included:

“ I believe that without the right to vote, my future has been chosen for me, regardless of my opinion. The younger generation should have the right to choose our future and have our voices heard.

“ I would like to decide my own future rather than putting it into the hands of the older demographic. Realistically, 16/17 year olds are the

¹⁶⁷ Welsh Government, *White Paper - Reforming Local Government: Resilient and Renewed: Summary of Responses*, July 2017

future of this country and so we should have a say in what policies make it into Parliament etc.

“ It's our future—we are mature enough to make our decisions.

“ It is frustrating having others decide my future for me as I have no say.¹⁶⁸

15.33. The Ethnic Minorities and Youth Support Team Wales (EYST), which works with BME young people, families and communities, highlighted the frustration expressed by young people that they had not had the opportunity to vote in the 2016 referendum on the UK's membership of the EU.¹⁶⁹ A similar frustration was highlighted by *Children in Wales*:

“ Through our contacts with young people we are aware of their recent frustration at being unable to vote in the referendum on exiting the European Union and also in the recent election. Young people report feeling very frustrated that they are unable to vote, and thus denied the opportunity to influence politicians who are making decisions that will affect their lives. In addition to the Brexit decision, other recent decisions that will have a significant impact on young people such as tuition fees and the living wage, have been made without the views of 16 and 17 year olds being considered.¹⁷⁰

15.34. In its submission, EYST noted the importance of ensuring that young people have the right information, provided by people they trust, to help them understand how to engage in politics:

“ Once young people are given the opportunity to actively participate in an influential role they are interested but usually need this role to be clearly outlined and signposted from someone they trust. Regarding lowering the voting age, many young people had not thought about it prior to these sessions [at the EYST youth drop in centre]—mainly from Welsh Assembly outreach officers—as it isn't something that is

¹⁶⁸ EP30 *GirlGuiding Cymru*

¹⁶⁹ EP29 *Ethnic Minorities and Youth Support Team Wales*

¹⁷⁰ EP24 *Children in Wales*

discussed through formal learning environments such as school. However, after discussing this and seeing it as a prospective opportunity, young people felt that they too should have the opportunity to vote, particularly as when they leave school they can get a job and pay taxes, actively contributing to society.

[...]

From working and supporting young people at EYST I have seen how they have many informed opinions and views about living in Wales and decisions made that affect them. However, many feel that their views are not important as they do not have the option to vote, to formally engage with politics.¹⁷¹

Electoral administration

15.35. We asked the Electoral Commission about the impact of the reduction in the minimum voting age in Scotland on the administration and conduct of elections, and what implications there might be of a similar reduction in Wales.

15.36. In its submission, which took account of learning from the experience in Scotland as well as the potential implications for Wales, the Electoral Commission highlighted a range of considerations which would need to be taken into account should the Assembly decide to reduce the minimum voting age for Assembly elections, including:

- The need for any legislative change to be made in good time—ideally at least six months—before the electoral canvass prior to the election at which the changes to the franchise come into effect in order to allow for effective planning and implementation;
- The need for suitable public awareness campaigns and activities to take place, using a range of communications approaches, to ensure that young people were registered to vote;
- Administrative and practical arrangements for the electoral register, including appropriate safeguards for the processing and holding of personal data relating to young people;
- The requirements of the annual canvass as they relate to children and young people;

¹⁷¹ EP29 Ethnic Minorities and Youth Support Team Wales

- The financial implications, for example in relation to the design and testing of forms, public awareness activity, Returning Officer costs, training for electoral staff, changes to the online digital service registration system,¹⁷² and procurement of or changes to election software.

15.37. The Electoral Commission stated that:

“ The key consideration from the Commission's perspective is that any change is introduced in good time. This would mean policy makers or legislators need to ensure that any future legislation concerning the extension of the franchise is commenced at least six months prior to the beginning of the canvass in order to allow for full and effective planning.¹⁷³

15.38. As noted above, the Welsh Government is currently consulting on proposals to reduce the minimum voting age for local elections in Wales. If such changes are made, then the administrative, practical and financial implications outlined by the Electoral Commission will need to be addressed in relation to local elections in any case. In these circumstances, there could be administrative, practical or political issues if the Assembly did not legislate to reduce the minimum voting age for Assembly elections.

¹⁷² For example to mirror the arrangements in Scotland, under which applicants who are under the age of 16 do not have to provide either a National Insurance number or a reason why they cannot provide an NI number. Instead their applications are sent to the Electoral Registration Officer for verification against education records or other local data.

¹⁷³ **EP13(a) Electoral Commission**

What should the minimum voting age be for Assembly elections?

15.39. The evidence we have considered suggests **a reduction in the minimum voting age to 16 would be a powerful way to raise political awareness and participation among young people.** In addition, if the Welsh Government legislates to reduce the voting age for local government elections in Wales from 2022, it would be extremely anomalous, and create additional administrative and political issues, if the voting age for Assembly elections from 2021 were not also reduced. The evidence suggests that higher salience elections are more likely to result in higher turnout and voter participation;¹⁷⁴ it is therefore desirable that if the franchise is to be extended in Wales, it should first take effect at the higher salience Assembly election.

RECOMMENDATION

Recommendation 14. The minimum voting age for Assembly elections should be reduced to 16 with effect from the 2021 election.

¹⁷⁴ See Figure 13.

Political and citizenship education

Provision of political and citizenship education

15.40. We are persuaded by Franklin's argument, as set out above, that a reduction in the voting age to 16 could increase voter turnout over time. While a reduction in the voting age could reduce overall turnout initially (because 16- and 17-year-olds are likely to vote at a rate below the average for the whole electorate), over time turnout should increase relative to where it would otherwise have been, as each successive cohort will be more likely to vote than it would otherwise have been. However, to ensure that young people are encouraged and supported to exercise their right to vote, any reduction in the voting age should be accompanied by appropriate and effective political and citizenship education.

15.41. This was an issue raised during the Fourth Assembly's Presiding Officer's consultation on the minimum voting age, which asked young people whether they felt it was important for young people to learn about politics and the voting system; 79 per cent thought it was.¹⁷⁵ Similarly, 27 of the 53 respondents to GirlGuiding Cymru's survey of its senior section members highlighted the importance of learning and education for increasing political participation among young people, for example:

“ Include politics in schools, for example hold mock referendums/elections within the school, have political debates in schools, start a newspaper aimed at young people to get students to be more aware of politics and how it affects them.

“ We need more information, talks at schools, college or university. So that we know what is going on.

“ Active participation in politics during an election period within school would encourage younger people even further (mock elections, discussions of what the parties stand for).

¹⁷⁵ National Assembly for Wales, *Should the voting age be lowered to 16? Summary of responses to the Presiding Officer's 'Votes@16?' consultation for 11-25-year-olds in Wales*, July 2015

“ Educating young people at school or at youth groups would give young people a better understanding of what they are voting for and how the voting system works.

“ Teach them in school. I had zero teaching about modern day politics during school. It is an educational, interesting (if taught in the right way) and influential topic.¹⁷⁶

15.42. The need for high quality citizenship education to accompany any reduction in the voting age was also highlighted by the United Nations Committee on the Rights of the Child in its concluding observations on the fifth periodic report on the UK:

“ The Committee notes increasing demands from children for a right to vote from the age of 16 years and that in Scotland, voting age has been extended to 16- and 17 year olds for local and Scottish Parliament elections.

32. The Committee encourages the [government] and devolved administrations to conduct consultations with children on the voting age. Should the voting age be lowered, the Committee recommends that the [government] ensure that it is supported by active citizenship and human rights education in order to ensure early awareness of children that rights are to be exercised as part of citizenship, with autonomy and responsibility, and that the measure does not lend itself to undue influence.¹⁷⁷

15.43. Similarly, NUS Cymru, which supports a reduction in the voting age to 16 for Assembly elections and the inclusion of citizenship education in the curriculum in Wales, stated that:

“ We believe that citizenship education is essential to equip young people with the knowledge and confidence to become active citizens. [...]

¹⁷⁶ EP30 GirlGuiding Cymru

¹⁷⁷ United Nations Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*, June 2016

5.4. In order to effectively equip young people to engage with democracy, citizenship education must include political education. We believe political education is essential for young people in Wales to gain an understanding how the decisions taken in Westminster, in the National Assembly and in their local councils affect their lives and how they can influence these decisions.¹⁷⁸

Political and citizenship education in Wales

15.44. There are already a number of ways in which young people in Wales are taught about citizenship and politics, and legal requirements which apply to the way in which such education is provided. The *Education Act 1996*:

- Requires head teachers, governing bodies and local authorities to ensure pupils receive balanced views if they are taught about democracy and politics;
- Requires local authorities, governing bodies and head teachers to forbid pupils under the age of 12 from pursuing political activities at the school;
- Forbids the promotion of partisan political views in the teaching of any subject to any pupil.¹⁷⁹

15.45. The new Welsh Baccalaureate was introduced in September 2015, and is the main way in which further education institutions in Wales provide citizenship education. It was intended to respond to concerns about duplication of learning or assessment, requirements for the language elements, a lack of recognition of different levels of achievement, and a low level of understanding. Some schools and colleges also offer citizenship qualifications at GCSE level, or government and politics qualifications at AS level and A level.¹⁸⁰

15.46. In 2015 the Welsh Government commissioned Professor Donaldson to review arrangements for the curriculum and assessment in Wales. In its response to the review, the Welsh Government announced it would introduce a new curriculum from September 2018, with full implementation taking place from September 2021. One of its four stated purposes is that children and young people should become:

¹⁷⁸ EP23 NUS Cymru

¹⁷⁹ Welsh Government, *Teaching of politics in schools*, January 2011

¹⁸⁰ There is no politics GCSE course.

“ ...ethical, informed citizens who are ready to be citizens of Wales and the world.¹⁸¹

15.47. In its submission, Urdd Gobaith Cymru highlighted a speech given at an event in the Senedd by the then 17-year-old vice chair of the Bwrdd Syr IfanC and president of the Urdd, Siwan Dafydd. In her speech, she stated:

“ If there is any doubt about young people's ability to understand the importance and value of the right to vote, surely it would be a good idea to introduce this as part of life lessons in schools? I'm sure that Professor Donaldson, with his report on the new curriculum in Wales, would agree with this and that now is an appropriate time. Understanding the power equips the person to exercise that power.¹⁸²

15.48. We agree that high quality political and citizenship education should be available to young people in Wales. Such education would ensure that young people had opportunities to learn about the full range of political opinions. The implementation of the Donaldson review provides a potential opportunity for this. However, should the implementation be delayed, other approaches to enhancing the current citizenship and politics provision will be required.

