

# **Senedd Cymru (Members and Elections) Bill**

## Stage 1 Report

January 2024



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# **Senedd Cymru (Members and Elections) Bill**

## Stage 1 Report

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# About the Committee

The Committee was established on 12 July 2023. Its remit can be found at:  
[www.senedd.wales/SeneddReform](http://www.senedd.wales/SeneddReform)

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Current Committee membership:



**Committee Chair:  
David Rees MS**  
Welsh Labour



**Heledd Fychan MS**  
Plaid Cymru



**Darren Millar MS**  
Welsh Conservatives



**Sarah Murphy MS**  
Welsh Labour

The following Member participated in all Committee activity in accordance with Standing Order 17.49:



**Jane Dodds MS**  
Welsh Liberal Democrats

The following Member attended as a substitute during this inquiry:



**Llyr Gruffydd MS**  
Plaid Cymru

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## Chair's foreword

Today, the Senedd is at the heart of a Welsh democracy which we prize so highly. It is currently served by 60 Members who are elected by a dual system which is made up of both the traditional 'first past the post' mechanism for existing constituencies and a closed list proportional system for each of the five regions across Wales. Members of the Senedd are elected to work for and with the communities they represent to ensure that their interests are always to the fore of what Members do in undertaking their responsibilities. In doing so, Members hold the Welsh Government to account, and seek to improve policy, legislation, spending and taxation decisions through robust and effective scrutiny.

Debates about whether 60 Members are sufficient to fulfil our democratic responsibilities have continued as our parliament has developed into a legally separate entity, as we have taken on primary law-making and taxation powers, as we have moved to a reserved powers model of devolution, and as the wider constitutional landscape across the UK has evolved. Against a backdrop of change, the Senedd and its Members have continually found ways to work differently and more efficiently, and, in doing so, we have often seen the Senedd's fixed capacity being stretched to its limits.

In 2017 the Senedd gained the powers to address one of the underlying issues for this—that is, the number of Members the Senedd has. We are not the first Senedd to consider how these powers might be used, but, unlike those that have gone before us, the Committee's role in this Senedd has been to explore specific legislative proposals set out by the Welsh Government in a Bill aimed at reforming the Senedd. A Bill that covers a wider range of reforms which have been brought forward to improve the efficiency of how Senedd Members can undertake their duties, including the number of Members to be elected to the Senedd and how those Members would be elected.

The majority of Committee members are persuaded by the evidence that reform is needed, and that a larger Senedd will be better able to fulfil its responsibilities to the people of Wales, now and in the future. The proposed size of 96 is beyond the higher end of any previous proposals, but we have heard no evidence-based case that it is an excessive or inappropriate number.

We have not reached consensus on all matters. There are different views about whether the general principles should be agreed and on some other matters. But, we are unanimous in our concerns about the proposed closed list electoral

system which is included in the Bill, its impact on voter choice, and the extent to which it will contribute to a healthy democracy in Wales. We believe the link between voters and the Members who represent them is paramount, and must not be lost through these reforms.

We therefore urge all political parties in the Senedd to work together to ensure the electoral system in the Bill provides greater voter choice and improved accountability for future Members to their electorates.

We have also set out our views on how we believe the Bill can be improved to ensure that Welsh democracy remains progressive and healthy.

A handwritten signature in black ink that reads "David F. Rees." The signature is written in a cursive style with a large 'D' and 'R'.

**David Rees MS**

Chair, Reform Bill Committee

## Recommendations

**Recommendation 1.** By majority, we recommend that the Senedd should agree the general principles of the Senedd Cymru (Members and Elections) Bill, but, throughout their ongoing scrutiny of the Bill, Members of the Senedd should have regard to the issues highlighted in our report.....Page 39

**Recommendation 2.** If the Bill passes Stage 1, the Senedd Commission should write to us in advance of Stage 2 proceedings to outline what the differences in the financial estimates would be if the estimates had been based on the 2023-24 Determination rather than the 2022-23 Determination. The Member in charge should then incorporate these estimates into the revised Explanatory Memorandum and Regulatory Impact Assessment to be laid after Stage 2. ....Page 55

**Recommendation 3.** In its response to our report, the Senedd Commission should provide information about any interaction between the proposals in the Senedd Cymru (Members and Elections) Bill (if passed) and the Cardiff Bay 2032 accommodation project. This should include information about how any increase in the number of Members would affect the potential costs of the 2032 project. If it is not possible to provide cost estimates at this stage, the Senedd Commission should provide an indication in its response of when the information may be available. The Senedd Commission should also commit to keeping the Senedd, and the public, updated on these matters. ....Page 57

**Recommendation 4.** The Business Committee should, as part of its procedural review prior to the 2026 election, consider whether any changes are required to Standing Orders to ensure that the appropriate procedures are in place to facilitate any election of an additional Deputy Presiding Officer under section 25(1A) of the Government of Wales Act 2006 (to be inserted by section 4 of the Bill). ....Page 63