15.49. In addition, to ensure that suitable learning opportunities are available to all young people, consideration must be given to the availability and provision of training to young people in schools (building on the citizenship education already provided, for example as part of the Welsh Baccalaureate), and in other education or training settings. Other actions will also be required in the periods before elections, for example along the lines of the pre-election information and education campaigns undertaken by the Electoral Commission before the 2016 Scottish Parliament election and 2017 Scottish local government elections.

15.50. A reduction in the minimum voting age from 2021 would, therefore, need to be part of a broader range of actions taken by the Assembly, the Welsh Government and others to increase youth engagement and political participation. Such actions may be more effective if targeted at the higher salience Assembly election in 2021 rather than local government elections in 2022.

¹⁸¹ Welsh Government, *A curriculum for Wales: a curriculum for life*, October 2015

¹⁸² EP26 Urdd Gobaith Cymru [excerpt translated by National Assembly for Wales translators]

RECOMMENDATION

Recommendation 15. If the Assembly does legislate to lower the minimum voting age for Assembly elections to 16, the Assembly Commission should work with the Welsh Government, the Electoral Commission, political parties and others to support and encourage young people to exercise their right to vote, most importantly through appropriate political and citizenship education and public awareness-raising, but also by such other means as may be appropriate.

15.51. It is not a matter for us to outline the potential content or format of the citizenship education which should accompany any reduction in the voting age; others are better placed than we to design the curriculum. Nevertheless, we have suggested some key principles which such a curriculum should reflect.

RECOMMENDATION

Recommendation 16. The citizenship education put in place to accompany any reduction in the minimum voting age must:

- i** Recognise the diversity of settings within which 16- and 17-year-olds may receive education and training, to ensure that those outside traditional school settings are also supported and encouraged to exercise their vote;
 - ii** Go beyond simply outlining democratic structures and formal processes, to engage and inform young people about the issues which matter to them;
 - iii** Ensure that young people have opportunities to learn about a full range of political opinions in a non-partisan way;
 - iv** Be delivered by teachers and educators who have themselves received high quality training in order to ensure that citizenship education is taken seriously, and to avoid both political bias and the perception of political bias;
 - v** Be subject to review after a suitable period to ensure its design and delivery met its objectives.
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PART 5: CONCLUSIONS



16. A PARLIAMENT THAT WORKS FOR WALES

Background

16.01. With effect from a Principal Appointed Day, expected to be 1 April 2018, the *Wales Act 2017* will give the Assembly powers over its size, electoral arrangements and franchise. The Assembly Commission is leading work to explore how those powers could be exercised to ensure that the Assembly is an effective, forward-looking institution which delivers effectively for the people of Wales.

16.02. To this end, we were appointed by the Llywydd and Assembly Commission as an Expert Panel in February 2017, and tasked with reporting by autumn 2017. Our remit is to provide robust, politically impartial, and evidence-based advice on:

- The number of Members the Assembly needs;
- The electoral system by which they should be elected;
- The minimum voting age for Assembly elections.

Capacity and size of the Assembly

Our role

16.03. The Fourth Assembly Commission published a report in January 2015 on the capacity of the Assembly, and concluded that:

“ With only 60 Members, the National Assembly is underpowered and overstretched.¹⁸³

16.04. The Fifth Assembly Commission agrees with its predecessor, and in November 2016 the Llywydd announced the Commission's decision to take forward work to address the Assembly's capacity. We were tasked with providing advice on the number of Members the Assembly needs.

¹⁸³ National Assembly for Wales Commission, *The future of the Assembly and its capacity to deliver for Wales*, January 2015

Issues we considered

16.05. The **role and powers of the Assembly** have increased significantly since 1999. The pressures on the Assembly are very likely to continue to increase as a result of a move to a reserved powers model of devolution, the devolution of taxation and borrowing powers (including income tax-varying powers), further devolution of other responsibilities, and Brexit.

16.06. While not directly within our remit, we considered **what has been, or could be, done to increase the capacity of the Assembly without more Members**. A range of approaches have been taken by Assembly Members themselves, the Commission and the Assembly's independent Remuneration Board to seek to enhance and maximise the capacity of a 60 Member Assembly. These have included changes to: working practices; the structure of the Assembly's working week; the number of sitting weeks; induction, training and professional development; involvement of experts, the public and stakeholders in scrutiny; the resources available to committees; the configuration of the committee system; and the support and resources available to Members. Individually and collectively these approaches may have increased the capacity of the institution as a whole, but ultimately they have not and cannot address the fundamental issue that there are only 60 elected Members available to carry out their vital roles.

16.07. Members' roles are complex and varied; formal Assembly business is just one element. They are legislators, scrutineers of policy and finance, employers with responsibilities for staff, property and contracts, and, ultimately, elected politicians with important responsibilities to their constituents and to their parties. This includes, for example, representing their constituents by undertaking casework, leading or participating in local or national campaigns, and attending or arranging local events. We believe that such roles cannot and should not be separated from Members' formal Assembly business roles, as casework or campaigning can provide valuable insight into the operation of policy or legislation on the ground.

16.08. A key element of Members' roles is their responsibility for **policy, legislative and financial scrutiny and oversight** of the Welsh Government and other public bodies in Wales. Although the impact of scrutiny is not easy to measure objectively, we are clear that it has a positive impact on the lives of the people of Wales. For scrutiny to be effective, there must be sufficient Members outside the government to fulfil these functions.

16.09. We gave particular attention to the **capacity of the Assembly's committee system** as committees are a key vehicle for the Assembly's scrutiny role. We considered the current committee structure, including the number of committees, their remits and the number of members they have. We also considered the capacity of the Assembly to populate the committee system, taking account of the need for preparation, research, informal engagement activity and formal meeting time, and the exclusion of office holders such as Ministers, the Llywydd and the Deputy Presiding Officer from the Members available to undertake committee roles. We concluded that as a point of principle chairs of policy and legislation committees or other significant committees, such as Finance or Public Accounts, should sit only on their own committee, and other Members should sit on no more than two committees. With only 60 Members, this is not achievable within the current committee system.

16.10. We looked at **UK and international comparators**, comparing political representation at a devolved level in Wales with Scotland and Northern Ireland, and the size of the Assembly compared to sub-national legislatures internationally. Such comparisons are not straightforward, as the devolution settlements vary significantly (for example in areas such as home affairs and welfare). Nevertheless, it is clear that the Assembly is very small compared to most similar legislatures. The Assembly is also small when compared to local authorities in Wales.

How many Members does the Assembly need?

16.11. Alternative ways to maximise the capacity of the 60 Member Assembly have already been explored and implemented. Each has its merits and such alternatives should continue to be explored. Nevertheless, **none of these approaches has addressed or can address the underlying limiting factor: the severely limited time available for just 60 elected Members to carry out their responsibilities**—including preparation, research and participation in formal Assembly business, and their roles as representatives, campaigners, politicians and employers. There are, therefore, compelling arguments that the number of Members should be increased.

16.12. Making the case for more politicians will be unpopular. However, as an independent, expert Panel, we believe we are well-placed to examine the case and make recommendations in a neutral and sustainable manner. We intend that **our recommendations will provide the basis for a sustainable legislature which will not need to revisit these issues in the foreseeable future**. It will be for the Assembly to establish appropriate structures and ways of working which ensure that the

additional capacity is deployed effectively to alleviate the current pressures while keeping the additional costs to an absolute minimum.

16.13. There is no one authoritative method for determining the optimum size of a legislature. Nevertheless, **our analysis points towards an appropriate size for the Assembly of between 80 and 90 Members. Increasing the Assembly to a size within that range would deliver meaningful benefits for the capacity of the institution and corresponding dividends for the people of Wales.** Within this range, clearly, there would be a noticeable difference between the lower and upper ends. A figure close to 80 would undoubtedly strengthen the institution and make it better able to fulfil its responsibilities effectively. However, at the upper end of our range, the benefits would be greater, providing a meaningful difference in the ability of many Members to specialise, with consequent benefits for scrutiny and representation. The upper end of the range would also lessen the risk that the question of capacity would need to be revisited in the future, should the responsibilities of the Assembly increase further. **Our preference, therefore, is for the size of the Assembly to be at the upper end of our recommended bracket.**

16.14. Clearly, there would be **financial implications** associated with an increase in the size of the Assembly. Table 34 provides the Assembly Commission's estimate of the additional recurrent annual costs which could arise from an additional 20 or 30 Assembly Members. For the purposes of these estimates, the Commission has split the additional recurrent annual costs into core and variable elements.

Table 34 Estimated recurrent annual costs of an additional 20 or 30 Members

	£000	
	20 additional Members	30 additional Members
Core recurrent annual costs	5,970	8,860
Variable recurrent annual costs	650	780
Total recurrent annual costs	6,620	9,640

16.15. The Commission's estimate of the additional recurrent annual costs associated with our proposals ranges, therefore, from some £6.6 million to £9.6 million per annum. In 2017–18, the Commission's annual budget was £53.7 million. The additional recurrent annual costs in the table represent 12 and 18 per cent of that budget respectively. In addition, there would also be some one-off costs associated, for example, with adjustment of the Siambur and Members' office accommodation. The Commission estimates that these would be approximately £2.4 million for 20 additional Members and £3.3 million for 30 additional Members.

16.16. The cost estimates provided to us are, necessarily, based on the services and system of financial support currently in place. The bulk of the recurrent costs identified are determined by the Assembly's independent Remuneration Board, and driven directly by the number of Members, for example the salaries of Members and their support staff, allowances available to Members, and the cost of running constituency offices. A smaller, but nonetheless significant, proportion is dependent on decisions taken by a future Assembly about its working practices and the consequent cost of parliamentary support services provided to Members by the Assembly Commission. We urge both the Remuneration Board and the Assembly Commission to consider how the current total levels of staffing, service provision and financial resources provided to support Members should be altered in the case of a larger Assembly, so that the cost of implementing our recommendations is kept to an absolute minimum. Popular acceptance of a larger Assembly could be dependent on this.

16.17. Ultimately, though, consideration of the costs must recognise that the scrutiny and oversight role of the Assembly, if carried out effectively, positively affects the lives of people in Wales by improving the quality of Welsh legislation, and influencing Welsh Government policy and decision-making. Moreover, although the cost of parliamentary democracy in Wales is significant in absolute terms, it amounts to a very small proportion of the sums expended by the government it oversees. Even marginal improvements in the scrutiny of the Welsh Government's expenditure and policy-making would, therefore, reap significant dividends to the taxpayer. To this end, we agree with the view of the Silk Commission that:

 Good scrutiny means good legislation, and good legislation pays for itself.¹⁸⁴

¹⁸⁴ Commission on Devolution in Wales, *Empowerment and responsibility: legislative powers to strengthen Wales*, 2014

Electoral system

Our role

16.18. An increase in the size of the Assembly requires reform of the way in which Assembly Members are elected. Our conclusions on the number of Members the Assembly needs have driven and underpinned our consideration of the appropriate electoral system.

Issues we considered

16.19. We identified **principles against which we evaluated electoral systems**, to determine which could be appropriate for Wales:

- **Government accountability and effectiveness:** the system should encourage the return of effective, accountable and stable governments, whether majorities or coalitions.
- **Proportionality:** the system should be no less proportional than the Assembly's current electoral arrangements, and preferably be more proportional.
- **Member accountability:** the system should ensure that all Members are clearly accountable to voters and able to represent them effectively and appropriately in the national interest.
- **Equivalent status:** as far as possible, the system should ensure that all Members are elected with broadly equivalent mandates which afford them equal status.
- **Diversity:** the system should encourage and support the election of a body of representatives which broadly reflects the population.
- **Voter choice:** where appropriate within its design, the system should allow voters to select or indicate a preference for individual candidates.
- **Equivalent mandates:** the system should reflect the general principle of electoral system design that votes should have approximately the same value, with seats apportioned taking electorate numbers and geography into account.
- **Boundaries:** the system should be based on clearly defined geographic areas which are meaningful to people and take into account existing communities of interest, and existing electoral and administrative boundaries.
- **Simplicity:** the system should be designed with simplicity and intelligibility for voters in mind.

- **Sustainability and adaptability:** the system should be able to be implemented in 2021, and subsequently respond and adapt to changing political, demographic and legislative trends, needs and circumstances without requiring further fundamental change in the near future.

16.20. Clearly, no single electoral system can fully deliver against every one of our principles. Nevertheless, taken together they provide a robust framework against which to assess different electoral systems and reach impartial, politically neutral conclusions and recommendations.

16.21. We considered the Assembly's **current electoral arrangements**, and the **context for electoral reform in Wales**.

16.22. We considered the Assembly's strong and commendable reputation on **gender representation**, and the mechanisms to safeguard progress made by parties in Wales to date. We concluded that **legislative interventions**—such as **gender quotas**—in addition to provisions to require the **publication of anonymised candidate diversity information**, and enabling candidates to **stand for election on the basis of job sharing arrangements**, will support and encourage the election of a diverse Assembly, both in terms of gender and broader diversity characteristics.

16.23. By evaluating different electoral systems, we **rejected those systems which we were not confident could adequately deliver against our principles** and narrowed our focus to three systems which we concluded do meet those principles:

- **Our preferred option: Single Transferable Vote**, with the flexibility to elect an Assembly of 80 to 90 Members on the basis of multimember constituencies while maximising voter choice and providing simplicity for voters, should local authorities in Wales adopt STV.¹⁸⁵
- **A viable alternative: a Flexible List system**, similarly flexible on the size of the Assembly it could elect and the constituencies upon which it could be based, but providing a balance between voter choice and party influence.
- **The 'status quo' option: a Mixed Member Proportional system**, adapting the Assembly's current system in a minimal way, with the advantage of familiarity for voters, but the limitation of a maximum Assembly size of 80 Members in 2021.

¹⁸⁵ The Welsh Government is consulting on proposals that local authorities should be able to adopt STV for local elections.

16.24. We then considered the electoral boundaries on the basis of which our remaining systems could operate. We **ruled out a full boundary review** due to insufficient time before 2021. We also **ruled out the 29 proposed Westminster constituencies** on the basis that the Assembly's boundaries should not be determined by factors of limited relevance to Wales. We therefore designed options which use **existing electoral or administrative areas as building blocks**. Such options provide the advantage of familiarity and simplicity for voters, as well as being able to be implemented for 2021. We propose two alternative sets of multimember constituencies:

- **Our preferred option: 20 constituencies based on existing Assembly constituencies**, indicated by our modelling to be the most appropriate option for electing an Assembly of 89 or 90 Members, i.e. towards the upper end of our recommended bracket, with the advantage of similar electorate sizes and therefore district magnitudes, but the limitation that separate boundary review arrangements would be required.
- **A viable alternative: 17 constituencies based on local authority areas**, which our modelling suggests could be appropriate for an Assembly of 83 or 84 Members, i.e. towards the middle of our bracket, with the advantages of requiring no separate boundary review mechanism and providing familiarity for voters, but the limitation that the varying population sizes lead to wide variance in district magnitude.

16.25. We also demonstrate how the **existing Assembly constituency and regional boundaries** could be used as the basis for the election of a larger Assembly via a Mixed Member Proportional system—**the status quo option**.

16.26. We considered how to ensure that our proposed boundaries remained sustainable, highlighting the need for **boundary or seat apportionment review mechanisms** to be put in place to enable the Assembly's electoral arrangements to respond to future demographic changes.

How should Assembly Members be elected?

16.27. We were tasked with making recommendations which could be implemented for the next Assembly election in 2021. Our preferred option, provided our recommendation for an integrated gender quota is implemented, is for **an Assembly of 89 or 90 Members to be elected by Single Transferable Vote on the basis of 20 multimember constituencies** formed by pairing the 40 current Assembly constituencies.

16.28. Ultimately, we recognise that it is for the Assembly to determine the priorities and principles it wishes its electoral system to deliver. To this end, we have also identified a viable alternative electoral system and electoral boundary model, as well as a status quo option.

Minimum voting age for Assembly elections

Our role

16.29. We were asked to consider what the minimum voting age should be for Assembly elections from 2021.

Issues we considered

16.30. We considered the **context in Wales, the UK and internationally**. In Wales, the Welsh Government is consulting on proposals to reduce the minimum voting age for local government elections to 16. The voting age in Scotland has been reduced to 16 for local government and Scottish Parliament elections, and pressure for a reduction in the voting age across the UK continues to increase.

16.31. Much of the public discussion around the voting age focuses on whether a lower **age threshold** would fit better or worse with the ages at which other rights and responsibilities arise. We concluded that there is a lack of coherence and consistency in the age thresholds which apply in the UK and internationally, and that the reality is that there is no single age at which a young person takes on all the rights and responsibilities of an adult citizen. Comparisons between the ages at which young people acquire rights and responsibilities may be relevant, but we do not find them compelling.

16.32. In respect of **political participation** there are good theoretical reasons for expecting that establishing the habit of voting at a young age, when many young people are still living at home, can lead to increased turnout in the longer term. There is evidence that, when supported by appropriate and effective citizenship education, and in relation to higher salience elections, a reduction in the voting

age can, in the short term, result in higher turnout among 16- and 17-year-olds than 18- to 21-year-olds. Evidence of a longer term impact is not yet available because those places that have reduced the voting age to 16 have done so only recently. We also considered other types of political participation, but found limited evidence as to whether a reduction in the voting age increases wider political participation beyond voting.

16.33. We looked at studies of the **political knowledge, maturity and independence of thought** of 16- and 17-year-olds. Studies can be divided into two categories: those conducted in places where they have not been enfranchised, and those conducted where they have. The results vary, but the key evidence comes from those places where 16- and 17-year-olds can vote. For example, research by the Electoral Commission found that in the 2017 local elections in Scotland, 16- and 17-year-olds found it easier than 18- to 24-year-olds to access information on how to cast their votes, and were less likely to find it difficult to complete their ballot paper.

16.34. Polls and surveys in the UK of **public opinion** on this issue consistently show limited support for an extension of the franchise. However, the issue appears to be one of low salience to the public, and many people are unlikely to have given much thought to it. The profile of the issue is likely to be raised by the Welsh Government's proposals in relation to local government elections in Wales. While not representative of all young people, the responses we received from organisations who work with young people suggest there is support among young people for a reduction in the minimum voting age.

16.35. We asked the Electoral Commission about the potential implications of a reduction in the voting age for **electoral administration**. It outlined some of the issues which would need to be taken into account if the minimum voting age were to be lowered, including costs, public awareness-raising, administration of the electoral register and training. It concluded that the key consideration was that any changes be introduced in good time before the relevant election. Should the Welsh Government proceed with its proposals for local government elections, these issues will need to be addressed in any case.

What should the minimum voting age be for Assembly elections?

16.36. We have reviewed the existing evidence, research and literature, sought additional evidence and views from experts and key stakeholders, considered the current franchise and the wider context in Wales, the UK and elsewhere, and considered the risks and opportunities associated with any change.

16.37. The evidence we have considered suggests that **a reduction in the minimum voting age to 16 would be a powerful way to raise political awareness and participation among young people**. In addition, if the Welsh Government legislates to reduce the voting age for local government elections in Wales from 2022, it would be extremely anomalous, and create additional administrative and political issues, if the voting age for Assembly elections from 2021 were not also reduced. The evidence suggests that higher salience elections are more likely to result in higher turnout and voter participation; it is therefore desirable that if the franchise is to be extended in Wales, it should first take effect at the higher salience Assembly election.

16.38. To ensure that young people are encouraged and supported to exercise their right to vote, any reduction in the minimum voting age should be accompanied by **appropriate, effective and non-partisan political and citizenship education**. Such education should be part of a broader range of actions taken by the Assembly, the Welsh Government and others to increase youth engagement and political participation. These actions may be more effective if targeted at the higher salience Assembly election in 2021 than the local government elections in 2022.