**Recommendation 5.** The Business Committee should, as part of its procedural review prior to the 2026 election, make use of the power in section 25(2) of the Government of Wales Act 2006 to specify that in English the Presiding Officer and Deputy Presiding Officer are to be known by the titles of Speaker and Deputy Speaker respectively. ....Page 64

**Recommendation 6.** By majority, we recommend that the Member in charge should bring forward amendments at Stage 2 to remove section 5(b) of the Bill

(the power for the maximum number of Welsh Ministers to be increased by regulations)..... Page 73

**Recommendation 7.** If the Member in charge does not accept our Recommendation 6, he should bring forward amendments at Stage 2 to provide that regulations under section 51(3) of the Government of Wales Act 2006 (to be inserted by section 5 of the Bill) to increase the maximum number of Welsh Ministers may not be made unless they have been approved by a supermajority of Members representing at least two-thirds of the total number of Senedd seats.  
..... Page 73

**Recommendation 8.** If the Member in charge does not accept our Recommendation 6, he should bring forward amendments at Stage 2 to provide that regulations under section 51(3) of the Government of Wales Act 2006 (to be inserted by section 5 of the Bill) to increase the maximum number of Welsh Ministers may not be made unless they include within them a sunset provision that results in the expiry of the regulations (and thereby the resetting of the limit as it stands in primary legislation) before the appointment of any Welsh Ministers by the First Minister nominated by the Senedd following the next ordinary or extraordinary general election..... Page 74

**Recommendation 9.** In his response to our report the Member in charge should explain the Welsh Government’s rationale for not reducing the length of local government terms at the same time as it is reducing the length of Senedd terms. The Member in charge’s response should also outline what plans the Welsh Government has to engage with local authorities in Wales on this point, and what legislative mechanisms would be required to make any changes to the length of local government terms.....Page 88

**Recommendation 10.** Without delay, the Welsh Government should commence consultation on reducing the length of time between principal, town and community council elections from five to four years, with a view to making this change unless there is strong evidence to the contrary.....Page 88

**Recommendation 11.** The Member in charge should, in consultation with the Auditor General for Wales and Future Generations Commissioner for Wales, undertake further work to estimate the cost implications of section 3 (frequency of ordinary general elections) on the requirements of the Well-being of Future Generations (Wales) Act 2015, and update the Regulatory Impact Assessment after Stage 2. ....Page 88

**Recommendation 12.** The Senedd Commission should, as part of its Senedd Reform Programme, consider whether any changes are required to the processes for undertaking Senedd-led (or Senedd Commission-led) public appointments to account for more frequent electoral cycles.....Page 89

**Recommendation 13.** In his response to our report the Member in charge should outline what consideration has been given to the term lengths for Welsh Government-led public appointments in light of the proposed move to four-year Senedd terms, particularly those for which there is agreement that the Senedd may hold pre-appointment hearings.....Page 89

**Recommendation 14.** The Member in charge should work with all political parties represented in the Senedd to reach agreement on how the Bill could be amended at Stage 2 to ensure the electoral system provides greater voter choice and improved accountability for future Members to their electorates.  
.....Page 120

**Recommendation 15.** The Member in charge should bring forward amendments at Stage 2 to include a requirement on the face of the Bill that ballot papers must include the names of all candidates, including the names of candidates standing on lists submitted by registered political parties..... Page 121

**Recommendation 16.** The Member in charge should bring forward amendments at Stage 2 to ensure the Bill includes provision that enables all vacancies arising between elections to be filled, including vacancies left by Members elected as independents or by Members elected to represent parties whose candidate lists contain no further eligible or willing candidates..... Page 121

**Recommendation 17.** The Business Committee should, as part of its procedural review prior to the 2026 election, consider whether any changes are required to Standing Orders, conventions or practices to mitigate the impact on Senedd business, including the committee system, either of vacancies that cannot be filled or of changes in the political composition of the Senedd between general elections..... Page 121

**Recommendation 18.** In his response to our report the Member in charge should provide clarity on who will be responsible for leading, driving and coordinating national and local public information and awareness-raising campaigns about the electoral reforms, and in particular the new electoral system..... Page 122

**Recommendation 19.** The Member in charge should provide assurances to electoral administrators and returning officers that the Welsh Government will

provide the financial and other support and resources required for the implementation of the provisions in the Bill. .... Page 122

**Recommendation 20.** The Member in charge should bring forward amendments at Stage 2 to new section 4(1)(c) to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by section 13 of the Bill to reduce the number of members (other than the chair and deputy chair) of the Democracy and Boundary Commission Cymru to no more than five. ....Page 138

**Recommendation 21.** The Member in charge should undertake further work with the Local Democracy and Boundary Commission for Wales to:

- Establish the number of additional commissioners to be recruited (including the specific skills, responsibilities and timing of such appointments).
- Ensure that consideration is given to the geographical diversity of commissioners.
- Identify any requirements for additional secretariat support. ....Page 138

**Recommendation 22.** The Member in charge should bring forward amendments at Stage 2 to provide on the face of the Bill that appointments to the Democracy and Boundary Commission Cymru roles of chair, deputy chair, commissioners and chief executive must be conducted through the public appointments process. .... Page 138