Implementation of our recommendations

16.39. We were asked to make recommendations which could, if the necessary degree of political support is achieved, be implemented in time for the next Assembly election in 2021, as well as being both sustainable and appropriate for the Welsh context.

16.40. We believe that we have done this. Our analysis of the role, capacity and size of the Assembly leads us to believe that the recommendations set out in our report should be implemented within this timescale.

16.41. The Assembly's role and responsibilities have been evolving since 1999, and are about to go through another period of significant change. The reserved powers model of devolution established by the *Wales Act 2017*, the devolution of taxation, borrowing and other policy areas, Brexit—each of these developments

alone would be challenging for any legislature. If the Assembly is to be able to respond effectively over time, and become the parliamentary body which Wales needs as it establishes its place in the constitutional landscape of a post-Brexit UK, then the capacity issues outlined in our report should be addressed without delay.

16.42. Evidently, whether this happens is a matter for the Assembly and for political parties in Wales. We understand that it is not, and never will be, popular to call for more politicians, particularly against a challenging economic backdrop. Neither is it easy for politicians to do what the Llywydd and the Assembly Commission have done, namely to acknowledge openly what our analysis of the evidence has shown to be the case—that an Assembly of 60 Members is overstretched, and that all the alternatives to an increase in size have been tried and tested without adequately addressing the problems we have identified.

16.43. However, the question is, if not now, then when? There is never a perfect moment for significant constitutional or electoral change. The Assembly is, without doubt, undersized and overstretched. The Richard Commission emphasised this thirteen years ago. The Silk Commission repeated the message in 2014. The Assembly Commission highlighted it two years ago. We are saying it just as clearly now. This issue will not simply resolve itself. If the Assembly does not take action to address the capacity gap, then it is only a matter of time before it is unable to fulfil its responsibilities to work for and represent the people of Wales effectively.

16.44. The earliest our recommendations could be implemented is 2021. At best, therefore, the Assembly must, for the next four years, attempt to meet the enormous challenges it faces with only 60 Members. If the Assembly accepts the case for change, then the time to act is now. The Assembly Commission announced earlier this year that, following unanimous agreement by all parties in the Assembly, it would introduce legislation to change the name of the institution to the Welsh Parliament/Senedd Cymru. Our challenge to the Assembly is, therefore, to take this opportunity to reform the institution, to invigorate Welsh democracy, and to enthuse and energise voters by extending the franchise and establishing an electoral system founded on the principles we have identified, so that the 2021 election delivers a legislature with the capacity to represent the people and communities it serves. **Our report is a call to action to the Assembly to ensure that it becomes a Welsh Parliament that truly works for the people of Wales.**



ANNEXES



ANNEX A: REMIT OF THE EXPERT PANEL ON ASSEMBLY ELECTORAL REFORM

Our Terms of Reference are:

- To review, and complement if necessary, the existing evidence and research relating to the size and electoral arrangements for the National Assembly;
- From that evidence base, and in order to inform the preparation of any necessary legislation, to make recommendations to the Assembly Commission on what should be the size of the membership of the National Assembly, the electoral system that should be used to elect its Members and the minimum voting age for National Assembly elections;
- The Expert Panel should report by autumn 2017 so that, provided the required degree of political support exists, any legislative changes could be made in time for the National Assembly election in 2021.

ANNEX B: MEMBERSHIP OF THE EXPERT PANEL



Professor Laura McAllister CBE (Panel Chair)

Laura McAllister is Professor of Public Policy and the Governance of Wales at the Wales Governance Centre at Cardiff University. Laura was previously Professor of Governance at the University of Liverpool.

She is a graduate of the London School of Economics and Cardiff University. Laura was a member of the Richard Commission on the Powers and Electoral Arrangements for National Assembly for Wales (2002–04), and provided research advice to the Independent Panel on AMs' Pay and Support in 2008–09. Laura chaired the Welsh Government's expert group on Diversity in Local Government (2013–14). Until 2015, she was a member of the National Assembly Remuneration Board examining AMs' pay and allowances.

She is an Honorary Visiting Professor at the University of South Wales, Queensland University of Technology, Brisbane, Australia and the China National School of Administration, Beijing.

A former Wales football international and national team captain with 24 caps, Laura is a vice-chairwoman of UEFA's Women's Football Committee and a Director of the Football Association of Wales Trust. She was Chair of Sport Wales until March 2016 and Board Member of UK Sport.

Laura holds honorary degrees and fellowships from the Universities of Bangor, Cardiff, Cardiff Metropolitan, Trinity St. David's, South Wales and Swansea, and is a Fellow of the Learned Society of Wales and the Royal Society of the Arts.

She was awarded a CBE in the Queen's Birthday Honours in 2016.



Professor Rosie Campbell **(Job sharing with Professor Sarah Childs)**

Rosie Campbell is a Professor of Politics at Birkbeck, University of London.

She has recently written on parliamentary candidates, the politics of diversity and gender voting behaviour and political recruitment.

She is the principal investigator of the ESRC funded Representative Audit of Britain, which surveyed all candidates standing in the 2015 British General Election, and co-investigator of a Leverhulme funded study of British parliamentary candidates and MPs from 1945–2015 (www.parliamentarycandidates.org).

She has co-authored reports on gender and political participation for BBC Radio Four's Woman's Hour, The Electoral Commission, The Fabian Women's Network and The Hansard Society.

Rosie has presented three episodes of Radio Four's Analysis programme on contemporary British politics.



Professor Sarah Childs (Job sharing with Professor Rosie Campbell)

Professor Sarah Childs' research expertise centres on women's political representation, political parties and parliaments. Key articles have been published in *Political Studies*, *Politics and Gender*, *Parliamentary Affairs* and *Party Politics*. In 2015 she published two co-edited books: *Gender, Conservatism and Representation* and *Deeds and Words* with Karen Celis and Rosie Campbell respectively.

Her most recent monograph is *Sex, Gender and the Conservative Party: From Iron Lady to Kitten Heels* (2012), with Paul Webb. Sarah is currently writing a book on gender and representation theory, with Celis.

In 2009–10 Sarah was the gender Special Adviser to the UK Parliament's 'Speaker's Conference' on representation and in 2014 the Special Adviser to the All Party Parliamentary Group, Women in Parliament Inquiry. In 2016 she published *The Good Parliament Report* which makes more than 40 recommendations for a diversity sensitive House of Commons. She is currently the special adviser to the newly created Commons Reference Group on Representation and Inclusion, and recently edited with Rosie Campbell a Fawcett Society report on job sharing for MPs.

Sarah has received the Political Studies Association 'Special Recognition Award' for her work on women's representation (2015). After more than a decade at the University of Bristol Sarah has recently joined the Department of Politics at Birkbeck, University of London.



Rob Clements

Rob Clements retired from the House of Commons in March 2011 after working in its information services for nearly 35 years.

He headed the House of Commons Research Service from 2000 to 2009 and was subsequently Director of Service Delivery, with overall responsibility for the House's research and other information services to both MPs and the public. He also played a leading role in developing the House's strategic approach to issues of public information and access and improving engagement with the public.

More recently, Rob has worked with a number of Parliaments in other countries to help them develop their research and information services.

He is a Fellow and former Vice-President of the Royal Statistical Society and was a council member of the Hansard Society from 2002 to 2011.



Professor David Farrell MRIA

Professor David Farrell was appointed to the Chair of Politics at University College Dublin in 2009, having returned to Ireland after two decades working at the University of Manchester.

In 2013 he was elected a Member of the Royal Irish Academy. He has held visiting positions at the Australian National University, Harvard, Mannheim, and the University of California Irvine. A specialist in the study of representation, elections and parties, he has published 18 books and 100 articles and book chapters. His most recent books include: *Political Parties and Democratic Linkage* (Oxford University Press, 2011; paperback 2013), which was awarded the GESIS Klingemann Prize for the Best Comparative Study of Electoral Systems (CSES) Scholarship, and *A Conservative Revolution? Electoral Change in Twenty-First Century Ireland* (Oxford University Press, 2017).

His current work is focused on constitutional deliberation, and in that capacity he was the research director of the Irish Constitutional Convention (2012–14) and is the research leader of the on-going Irish Citizens' Assembly.

He is the founding co-editor of *Party Politics*.

In 2016 he was re-elected (for a second term) as the Speaker of the Council of the European Consortium for Political Research. From 2013–17 he was the Speaker of the Council of the European Consortium for Political Research.

In summer 2017 he was invited by the Ceann Comhairle (Speaker) of Dáil Éireann to chair a Forum on Parliamentary Discipline, which will report its recommendations to the Ceann Comhairle in November 2017.



Dr Alan Renwick

Dr Alan Renwick is the Deputy Director of the Constitution Unit at University College London. He is a leading expert on electoral systems and processes of electoral reform in the UK and around the world.

His books include *The Politics of Electoral Reform* (published by Cambridge University Press in 2010), *A Citizen's Guide to Electoral Reform* (Biteback, 2011), and *Faces on the Ballot: The Personalization of Electoral Systems in Europe*, co-authored with Jean-Benoit Pilet (Oxford University Press, 2016).

He also conducts research into referendums and deliberative democracy and is currently working on a project analysing how referendum campaigns can best be conducted.

He is a regular contributor to discussions of electoral and broader political reforms in the media, and he has previously advised on processes of electoral reform in places including Jersey, Egypt, and Jordan.



Sir Evan Paul Silk KCB

Sir Paul Silk was Chair of the Commission on Devolution in Wales from 2011 to 2014. Paul is a former Clerk to the National Assembly for Wales, serving from March 2001 until December 2006. He was a Clerk in the House of Commons from 1975 to 1977 and from 1979 to 2001, and Director of Strategic Projects in the Commons from 2007 to 2010. While a Commons Clerk, he contributed to drafting the first standing orders of the National Assembly for Wales.

He has also worked as Presidential Adviser in the Parliamentary Assembly of the Council of Europe and has written and lectured extensively on Parliament and the constitution.

He is an honorary Professor at the Wales Governance Centre at Cardiff University, an Honorary Fellow of Aberystwyth University and a Fellow of the Learned Society of Wales.

He is President of the Study of Parliament Group. Paul is also an Associate of Global Partners Governance, and a consultant to the Westminster Foundation for Democracy and the UNDP. In 2016–17 he has worked with these organisations in the Parliaments of Egypt, Honduras, Jordan, Kyrgyzstan, Ukraine and Venezuela.

ANNEX C: MEETINGS OF THE PANEL

Date	Meeting
14 February 2017	Formal Panel meeting: introductions; the Assembly and the Welsh context, including discussion with Professor Roger Scully of Cardiff University's Wales Governance Centre and Dr Elin Royles of Aberystwyth University; technical briefing on Welsh Government plans for electoral reform in the context of local government; terms of reference and forward work programme; ways of working; engagement with the Political Reference Group; communication and engagement strategy.
7 March 2017	Formal Panel meeting: Chair's update; co-terminosity; minimum voting age; capacity of the Assembly; forward work programme.
21 April 2017	Formal Panel meeting: Chair's update; capacity and size of the Assembly, including discussion with Greg Power from Global Partners Governance and Lord Norton of Louth; technical briefing from the Boundary Commission for Wales and the Local Democracy and Boundary Commission for Wales; electoral systems; media and communications; forward work programme.
22 and 23 May 2017	Formal Panel meeting: Chair's update; minimum voting age; capacity and size of the Assembly; electoral systems and areas; boundary review mechanisms; forward work programme.
12 June 2017	Formal Panel meeting: Chair's update; electoral systems: principles; diversity of representation; electoral systems; communication of the Panel's work; forward work programme.
14 July 2017	Formal Panel meeting: Chair's update; minimum voting age; capacity and size of the Assembly; electoral systems, including discussion with Professor Roger Scully of Cardiff University's Wales Governance Centre; forward work programme.
22 September 2017	Formal Panel meeting: Chair's update; report structure, minimum voting age; capacity and size of the Assembly; electoral systems; communication strategy; forward work programme.
18 and 19 October 2017	Formal Panel meeting: Chair's update; electoral systems; consideration of draft report, including publication arrangements.

The minutes of each of the Panel's formal meetings are available on the Panel's [website](#).

ANNEX D: COSTS OF THE PANEL'S WORK

The total direct cost incurred during the course of the Panel's work was £38,096.

This figure includes remuneration and reimbursement of expenses incurred by the Panel Chair and members for eight formal meetings, associated preparatory work and additional specialist research, seven meetings of the Chair with the Political Reference Group, and associated discussions and consultation (see Table 35).¹⁸⁶

Also included within this figure is: specialist modelling of electoral systems undertaken by Cardiff University's Wales Governance Centre at a cost of £5,250; hospitality associated with Panel meetings at a cost of £1,998; reimbursement of £221 expenses incurred by expert witnesses as a result of attending Panel meetings; and £281 for an online collaboration and communication tool to facilitate joint working.

Table 35 Breakdown of fees and expenses by Panel member

	Professor Laura McAllister (Chair)	Professor Rosie Campbell and Professor Sarah Childs (job sharing)	Rob Clements	Professor David Farrell	Dr Alan Renwick	Sir Paul Silk	Total
Fees	£ 8,159	£ 2,821	£ 3,551	£ 5,165	£ 4,058	£ -	£ 23,753
Air travel	£ -	£ -	£ -	£ 1,088	£ -	£ -	£ 1,088
Train and tube	£ -	£ 1,006	£ 579	£ -	£ 928	£ 55	£ 2,568
Taxi	£ -	£ 150	£ 32	£ 1,014	£ -	£ -	£ 1,196
Car mileage and parking	£ -	£ -	£ -	£ -	£ -	£ 208	£ 208
Subsistence	£ -	£ 39	£ 64	£ 34	£ -	£ -	£ 137
Accommodation	£ -	£ 220	£ 691	£ 144	£ 144	£ 197	£ 1,396
Total	£ 8,159	£ 4,235	£ 4,917	£ 7,445	£ 5,130	£ 459	£ 30,346

¹⁸⁶ Daily rates were paid in line with those paid to other similar office holders advising the Assembly: £333 per day for the Chair and £267 per day for Panel members.

ANNEX E: CONSULTATION

The Expert Panel invited written submissions from individuals and organisations on any aspect of its work, in particular:

- issues relating to Assembly electoral areas, in particular co-terminosity with Westminster constituencies;
- the minimum voting age for Assembly elections; and
- the capacity and size of the Assembly, and the appropriate electoral system by which Members should be elected.

Consultation responses can be viewed in full on the Panel's [website](#).

Organisation	Reference
Daniel Greenberg	EP01/EP01 (a)
Dr John Cox	EP02/EP02(a)
Lord Lisvane	EP03
Institute for Government	EP04
Professor John Coakley, Queen's University	EP05
Ralph Day	EP06
Dr Michael Cole, University of Liverpool	EP07
Alistair Doherty	EP08
Sir Bernard Crick Centre for the Public Understanding of Politics, Sheffield University	EP09
Electoral Reform Society Cymru	EP10/EP10(a)
Thomas Ehrhard	EP11
Professor Jean-Benoit Pilet	EP12
Electoral Commission	EP13
Professor Paul Chaney	EP14
States of Jersey	EP15
Professor Jonathan Bradbury	EP16
Isle of Man Government	EP17
Auditor General for Wales	EP18
Patrick Herring	EP19
Make Votes Matter	EP20
Tim Knight	EP21/EP21 (a)
Llanllechid Community Council	EP22

Organisation	Reference
NUS Cymru	EP23
Children in Wales	EP24
Dr Elin Royles, Aberystwyth University	EP25
Urdd Gobaith Cymru	EP26
Chris Rogers	EP27
Craig Johnson	EP28
Ethnic Minorities and Youth Support Team Wales	EP29
GirlGuiding Cymru	EP30
Chris Travis	EP31/EP31 (a)
Equalities and Human Rights Commission	EP32
Peter Price, European Strategy Counsel	EP33

ANNEX F: ESTIMATED COSTS OF ADDITIONAL MEMBERS

The information in this annex has been provided by the Assembly Commission. It provides the Commission's initial estimates of the costs of an additional 20 or 30 Assembly Members.

Assumptions

Any estimate of the cost of a larger Assembly must be treated with caution. Actual costs will depend on a range of factors, from the political composition of the institution and decisions about committee and Plenary arrangements, to practical decisions on Assembly Commission staffing and priorities. Figures must, therefore, be seen as indicators of magnitude rather than as precise predictions.

The estimates are based on the following assumptions:

- All estimates are at current values and net of VAT;
- Estimates for Members' salaries and allowances are based on the Remuneration Board's *Determination on Members' Pay and Allowances for 2017–18*;
- Additional office accommodation for Members will be provided in Cardiff Bay;
- There will be no increase in the number of Plenary sessions or committees;
- An additional 20 Members could result in two additional political party groups, and an additional 30 Members could result in three additional political party groups;
- Estimates for Commission staff costs include on-costs. They are based on the midpoint of the team support salary scale and point 4 of the salary scales for other grades.

Types of cost

The estimates are broken down into three categories:

- One-off costs
- Core recurrent annual costs (approximately 90-92 per cent of the recurrent annual costs)

- Variable recurrent annual costs (approximately 8-10 per cent of the recurrent annual costs)

One-off costs

These costs reflect requirements which can be reasonably firmly identified, and relate to infrastructure, for example adaptation of the Siambr, office accommodation in Cardiff Bay, and ICT provision.

Table 36 Estimated one-off costs¹⁸⁷

£000		
	One-off costs	
	20 additional Members	30 additional Members
Siambr: alteration	300	400
Siambr: ICT	650	720
Siambr: broadcasting	260	260
Tŷ Hywel office accommodation	1,000	1,650
ICT equipment and set up for Members' Tŷ Hywel offices, constituency/regional offices and homes	170	250
Total one-off costs	2,380	3,290

In addition to the assumptions outlined above:

- Costs relating to the **Siambr** include estimated costs of adjustments to the current layout to accommodate additional Members. Costs of **Siambr ICT provision** assume the same set up as currently provided, although this could change depending on the nature of any conversion.
- Estimates for **Members' office accommodation in Cardiff Bay** are based on the assumption that space in Tŷ Hywel (the Assembly's current office accommodation) would be converted to accommodate Members, with Commission staff being relocated to external accommodation. Figures include fit out and moves to vacate space in Tŷ Hywel and decant Commission staff. It should be noted that the Assembly Commission is currently considering its long-term accommodation needs, irrespective of any change to the size of the Assembly.
- One-off costs associated with **ICT provision for Members' Tŷ Hywel offices, constituency and regional offices, and homes** are based on the current provision.

¹⁸⁷ Totals may not sum due to rounding.

Core recurrent annual costs

These costs reflect requirements which can be reasonably firmly identified for different numbers of Members, and which, in the main, are not directly dependent on formal Assembly business requirements. These include, for example, Members' and their support staff's salaries, pension contributions and National Insurance contributions, financial support and allowances provided to Members, and ICT equipment. Table 37 estimates the core recurrent annual costs.

Table 37 Estimated core recurrent costs¹⁸⁸

	£000	
	Core recurrent annual costs	
	20 Additional Members	30 Additional Members
Salaries and allowances: Members and support staff	5,030	7,520
Siambr: broadcasting	150	150
Tŷ Hywel office accommodation	460	750
ICT equipment and set up for Members' Tŷ Hywel offices, constituency/regional offices and homes	80	120
Car parking facilities	10	20
Staffing: ICT	130	160
Staffing: Members' Business Support	110	150
Total core recurrent annual costs	5,970	8,860

In addition to the assumptions outlined above:

- Costs relating to **Member and support staff salaries and allowances** are based on the Remuneration Board's *Determination on Members' Pay and Allowances for 2017–18*. Future changes in Members' salaries will reflect changes in the index of median earnings in Wales as measured by the Annual Survey of Hours and Earnings (ASHE). Where budgets for specific allowances are capped, figures are based on the total budget for 2017–18. Where budgets are uncapped, figures are based on average costs incurred in 2016–17. Residential accommodation allowance estimates are based on the assumption that additional Members will reflect the same proportion of inner, intermediate and outer areas as existing Members. Estimated financial support provided to political parties assumes a proportionate increase in the total budget, which is divided between political parties. Estimates include allowances

¹⁸⁸ Totals may not sum due to rounding.

for party leaders and business managers for each additional party group, including pension and National Insurance contributions. Party leaders' allowances, which vary depending on the size of the group, are based on an average of the allowances which are currently paid.