**Recommendation 23.** The Member in charge should bring forward amendments at Stage 2 to extend the list of persons disqualified from appointment to the Democracy and Boundary Commission Cymru to other persons employed in Welsh Government or party political roles, and to ensure there are similarly robust safeguards in place to prohibit party political activity while in post. .... Page 139

**Recommendation 24.** The Member in charge should consider whether the terms “a member of the staff of Senedd Cymru” and “a person appointed to assist a Member of the Senedd with the carrying out of the Member’s functions” to be inserted into the renamed Democracy and Boundary Commission Cymru etc. Act 2013 by sections 14(1)(b), 14(2) and 16(1)(b)(ii) of the Bill are sufficiently clear and consistent with the terminology used in other legislation. .... Page 139

**Recommendation 25.** The Business Committee should, as part of its procedural review prior to the 2026 election, consider appropriate models of accountability for the Democracy and Boundary Commission Cymru in respect of its functions in relation to Senedd constituency boundaries, including the potential use of the Llywydd's Committee. The accountability model put in place should include the option for a relevant Senedd committee, if it wishes to do so, to hold pre-appointment hearings as part of the processes for appointing the chair and chief executive of the Democracy and Boundary Commission Cymru.....Page 140

**Recommendation 26.** If the Bill passes Stage 1, the Member in charge should write to us no later than five working days after the general principles motion has been agreed setting out his views on each of the recommendations for technical changes to Schedules 1 and 2 made by the Local Democracy and Boundary Commission for Wales in its written evidence to us. This letter should include an indication for each recommendation made by the LDBCW of whether or not he agrees with the LDBCW that the change is needed, the reasons for his view, and confirmation of whether or not he intends to bring forward amendments to give effect to the recommendation. ....Page 164

**Recommendation 27.** The Member in charge should bring forward amendments at Stage 2 to new section 49C to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by paragraph 1 of Schedule 2 to the Bill to provide that the impact on the Welsh language is one of the local ties that should be taken into account by the DBCC when determining the Senedd's constituency boundaries. ....Page 164

**Recommendation 28.** By majority, we recommend that the Member in charge should bring forward amendments at Stage 2 to new section 49C(1) to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by paragraph 1 of Schedule 2 to the Bill to reduce the permissible variance from  $\pm 10$  per cent. ....Page 165

**Recommendation 29.** The Member in charge should bring forward amendments at Stage 2 to new section 49C(3) to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by paragraph 1 of Schedule 2 to the Bill to provide that the calculation of the electoral quota should include electors and attainers. ....Page 165

**Recommendation 30.** The Member in charge should bring forward amendments at Stage 2 to new section 49I(1) to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by paragraph 1 of Schedule 2 to



the Bill to provide an earlier date by which the final reports of the DBCC must be published and sent to the Welsh Ministers in order to avoid a coincidence with the 1 December deadline that already applies for the publication by electoral registration officers of the revised register of electors following the annual canvass.  
.....Page 165

**Recommendation 31.** The Member in charge should bring forward amendments at Stage 2 to new section 49J(1)(b) and (3) to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by paragraph 1 of Schedule 2 to the Bill to reduce the period within which Welsh Ministers must bring forward regulations to give effect to the DBCC’s recommendations from six months to four months.....Page 166

**Recommendation 32.** The Member in charge should bring forward amendments at Stage 2 to Schedules 1 and 2 to the Bill to provide that the DBCC must consult the Welsh Language Commissioner on the proposed name or names of Senedd constituencies (and on any changes to the proposed name or names), and have regard to any representations made.....Page 166

**Recommendation 33.** The Member in charge should bring forward amendments at Stage 2 to Schedules 1 and 2 to the Bill to provide that each Senedd constituency should be given a monolingual name (unless the DBCC considers that there are specific reasons why bilingual names are appropriate).  
.....Page 167

**Recommendation 34.** The Member in charge should bring forward amendments at Stage 2 to Schedules 1 and 2 to the Bill to provide that if a constituency is to be given a single monolingual name, that name may only be in the Welsh language. ....Page 167

**Recommendation 35.** The Member in charge should bring forward amendments at Stage 2 to Schedules 1 and 2 to the Bill to provide that the Welsh Language Commissioner’s role in respect of the orthography of proposed constituency names applies to all proposed constituency names (or changes to those names) whether the proposals are for the purposes of identifying the constituency through the medium of Welsh, the medium of English, or a monolingual name for communication through either language.  
.....Page 167

**Recommendation 36.** The Member in charge should bring forward amendments at Stage 2 to Schedules 1 and 2 to the Bill to provide that the

Democracy and Boundary Commission Cymru must implement any recommendations made by the Welsh Language Commissioner in respect of the orthography of proposed constituency names. In line with our Recommendation 35, this should include the orthography of names for communication through the medium of Welsh and the medium of English, and any monolingual names for communication through either language.....Page 168

**Recommendation 37.** The Member in charge should commit to including a requirement for candidates to provide their electoral register reference on the nomination papers prescribed in the order made under section 13 of the Government of Wales Act 2006. As part of the review and consultation to inform the making of the order, the Member in charge should undertake a data protection impact assessment to ensure that any appropriate steps may be taken in respect of those who are eligible for anonymous registration. .... Page 180