- Estimates for **Members' office accommodation in Cardiff Bay** reflect rental costs for external office space to accommodate Commission staff. The costs assume that any additional Members and their staff would reflect current **car parking** facility usage, and that no additional car parking facilities would be associated with any alternative Cardiff Bay office accommodation.
- Recurrent costs associated with **ICT provision for Members' Tŷ Hywel offices, constituency and regional offices, and homes** are based on the current provision. Costs also include estimates for **additional ICT staffing resource** required to support additional Members (estimated to be four or five additional members of staff for an additional 20 or 30 Members respectively). The table does not take account of additional equipment and resources that would be required to support any increase in Commission staffing.
- The work of the **Members' Business Support service** is almost directly proportionate to the number of Members. Therefore, the estimated core costs include an estimated additional three or four members of staff for an additional 20 or 30 Members respectively.

Variable recurrent annual costs

These estimates reflect more discretionary costs, the extent of which will depend largely upon decisions taken by a future Assembly, Business Committee and Assembly Commission about working practices, priorities and the organisation of formal Assembly business. These include, for example, the cost of parliamentary support services provided to Members by the Assembly Commission. The estimates are based on the current nature and level of such services, and therefore reflect the potential cost of continuing to provide a broadly equivalent range and level of services.

Table 38 shows the estimated annual costs associated with the provision of Assembly Commission services to a larger Assembly. These costs therefore depend on the volume and nature of Assembly business, and, crucially, the decisions of a future Assembly Commission in respect of service provision, priorities and value for money.

The estimates are based on assessments made by Assembly services on the basis of the assumptions outlined above. For example, it is assumed that there is no change to the scheduling of formal business—business days, sitting times,

committee timetables etc. Robust cost estimates which incorporated such elements would require more complex scenario planning.

The figures shown reflect the cost of 18 additional Commission staff for an additional 20 Members, and 22 for an additional 30 Members. The resource requirements for many services depend on the volume and nature of Assembly business, as well as the level of service the Commission determines is appropriate. The estimates assume increases in drivers such as the business tabled, the volume of legislation and the number of events. They do not take account of other associated costs which would arise from additional staff, for example ICT equipment, car parking or HR implications.

Table 38 Estimated variable recurrent annual costs¹⁸⁹

	£000	
	Variable recurrent annual costs	
	20 additional Members	30 additional Members
Training and development for Members and support staff	50	50
Estate, visitor and security services	340	380
Assembly business services	210	260
Translation services	50	80
Total variable recurrent annual costs	650	770

In addition to the assumptions outlined above:

- Take-up of **training and development** among additional Members and their staff remains similar to levels among current Members and support staff.
- The current strategy of managing **activity on the Assembly estate** continues, with some increased demand for events and meeting spaces. **Office accommodation** is provided in accordance with the Commission's long-term accommodation strategy. Estimates include additional security staff, but not the costs of training, body armour or uniforms.
- Estimates for Assembly business services assume the increase in Members and party groups leads to increases in **research enquiries** and demand for proactive work relating to Assembly business. Estimates also assume increases in the work associated with the **tabling of questions and motions/amendments, registration of Members' interests**, cross-

¹⁸⁹ Totals may not sum due to rounding.

party groups and Plenary, and increases in queries and requests for **legal advice** from Members.

- Estimates for **translation services** assume an increase in demand from Members for constituency/regional and Assembly business purposes, as well as additional requirements for Welsh language tuition.

ANNEX G: DIFFERENT PROCEDURES FOR TRANSFERRING SURPLUS VOTES IN STV

Background

A key factor in STV is the methodology by which surplus votes are transferred between candidates. There are four different procedures that can be used:

- Transfer of ballots at their full value;
- Basic Gregory;
- Inclusive Gregory;
- Weighted Inclusive Gregory.

Table 39 Worked example of a hypothetical STV count

Candidate	First count	Second count		Third count		Fourth count		Fifth count	
		Transfer of D's votes (elected)		Transfer of E's votes (elected)		Transfer of C's votes (elected)		Transfer of A's votes (eliminated)	
A	215	3	218	1	219	1	220	-220	0
B	310	6	316	2	318	5	323	80	403
C	292	30	322	75	397	-12	385	0	385
D	555	-170	385	0	385	0	385	0	385
E	338	130	468	-83	385	0	385	0	385
F	210	1	211	5	216	6	222	140	362
Total valid votes	1,920		1,920		1,920		1,920		1,920

Notes: there are 1,920 valid votes and 4 seats. The resulting Droop quota is therefore 385. Elected candidates are shaded in green. Eliminated candidates are shaded in red.

Transfer of ballots at full value

Originally, standard practice was that only those ballots surplus to the quota were transferred between candidates. This is still the practice in counting votes for Irish Dáil (lower house of parliament) elections.¹⁹⁰ There are two problems that arise in this procedure.

In the example presented in Table 39, Candidate D is elected in the first count with a surplus of 170 votes. A significant element of randomness in the process is that only those 170 voters whose ballot papers happen to be transferred have their second and subsequent preferences taken into account at the next and subsequent stages. If there is a close contest between two or more candidates, the particular pattern of preferences which happens to be transferred can have a significant impact on the eventual outcome. While ballot papers have been thoroughly mixed during the counting process, and the ballots which are transferred could therefore be expected to be a random sample, there is a risk that the pattern of preferences in the parcel of ballots which is transferred may not be representative of the overall pattern of preferences.

A second potential anomaly results from the procedure adopted for the transferring of surpluses in later stages of the count. After the first transfer of ballots only the last parcel of ballot papers (the surplus which has been received) is transferred. In the example in Table 39, in Count 3 the 83-vote surplus of Candidate E that is transferred is taken solely from the 170 ballots she received from Candidate D. The rationale is that the votes that elected the candidate are precisely those votes received in the last round and, accordingly, it is these votes that should determine the destination of the surplus. But it can be argued that the procedure involves a potential distortion. Depending on which ballot papers were selected from the pile at an earlier stage in the counting process, in a close finish the fate of a candidate could be sealed by the particular pattern of preferences that predominated in those ballot papers. As we see in Count 5, Candidate A ends up with just two votes fewer than Candidate F, and is eliminated. It is possible that had a different set of ballot papers been selected for transfer from Candidate D's pile the outcome could have been very different.

¹⁹⁰ Farrell, D. and Sinnott, R., 'The Electoral System', in Coakley, J. and Gallagher, M. (eds.), *Politics in the Republic of Ireland*, 6th edition, London: Routledge, 2018

Basic Gregory

The first of these problems was addressed by the introduction of the Basic Gregory method, which is used in Northern Ireland Assembly elections and elections to the upper house (the Seanad) in Ireland.¹⁹¹ The Basic Gregory method takes account of all preferences when allocating a surplus, by transferring the ballot papers received by the candidate at a fraction of their full value. The transfer value is calculated as the surplus vote divided by the number of ballot papers in the elected candidate's pile. For example, for Candidate D in Count 2 in Table 39 this is:

$$\frac{\text{Surplus vote}}{\text{Total number of ballot papers in elected candidate's pile}} = \frac{170}{555} = 0.3063$$

However, the second anomaly remains. Just as in the previous method, after the first transfer of ballots, only the last parcel of ballot papers (the surplus which has been received) is transferred; i.e. in Count 3, when transferring Candidate E's surplus, the calculation of the transfer value is based solely on the ballots transferred in from Candidate D in Count 2. None of the other ballots in Candidate E's original pile are used, again raising the same concern that this could distort the eventual outcome for the remaining candidates.

Inclusive Gregory

Concern about this risk led the Australian Senate to adopt the Inclusive Gregory method in 1983. Under this method, all ballot papers are transferred in all counts: the transfer value is calculated as the surplus vote divided by the total number of ballot papers in the candidate's pile. The Inclusive Gregory method addresses the potential anomaly that the last batch of ballot papers may not be representative, but introduces another potential anomaly, which is that the value of certain ballot papers can increase. In the example presented in Table 39, Candidate E is elected in Count 2 with a surplus. The total number of ballot papers in her pile resulted from:

- 338 number 1 preference votes she received in Count 1; and
- 424 ballots transferred to her from Candidate D in Count 2 at a transfer value of 0.3063 (which is equivalent to the 130 ballots that she would have received under the full value transfer process outlined above).

The next count, Count 3, entails the transfer of Candidate E's surplus, which has a transfer value of 0.1089 ($\frac{83}{762} = 0.1089$). But 424 of those ballots had already had their

¹⁹¹ For details on the various Gregory methods, see Farrell, D. and McAllister, I., 'The 1983 change in surplus transfer procedures for the Australian Senate and its consequences for the Single Transferable Vote', *Australian Journal of Political Science*. 38 (2003), pp. 479-91.

value reduced in Count 2 (using the transfer value of 0.3063). In effect, the slate has been wiped clean on those transfer values: the value of the 424 ballots she received from Candidate D were increased from 0.3063 back up to their original value of 1. The impact of this is that more weight is being given to some ballot papers than to others.

Weighted Inclusive Gregory

Finally, the Weighted Inclusive Gregory method, which is used in local government elections in Scotland and in some Australian state legislatures, attempts to address the anomalies which result from the Basic Gregory and Inclusive Gregory methods. It includes all ballot papers in the calculation of transfer values, but ensures that they are weighted appropriately to take account of the transfer values which were applied in previous counts. The transfer value is calculated in two parts:

- Votes received by the candidate at full value are calculated as the surplus vote divided by the candidate's total vote;
- Votes received by the candidate from another candidate's surplus are calculated as the surplus vote divided by the candidate's total vote, and then multiplied by the transfer value that was applied in the transfer of the surplus votes to the previous candidate.

Summary

The vote transfer methodology used is clearly important, and the different methodologies are, undoubtedly, complex. However, these are neither matters which affect how voters cast their votes, nor which need complicate the system from a voter perspective.

ANNEX H: MODELLING OF ELECTORAL SYSTEMS

We commissioned Professor Roger Scully and Jac Lerner of Cardiff University's Wales Governance Centre to undertake modelling of the potential outcomes of our proposed electoral systems on the basis of the 2011 and 2016 Assembly elections, and political polling undertaken in 2011, 2016 and 2017.

The models provide illustrations of the potential outcomes which could have resulted had the Assembly elections in 2011 and 2016, and a simulated election in 2017, been on the basis of an Assembly of 80 Members and contested using our proposed electoral boundaries and systems. However, it should be noted that:

- The modelling is based on assumptions. While it provides an illustration of the potential level of proportionality for each system, seat totals should be seen only as indicative estimates. In addition, the modelling cannot take local factors or individual candidates into account.
- The electoral system and boundaries used for any election can influence voter behaviour; voters might have cast their votes differently in 2011 and 2016 under different electoral systems. Similarly, the political polling in 2017 was undertaken shortly after a UK general election, which may have influenced respondents' views.
- For the purposes of modelling Flexible List and STV results, constituency votes from the relevant Assembly elections have been projected onto the 17 constituencies based on local authority areas and the 20 constituencies based on the current Assembly constituencies.¹⁹² The constituency vote may, perhaps, be considered a more accurate indicator of how voters would cast a single vote.
- For the purposes of the 2017 modelling, the results of polling undertaken in July 2017, and the changes since 2016 indicated by the data, have been projected onto the 2016 Assembly election results using Uniform National Swing.

¹⁹² This was undertaken independently by Anthony Wells of YouGov, to whom we are grateful.

- For the purposes of modelling STV results, the constituency votes cast in the 2011 and 2016 general elections have been interpreted as first preference votes. For each of the potential constituencies, the electoral quota has been calculated. Where parties received multiples of the electoral quota (for example twice the quota) this has been interpreted as multiple candidates from the same party achieving the quota. Polling data has been used to estimate how votes might have transferred. These studies asked voters to indicate how they would have used second, third, etc. preference votes had they been able to express a preference.

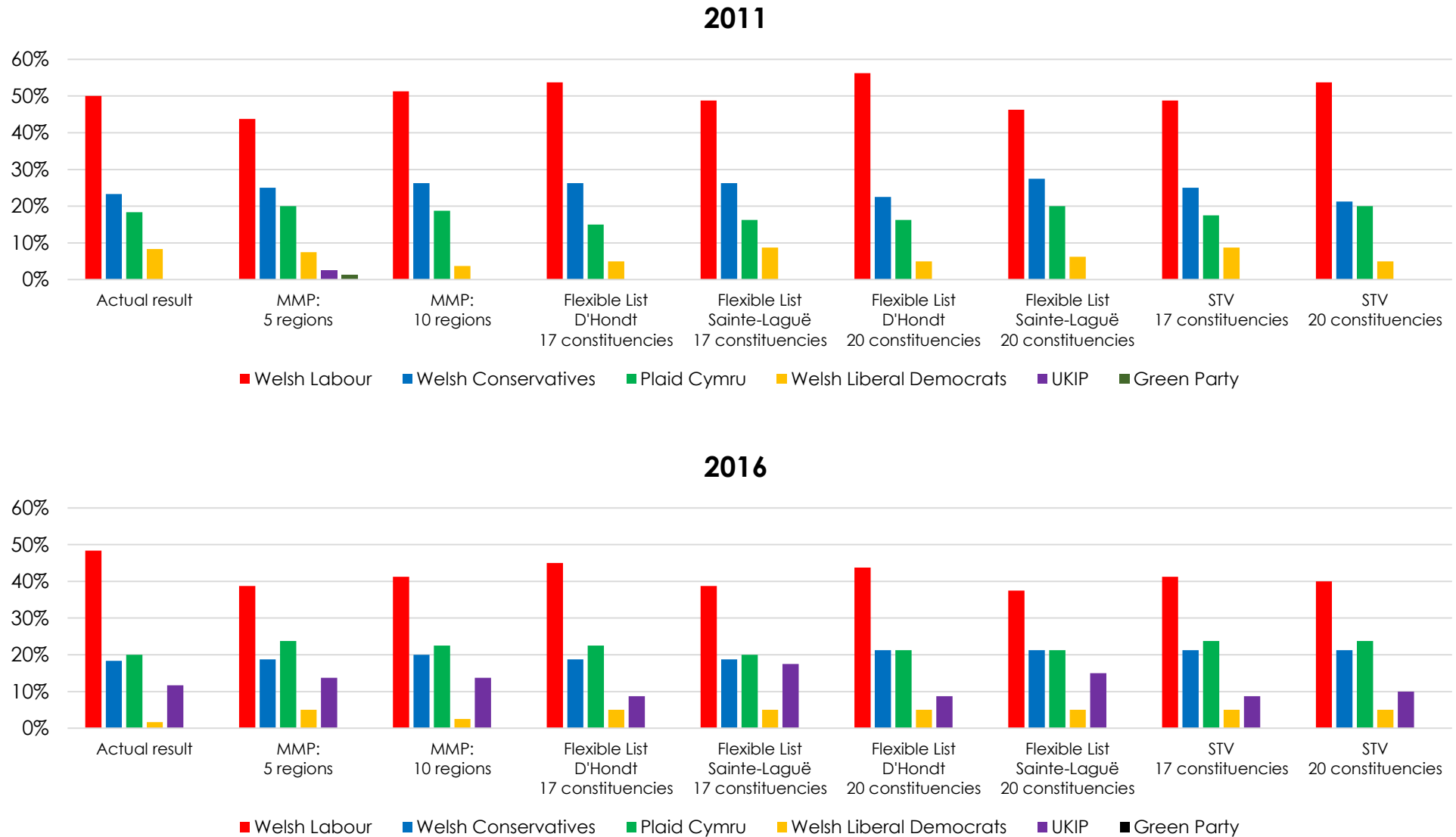
Table 40 Modelling of potential electoral outcomes for an 80 seat Assembly prepared by Cardiff University's Wales Governance Centre

2011	Actual result		MMP: 5 regions		MMP: 10 regions		Flexible List D'Hondt 17 constituencies		Flexible List Sainte-Laguë 17 constituencies		Flexible List D'Hondt 20 constituencies		Flexible List Sainte-Laguë 20 constituencies		STV 17 constituencies		STV 20 constituencies	
	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%
Welsh Labour	30	50%	35	44%	41	51%	43	54%	39	49%	45	56%	37	46%	39	49%	43	54%
Welsh Conservatives	14	23%	20	25%	21	26%	21	26%	21	26%	18	23%	22	28%	20	25%	17	21%
Plaid Cymru	11	18%	16	20%	15	19%	12	15%	13	16%	13	16%	16	20%	14	18%	16	20%
Welsh Liberal Democrats	5	8%	6	8%	3	4%	4	5%	7	9%	4	5%	5	6%	7	9%	4	5%
UKIP	0	0%	2	3%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Green Party	0	0%	1	1%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
<i>Gallagher Index figure</i>	10.4		6.9		11.9		9.6		5.3		11.0		4.6		4.9		9.4	

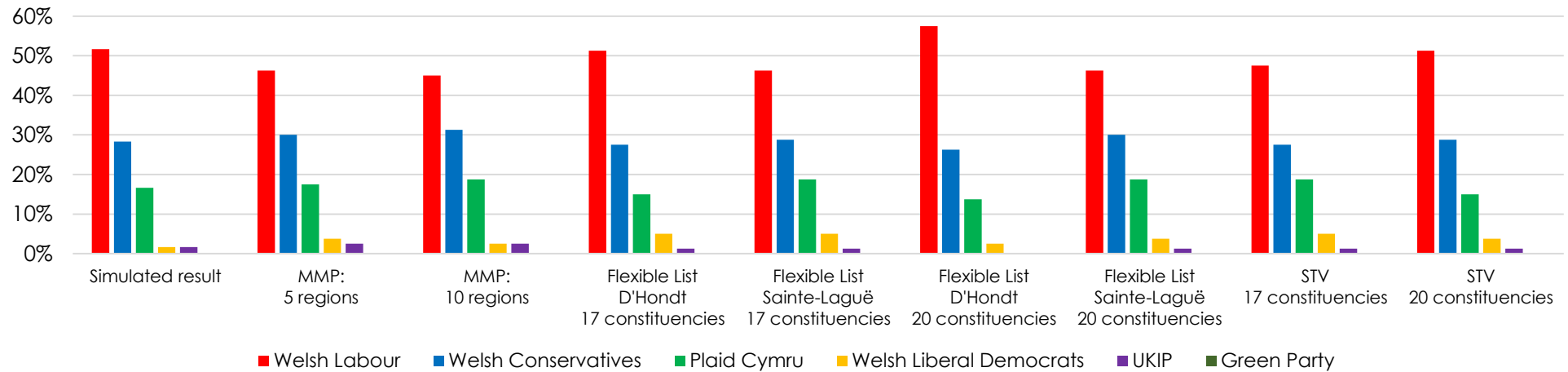
2016	Actual result		MMP: 5 regions		MMP: 10 regions		Flexible List D'Hondt 17 constituencies		Flexible List Sainte-Laguë 17 constituencies		Flexible List D'Hondt 20 constituencies		Flexible List Sainte-Laguë 20 constituencies		STV 17 constituencies		STV 20 constituencies	
	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%
Welsh Labour	29	48%	31	39%	33	41%	36	45%	31	39%	35	44%	30	38%	33	41%	32	40%
Welsh Conservatives	11	18%	15	19%	16	20%	15	19%	15	19%	17	21%	17	21%	17	21%	17	21%
Plaid Cymru	12	20%	19	24%	18	23%	18	23%	16	20%	17	21%	17	21%	19	24%	19	24%
Welsh Liberal Democrats	1	2%	4	5%	2	3%	4	5%	4	5%	4	5%	4	5%	4	5%	4	5%
UKIP	7	12%	11	14%	11	14%	7	9%	14	18%	7	9%	12	15%	7	9%	8	10%
Green Party	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
<i>Gallagher Index figure</i>	13.0		7.5		8.1		8.5		5.5		7.4		3.8		6.4		5.4	