**Recommendation 38.** The Member in charge should bring forward amendments at Stage 2 to section 6 of the Bill to provide an appropriate grace period for a Member to appeal their removal from the register of electors at an address in Wales to prevent them being unseated as a result of their accidental removal from the register. .... Page 181

**Recommendation 39.** The Member in charge should bring forward amendments at Stage 2 to provide a mechanism for a reserve candidate who would otherwise be eligible to take up a vacancy arising during a Senedd term to become registered in the register of local government electors at an address within a Senedd constituency. The mechanism should include provision for a reasonable time period within which the prospective Member would be required to meet the qualification..... Page 181

**Recommendation 40.** The Member in charge should bring forward amendments at Stage 2 to prevent a person whose main residence is outside Wales from satisfying the residency requirement in section 6 of the Bill if they are on the electoral register at an address in Wales by means of a second home. .... Page 182

**Recommendation 41.** The Member in charge should bring forward amendments at Stage 2 to remove sections 7 (review of possible job-sharing of offices relating to the Senedd) and 19 (review of operation of Act etc. after 2026 general election) from the Bill on the basis that the provisions are constitutionally problematic and legally unnecessary.....Page 196

**Recommendation 42.** The Business Committee should consider either proposing the establishment of a new committee in the Sixth Senedd to explore the extent to which persons should be able to jointly hold the offices listed in section 7(3) of the Bill, including the extent to which a person should be able to temporarily hold such an office while the person elected or appointed to that office is unavailable, or asking an existing Senedd committee with a relevant remit to undertake such work. If such work is undertaken by a Senedd committee, the Business Committee should schedule time in Plenary for debate of the outcomes by the Senedd..... Page 197

**Recommendation 43.** The Member in charge should bring forward amendments at Stage 2 to require the Welsh Ministers to review and report on the operation of the Senedd Cymru (Members and Elections) Act 2024. The outcomes of this review will inform decisions to be taken by future Seneddau and their committees whether, and if so, when and how, they consider it appropriate to conduct post-legislative scrutiny.....Page 198

**Recommendation 44.** If the Member in charge does not accept our Recommendation 41, he should bring forward amendments at Stage 2 to remove section 19(2)(b) (which requires the motion tabled by the Presiding Officer to propose that the committee established to review matters relating to the review of the Act and the extent to which elements of a healthy democracy are present in Wales must complete a report on the review no later than twelve months after the first meeting of the Senedd after the 2026 election). .....Page 199

**Recommendation 45.** If the Member in charge does not accept our Recommendation 41 or Recommendation 44, he should bring forward amendments at Stage 2 to section 19(2)(b) to replace the current requirement that the motion tabled by the Presiding Officer must specify that the committee's work is to be completed within twelve months of the first meeting after the 2026 election with provision that the motion may include a proposed deadline by which the committee's report is to be completed.....Page 199

**Recommendation 46.** By majority, we recommend that, if the Member in charge does not accept our Recommendation 41, he should bring forward amendments at Stage 2 to remove section 19(2)(a)(ii) (which requires the motion tabled by the Presiding Officer to propose that a committee carries out a review of the extent to which elements of a healthy democracy are present in Wales).....Page 200

**Recommendation 47.** If the Member in charge does not accept our Recommendation 41, he should bring forward amendments at Stage 2 to insert

into section 19 provision equivalent to section 7(5) requiring the Welsh Ministers to respond to the report and recommendations made by a committee established pursuant to a motion under section 19(1).....Page 200

**Recommendation 48.** The Welsh Government should work with the Independent Remuneration Board of the Senedd, the Senedd Commission, the Electoral Commission, registered political parties, and such other stakeholders as it considers appropriate, to review the public resources and funding available to registered political parties in Wales for the purposes of policy development, and the extent to which the eligibility and allocation of such resources and funding reflect devolved responsibilities, parties’ electoral support in Wales and their representation in the Senedd. In conducting this review, which should be completed and published in sufficient time to enable the outcomes to be implemented with effect from the start of the Seventh Senedd in 2026, consideration should be given to funding levels, governance arrangements, and any issues relating to the Senedd’s legislative competence. .... Page 205

**Recommendation 49.** As it prepares for the implementation of the reforms in the Bill, the Independent Remuneration Board of the Senedd should review the Political Parties Support Allowance and consider any other relevant provision that could be provided through its Determinations. During this process, it should consider in particular the extent to which the support available is equivalent to the level and types of support available elsewhere, including Short Money and Cranborne Money in the UK Parliament. The outcomes of this work should be implemented with effect from the start of the Seventh Senedd in 2026... Page 205

**Recommendation 50.** The Standards of Conduct Committee should work with the Standards Commissioner, registered political parties, and such other stakeholders as it considers appropriate, to develop options for strengthening individual Members’ accountability. This should include consideration of issues including recall of Members, disqualification arrangements and the sanctions available to the Standards of Conduct Committee when a complaint about a Member is upheld. Public consultation on potential options should be completed before the end of the Sixth Senedd in 2026. ....Page 210

# 1. Introduction

## **Senedd reform**

**1.** The powers, roles and responsibilities of the now Senedd have changed since the establishment of the then National Assembly for Wales (“the Assembly”) in 1999, but its size has remained the same.<sup>1</sup> As a result, debates around the capacity and size of the Senedd, and how Members are elected, have continued. An overview of key Senedd reform milestones is provided in Annex 1.