2017	Simulated result		MMP: 5 regions		MMP: 10 regions		Flexible List D'Hondt 17 constituencies		Flexible List Sainte-Laguë 17 constituencies		Flexible List D'Hondt 20 constituencies		Flexible List Sainte-Laguë 20 constituencies		STV 17 constituencies		STV 20 constituencies	
	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%	Seats	%
Welsh Labour	31	52%	37	46%	36	45%	41	51%	37	46%	46	58%	37	46%	38	48%	41	51%
Welsh Conservatives	17	28%	24	30%	25	31%	22	28%	23	29%	21	26%	24	30%	22	28%	23	29%
Plaid Cymru	10	17%	14	18%	15	19%	12	15%	15	19%	11	14%	15	19%	15	19%	12	15%
Welsh Liberal Democrats	1	2%	3	4%	2	3%	4	5%	4	5%	2	3%	3	4%	4	5%	3	4%
UKIP	1	2%	2	3%	2	3%	1	1%	1	1%	0	0%	1	1%	1	1%	1	1%
Green Party	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
<i>Gallagher Index figure</i>	10.1		7.2		7.2		7.7		4.1		11.6		5.7		5.0		7.6	

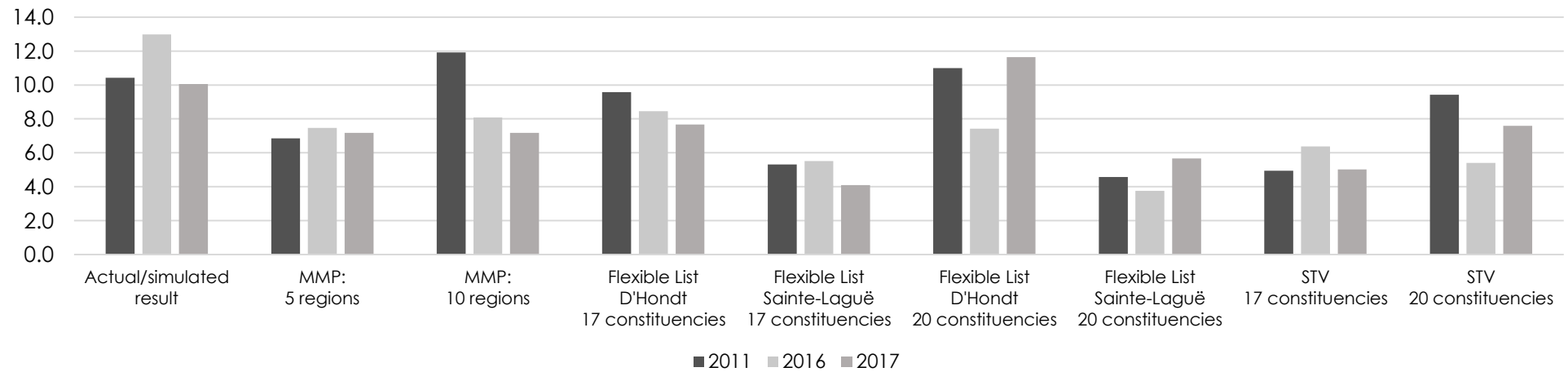
Figure 14 Modelling of potential electoral outcomes for an 80 seat Assembly prepared by Cardiff University's Wales Governance Centre



2017



Gallagher Index figures



ANNEX I: GLOSSARY OF TERMS

This glossary explains the terminology used in our report.

Age threshold: the age at which a person takes on particular rights or responsibilities.

Assembly Commission: the body established under section 27 of the *Government of Wales Act 2006* which is responsible for providing the services, staff and resources the Assembly requires to carry out its functions.

Boundary Commission for Wales (BCW): the body responsible for the review of Westminster parliamentary constituencies. Until 2011 the BCW was also responsible for Assembly constituencies, as a result of the automatic link between Westminster and Assembly constituencies. The BCW is a reserved authority under the *Wales Act 2017*, meaning that the Assembly would require the UK Government's consent before conferring any functions on it.

Candidate threshold: for the purposes of our report, a mechanism for determining whether candidates within a Flexible List system have received sufficient personal votes to influence their position on their party's list, for the purposes of identifying which candidates take up the seats won by the party.

Casual vacancy: a seat which becomes empty between scheduled elections, for example as the result of the death or resignation of a Member.

Closed List: electoral system or element of a Mixed Member Proportional system in which voters choose between lists of candidates proposed by political parties. Candidates take up seats won by the party in the order the party has included them on the list.

Co-terminosity: the sharing of common boundaries for electoral areas used for electing different tiers of governance, for example Westminster parliamentary constituencies, Assembly constituencies or local authority wards.

Countback: mechanism for determining the filling of a casual vacancy in which the count of the votes from the last general election to the legislature is rerun, excluding the outgoing Member. The seat is awarded to the next best-placed eligible candidate. In our proposals for STV, in order to be included in the count, a candidate would have to represent the same political party as the outgoing Member represented at the point at which they were elected.

D'Hondt: an electoral formula used to allocate seats to parties in a List Proportional Representation system or the list element of a Mixed Member Proportional system.

District magnitude: the number of Members returned to represent each electoral area.

Droop quota: the minimum number of votes required for a candidate to be elected in STV. Based on the number of valid votes cast and the number of seats to be filled:

$$\frac{\text{Valid votes}}{\text{Seats}+1} + 1 = \text{Droop quota}$$

Dual candidature: the standing for election by a candidate both for a constituency seat and on the relevant regional list within a Mixed Member Proportional electoral system.

Electoral Commission: the independent body which oversees elections and regulates political finance in the UK.

Electoral formula: mechanism for translating votes cast into seats won. Examples include D'Hondt (which is currently used for calculating regional Assembly seats), Droop (which is used in Single Transferable Vote systems) and Sainte-Laguë.

Electoral threshold: mechanism for preventing hyperproportionality resulting from electoral areas which return a large number of Members, by applying additional criteria which must be met before a party can win list seats. For example, a specified share of the national vote within a Flexible List system, or number of constituency seats within a Mixed Member Proportional System.

Electoral ratio: the number of elected representatives per head of population.

First Past The Post: electoral system which operates on the basis of single Member constituencies. Voters each cast a single vote, and the seat is awarded to the candidate who receives the most votes.

Flexible List: electoral system in which voters choose between lists of candidates proposed by political parties. Mechanisms are included by which voters can influence the order in which candidates take up seats won by the party, but the degree of influence voters have is limited by the application of quotas, candidate thresholds or other mechanisms.

Franchise: the right to vote in a particular election.

Gallagher Index of disproportionality: measures the disproportionality of an electoral outcome; that is, the difference between the percentage of votes received and the percentage of seats a party gets in the resulting legislature. The lower the Gallagher figure, the more proportional the outcome.

Gender quota: a legislative intervention to apply additional criteria at the candidate or elected Member level in order to encourage or ensure balanced representation for women and men. See chapter 12 for details.

Gregory (Basic/Inclusive/Weighted Inclusive) methodology: methodologies by which surplus votes are transferred between candidates in STV. See Annex G for details.

Hyperproportionality: a degree of proportionality which results in parties or candidates with very low levels of public support securing seats in the legislature. Consequences can include the securing of seats by extremist parties, and fragmentation of representation which results in difficulties in forming stable governments.

List zipping: the practice within List Proportional Representation systems of ordering candidates on a list alternately according to their gender.

Llywydd: the Presiding Officer of the National Assembly for Wales. The role of the Presiding Officer is, among other things, to chair Plenary meetings and determine questions over the interpretation of Standing Orders.

Local Democracy and Boundary Commission for Wales (LDBCW): the body responsible for reviewing the boundaries of local authorities and their constituent electoral divisions, and identifying the appropriate number of councillors to represent each. The Assembly already has full legislative competence over the LDBCW in relation to local government, and will have legislative competence to confer functions on it in relation to Assembly elections with effect from the Principal Appointed Day for the purposes of the *Wales Act 2017* (expected to be 1 April 2018).

Mixed Member Proportional system: also known as the Additional Member System, the Mixed Member Proportional (MMP) system has been used in Wales since 1999. The area represented by the legislature is divided into regions, which are subdivided into constituencies. A single Member is elected for each constituency by First Past The Post. Multiple Members are returned to each region on the basis of List Proportional Representation. Lists may be open or closed. An electoral formula is used to allocate regional seats to parties according to their regional vote share and the number of constituency seats won by the party within that region. In this way, parties which do not win constituency seats are 'compensated' for the disproportionality of the constituency results. See chapter 11 for further details.

Open List: electoral system in which voters choose between lists of candidates proposed by political parties. Voters have complete influence over the order in which candidates take up seats won by the party.

Plenary: meetings of the full Assembly.

Proportionality: the degree to which the distribution of seats within a legislature reflects the share of votes won by parties/candidates.

Recess: the periods agreed by the Business Committee during which the Assembly does not formally sit. Assembly committees may still meet or carry out activities during these periods, and the Assembly may, under certain circumstances, be recalled to meet in Plenary during recess periods. See chapter 06 for further details about recess periods.

Regional Authority Index: a method for assessing the relative autonomy of regions, based on assessment of the autonomy of regional government, range of policy responsibility, fiscal autonomy, and independence of the regional legislature and executive. See chapter 09 for further details.

Remuneration Board: the independent body established by the *National Assembly for Wales (Remuneration) Measure 2010* which is responsible for determining pay, allowances and other financial support for Assembly Members and their staff.

Sainte-Laguë: an electoral formula used to allocate seats to parties in a List Proportional Representation system or to apportion seats to constituencies or regions on the basis of the size of the electorate.

Seat apportionment: the allocation of seats to electoral constituencies or regions on the basis of the size of the electorate or other factors. We have used Sainte-Laguë divisors for our modelling.

Scrutiny and oversight: the process by which Members hold the government and other public bodies to account for their spending, decisions, policies and administration. May include scrutiny of policy, legislation or financial matters. See chapter 07 for further details.

Siambwr: the Assembly's main debating chamber, used primarily for Plenary meetings.

Single Transferable Vote: an electoral system in which voters express preferences for individual candidates to represent multimember constituencies. Each voter has a single vote, which can be transferred from the voter's first preference to their second, and so on, if their preferred candidate has either been eliminated or has sufficient votes already to be elected. Voters express their preferences for individual candidates; therefore votes can be transferred across parties. In order to be elected, candidates must achieve a quota based on the number of seats and the number of valid votes cast—the Droop quota.

Standing Orders: the formal rules which set out the Assembly's procedures.