## **The Bill**

**2.** On 18 September 2023, the Counsel General and Minister for the Constitution, Mick Antoniw MS (“the Member in charge”), introduced the Welsh Government’s Senedd Cymru (Members and Elections) Bill (“the Bill” or “the SC(ME) Bill”) to the Senedd.<sup>2</sup> On the same day, he laid an accompanying Explanatory Memorandum (“the EM”) (incorporating the Regulatory Impact Assessment (“RIA”) and Explanatory Notes (“EN”))<sup>3</sup>, published a Statement of Policy Intent for Subordinate Legislation<sup>4</sup>, and made a written statement<sup>5</sup>. On 19 September 2023, he made an oral statement in Plenary.<sup>6</sup>

**3.** In accordance with Standing Order 26.9, the Business Committee referred the Bill to us for Stage 1 scrutiny of the Bill’s general principles with a reporting deadline of 19 January 2024.

## **Terms of reference**

- 4.** On 20 September 2023, we agreed to consider:
- The general principles of the Bill and whether there is a need for legislation to deliver its stated policy objectives.

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<sup>1</sup> The limit on the maximum size of the Welsh Government was increased by the Government of Wales Act 2006 to 14 (12 Ministers or Deputy Ministers in addition to the First Minister and Counsel General) from a previous overall limit of nine established by the then Assembly’s Standing Orders in accordance with the Government of Wales Act 1998.

<sup>2</sup> Information about the Bill and its passage through the Senedd is available on the [Bill’s webpage](#).

<sup>3</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023

<sup>4</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Statement of Policy Intent for Subordinate Legislation](#), 18 September 2023

<sup>5</sup> Welsh Government, [Written statement: Senedd Cymru \(Members and Elections\) Bill](#), 18 September 2023

<sup>6</sup> Plenary RoP [paras 201-282], 19 September 2023

- Any potential barriers to the implementation of the Bill’s provisions, and whether the Bill and accompanying EM and RIA take adequate account of them.
- Whether there are any unintended consequences arising from the Bill.
- The Welsh Government’s assessment of the financial and other impacts of the Bill (as set out in Parts 2 and 3 of the EM).
- The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Part 1: Chapter 5 of the EM).
- Matters relating to the competence of the Senedd including compatibility with the European Convention on Human Rights.
- The balance between the information contained on the face of the Bill and what is left to subordinate legislation.
- Any matter related to the quality of the legislation.
- Any other matter related to the constitutional or other implications of the Bill.

## Our approach

**5.** On 20 September 2023 we received a private technical briefing on the Bill from Welsh Government officials. We are grateful to the Member in charge for facilitating this.

**6.** On 21 September 2023 we issued a general call for written evidence. To ensure the evidence received could inform the majority of our oral evidence sessions, the deadline was 3 November 2023. We received over 430 responses.<sup>7</sup>

**7.** Between 5 October and 13 December 2023 we held oral evidence sessions with the Member in charge of the Bill and key stakeholders.<sup>8</sup>

**8.** On 6 November 2023 we held an online focus group with Members of the Welsh Youth Parliament (“WYPMs”). Following the session, we published a summary of the issues raised during the discussions.<sup>9</sup> We also published the

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<sup>7</sup> The written responses we received may be read in full on the [Bill’s webpage](#).

<sup>8</sup> Details of the oral evidence sessions, including links to the transcripts and Senedd.tv broadcasts, are available on the Bill’s webpage and in Annex 2.

<sup>9</sup> Reform Bill Committee, [Senedd Cymru \(Members and Elections\) Bill: Welsh Youth Parliament Focus Group](#), November 2023

briefing material and questions used for the focus group together with a form that WYPMs or other children and young people could use to share their views.<sup>10</sup>

**9.** We have engaged in correspondence and received supplementary written evidence from a range of relevant stakeholders, including other Senedd committees, the former Chairs of the Committee on Senedd Electoral Reform (“CSER”) and the Special Purpose Committee on Senedd Reform (“SPCSR”), the First Minister and the leader of Plaid Cymru as Co-operation Agreement partners, the Standards Commissioner and the Senedd Commission.<sup>11</sup>

**10.** We are grateful to everyone who has shared their views, experiences, evidence and expertise with us. We know not everyone who has contributed to our work will agree with our conclusions and recommendations. But, we would like to assure everyone who has taken part in our work that every contribution has been carefully considered and taken into account as we have conducted our scrutiny, reached our conclusions, and prepared this report.

### **Participation of Jane Dodds MS**

**11.** While Jane Dodds MS is not formally a member of the Committee, she has participated fully in our work in accordance with Standing Order 17.49.<sup>12</sup> This includes the development and agreement of the conclusions and recommendations set out in our report.

### **Scrutiny of the Bill by other Senedd committees**

**12.** In line with their usual practice, the Finance Committee and the Legislation, Justice and Constitution Committee scrutinised the Bill on their respective areas of interest. Information about their work, and their reports, can be found on the Bill’s webpage.

### **Other electoral reform Bills**

**13.** Unusually, alongside the SC(ME) Bill, the Welsh Government has developed two other closely-linked Bills (see Box 1). This report focuses on the SC(ME) Bill, but addresses matters relating to the other two Bills where relevant.

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<sup>10</sup> [Senedd Cymru \(Members and Elections\) Bill: children and young people’s views](#)

<sup>11</sup> All of the correspondence is available on the Bill’s webpage.

<sup>12</sup> Standing Order 17.49 provides that Members who are not members of a committee may, with the permission of the chair, participate in a committee meeting but may not vote.



**Box 1 Other Welsh Government electoral reform Bills****Elections and Elected Bodies (Wales) Bill (“the EEB(W) Bill”)**

- Introduced on 2 October 2023, the EEB(W) Bill has been referred to the Local Government and Housing Committee for Stage 1 scrutiny with a reporting deadline of 26 January 2024.
- If passed, the EEB(W) Bill would (among other things) confer the functions of an electoral management board for Wales and the majority of the functions of the Independent Remuneration Panel for Wales on the Local Democracy and Boundary Commission for Wales (“LDBCW”) (which will be renamed as the Democracy and Boundary Commission Cymru (“DBCC”) by Part 3 of the SC(ME) Bill, which also makes provision for additional DBCC members and adjustments to disqualification and quorum arrangements). The EEB(W) Bill will also make changes to the LDBCW’s governance arrangements. It will disqualify town and community councillors from serving as Members of the Senedd, and remove the existing ‘grace periods’ for principal councillors elected to the Senedd and Members of the Senedd elected to the House of Commons.

**Senedd Cymru (Electoral Candidate Lists) Bill (“the SC(ECL) Bill”)**

- The First Minister announced in June 2023 that the Welsh Government planned to bring forward a Bill to introduce candidate level gender quotas for Senedd elections.<sup>13</sup> The Deputy Minister for Social Partnership, the Member in charge of the SC(ECL) Bill, told us in November 2023 that “quotas are an important part of the overall Senedd reform package and both pieces of legislation have been designed to complement each other”.<sup>14</sup>
- The SC(ECL) Bill was expected to be introduced on 4 December 2023, but the Welsh Government indicated shortly before that date that introduction would be delayed. During an evidence session on the Co-operation Agreement on 8 December 2023, the leader of Plaid Cymru told the Scrutiny of the First Minister Committee that the Co-operation Agreement partners “remain determined” to deliver legislative candidate-level gender quotas. He added “a decision on the precise date on which we would proceed now

<sup>13</sup> Plenary RoP [para 119], 27 June 2023

<sup>14</sup> [Letter from the Deputy Minister for Social Partnership](#), 1 November 2023

reflects on the fact that work is continuing to make sure that we move towards being able to deliver what we want to deliver together”.<sup>15</sup>

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<sup>15</sup> Scrutiny of the First Minister Committee RoP [para 201], 8 December 2023

## 2. General principles of the Bill

### Background

**14.** In an oral statement on the Bill's introduction, the Member in charge said of the Bill that:

*"It presents us and the people of Wales with a once-in-a-generation opportunity to make the changes necessary to modernise the Senedd, reflecting our twenty-first century Wales. A more effective Senedd, with the ability and capacity to hold the Welsh Government to account; a more representative Senedd to better serve the people of Wales".<sup>16</sup>*

**15.** The Bill comprises specific proposals (see Box 2) through which the Welsh Government aims to achieve its stated purpose:

*"[...] the overall purpose of the Bill is to make the Senedd a more effective legislature for, and on behalf of, the people of Wales. This purpose reflects the intention of the Special Purpose Committee, stated in its report, of delivering "a strengthened parliament to represent the people of Wales".<sup>17</sup>*

**16.** Rather than creating standalone legislation, many of the provisions amend existing legislation. Most notably the Bill amends the Government of Wales Act 2006 ("the GOWA 2006") and the Local Government (Democracy) (Wales) Act 2013 ("the LG(D)(W) Act 2013").

#### **Box 2 Summary of SC(ME) Bill provisions**

If passed, the Bill will:

- Increase the size of the Senedd to 96 Members.
- Decrease the length of time between Senedd ordinary general elections from five to four years.

<sup>16</sup> Plenary RoP [para 204], 19 September 2023

<sup>17</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 22

- Increase the maximum number of Deputy Presiding Officers (“DPOs”) from one to two.
- Increase the legislative limit on the size of the Welsh Government to 17 (plus the First Minister and Counsel General), with power to further increase the limit to 18 or 19.
- Require candidates to, and Members of, the Senedd to be resident in Wales (by disqualifying candidates and Members who are not registered to vote at an address in a Senedd constituency).
- Provide a mechanism for the Seventh Senedd’s consideration of job-sharing of offices relating to the Senedd (by requiring the Presiding Officer (“PO”)<sup>18</sup> in the Seventh Senedd to propose the establishment of a Senedd committee to review specified matters).
- Change the Senedd’s electoral system so that all Members are elected via closed list proportional representation, with votes translated into seats via the D’Hondt formula.
- Repurpose and rename the LDBCW; provide the renamed DBCC with the functions needed to establish new Senedd constituencies and undertake ongoing reviews of Senedd constituency boundaries; and provide instructions for the DBCC to follow when undertaking boundary reviews.
- Provide for review of the operation and effect of the new legislative provisions following the 2026 election (by requiring the PO after the election to propose the establishment of a Senedd committee to review specified matters).

## **General principles of the Bill**

**17.** In accordance with Standing Order 26.10, our role is to consider the general principles of the Bill and report to the Senedd in order to inform decisions about whether the Bill should proceed to the next stages of the legislative process.

**18.** The views we received on the general principles of the Bill were divided. The vast majority of those sharing their personal views were opposed to the Bill (see Box 3). In contrast, the majority of organisations and people sharing their professional views were broadly supportive of the general principles (see Box 4),

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<sup>18</sup> Throughout this report, when referring to a potential holder of the office of Presiding Officer in a future Senedd, we use the term “Presiding Officer” or “PO”. When referring to evidence given by the current officeholder, we use the term “Llywydd”.

even if they had concerns about some elements or wanted to see some proposals refined during the amending stages.

**Box 3 Examples of views on the general principles of the Bill provided by people who contributed to our work in a personal capacity<sup>19</sup>**

- Many were dissatisfied with other Welsh Government policies and decisions. Frequently-mentioned examples included the 20mph speed limit and the Welsh Government’s purchase of Cardiff Airport.
- Many said the Senedd already has enough, or too many, Members. Some were not sure about the rationale for any increase. Others were definite that no increase was needed.
- Regarding the wider package of reforms, some did not think there was a clear rationale. Others were strongly of the view there was no need for reform. Many questioned whether, and, if so, how, the reforms would benefit people and communities in Wales. Contributors often indicated a lack of trust in the Welsh Government and/or the Senedd and its Members to act in Wales’ best interests. A few thought reform may be needed, but said the timing was wrong or other matters should be prioritised.
- Many were concerned about the costs, and referred to the difficult economic context and the cost of living crisis. Some suggested other spending priorities, including health, education and transport.
- Many felt the reforms would be detrimental to democracy. There were concerns about closed lists electoral system; contributors often said it would reduce voter choice and influence over electoral outcomes, and give too much power to political parties.
- Some said there should be a referendum on the proposals or on whether the Senedd should be abolished. Others felt the proposals should not go ahead.
- Some contributors supported the reduction in the length of Senedd terms and the requirement for Members to be resident in Wales.

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<sup>19</sup> Responses may be found in full on the [consultation webpage](#).

**Box 4 Examples of views on the general principles of the Bill provided by organisations and people who contributed to our work in a professional capacity**

- Many highlighted the changes in the Senedd’s powers and responsibilities since 1999, noting there had been no corresponding changes in the capacity of the Senedd.<sup>20</sup> The Bill was broadly welcomed as an opportunity to ensure the Senedd has sufficient capacity to carry out its responsibilities of representing the interests of Wales and its people, making laws for Wales, agreeing Welsh taxes, and holding the Welsh Government to account.<sup>21</sup> Some referred to futureproofing for further devolution.<sup>22</sup>
- Some emphasised the impact of increased scrutiny capacity; the Women’s Equality Network Wales (“WEN Wales”) thought this would “ultimately translate into better frontline public services and better value for money for the people in Wales”. It cautioned that the full benefits would only be achieved if the reforms were accompanied by measures to improve “diverse and equal representation”.<sup>23</sup> Others linked the extent to which the Bill would deliver improvements in the quality of democracy and parliamentary standards with decisions about how it was implemented.<sup>24</sup>
- Many saw reform as an opportunity to improve governance and government. A more proportional electoral system was expected to mean the Senedd better reflected voters’ views, and increased capacity would mean government was more able to deliver its mandate.<sup>25</sup> Some focused on the potential to widen democratic participation and engagement, improve governance, and increase opportunities for candidates from a broader range of backgrounds, experiences and skills.<sup>26</sup> Others spoke about the potential for greater Member specialisation and understanding of more complex topics.<sup>27</sup>
- The challenges of reaching political agreement and compromise on electoral arrangements was recognised, but many were concerned about the impact of closed lists on the balance between voter choice and political parties’

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<sup>20</sup> For example, SCME(P)18 Keith Bush

<sup>21</sup> For example, SCME(P)5 Electoral Reform Society Cymru, SCME(P)23 Institute of Welsh Affairs

<sup>22</sup> SCME(P)23 Institute of Welsh Affairs

<sup>23</sup> SCME(P)10 Women’s Equality Network Wales

<sup>24</sup> SCME(P)23 Institute of Welsh Affairs

<sup>25</sup> For example, RoP [para 151], 9 November 2023, SCME(P)23 Institute of Welsh Affairs, SCME(P)25 Unison

<sup>26</sup> SCME(P)25 Unison

<sup>27</sup> SCME(P)27 Wales Environment Link

power.<sup>28</sup> Some were concerned about eroding the link between Members and the communities they represent.<sup>29</sup>

- Local government contributors were concerned about the costs, especially in the context of pressures on public finances.<sup>30</sup> The Welsh Local Government Association (“WLGA”) suggested deferring the changes until 2031.<sup>31</sup>
- Many raised the need for reform to be part of broader considerations about democracy and political engagement, and to be accompanied by effective and coordinated communication and public information.<sup>32</sup>

## Alternative approaches

**19.** Our terms of reference included consideration of whether legislation is needed to deliver the Bill’s policy objectives.

**20.** We asked the former Chair of the Expert Panel on Assembly Electoral Reform (“the Expert Panel”), Professor Laura McAllister, about what alternative approaches for increasing capacity the Expert Panel had considered before recommending a size increase. She said the Expert Panel had explored a range of options to ‘compensate’ for a lack of Member capacity, including, among others, changes to the working week, the structure and operation of committees, ways of working, and adjustments in Senedd Commission and Members’ support staffing.<sup>33</sup> She cautioned, however, about the risks for scrutiny and representation associated with options that fail to increase political capacity:

*“[...] the evidence that we took in our expert panel, including from the Hansard Society and various other organisations and individuals, made the point quite clearly that the biggest asset to effective scrutiny is the time and the specialisation of politicians. You can compensate for that [...] by having great staff who are doing the research for you, but at the end of the day, it's you who needs to be in the committee room or challenging budgets and so on”.*<sup>34</sup>

<sup>28</sup> For example, SCME(P)10 Women’s Equality Network Wales

<sup>29</sup> SCME(P)23 Institute of Welsh Affairs

<sup>30</sup> SCME(P)24 Flintshire County Council

<sup>31</sup> SCME(P)29 Welsh Local Government Association

<sup>32</sup> SCME(P)23 Institute of Welsh Affairs

<sup>33</sup> RoP [paras 25-26], 26 October 2023

<sup>34</sup> RoP [para 41], 26 October 2023



**21.** Professor McAllister said the Expert Panel had concluded that none of the alternative approaches could adequately address the capacity constraints on non-government Members nor deliver the enhancement in scrutiny that could be achieved by ensuring the Senedd has sufficient Members.<sup>35</sup>

**22.** The Wales Environment Link noted that the Senedd had already taken steps to maximise the capacity of its current membership, including reducing committee sizes to a “concerning” level. It also highlighted the range of topics Members have to be familiar with, suggesting this can lead to heavy reliance on Senedd Research. It added that Member workloads limit their engagement and participation in cross-party groups, bodies it described as “an excellent format for agreement to be established across different political parties and a helpful route to engage with experts and stakeholders directly”.<sup>36</sup>

**23.** In 2021, the Chairs’ Forum published an independent report commissioned from Professor Diana Stirbu of London Metropolitan University.<sup>37</sup> The report made recommendations about the structures and working practices of Senedd committees, and how their impact and effectiveness could be improved. In oral evidence, Professor Stirbu told us her report showed that there were steps that could be taken to improve the operation of the Senedd and its committees with the current complement of Members. However, she concluded:

*“[...] increasing the size of the Assembly is absolutely a necessary thing, but it’s not sufficient. Actually, my report shows that there’s a lot of things around ways of working, around prioritisation, around committee stability, committee membership stability—there are all these other things that are really important to ensure effective scrutiny and effective committee work. But, as you will know, and you’ll all appreciate, I think the greatest currency in a parliament, and the greatest currency for effective scrutiny of legislation and of Government, is time, Members’ time. And that is what the increase in the size of the Senedd will bring”.*<sup>38</sup>

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<sup>35</sup> RoP [paras 25-26], 26 October 2023

<sup>36</sup> SCME(P)27 Wales Environment Link

<sup>37</sup> Stirbu, D., [Power, Influence and Impact of Senedd Committees Developing a framework for measuring committees’ effectiveness](#), May 2021

<sup>38</sup> RoP [para 333], 26 October 2023

## Public opinion and attitudes

**24.** The EM states:

*"[...] in the timescale available for developing the legislation it was not possible for the Welsh Government to undertake its own open public consultation on either the general concepts of Senedd Reform or a draft Bill.*

*337. Instead, the Welsh Government undertook:*

- *Targeted bilateral engagement with external stakeholders to ensure officials were cognisant of their views on key issues; and*
- *Early and detailed engagement with the electoral administrator community, ensuring that administrative concerns could be fed into the legislation design process".<sup>39</sup>*

**25.** In addition to the views shared by the 430+ members of the public who responded to our consultation, we have also reflected on the 15,000+ signature petition titled "I oppose the Welsh Government 'Senedd Reform Bill', published 18 September 2023, becoming law".<sup>40</sup> We note that the petition highlights the costs of the Bill, and suggests that money could alternatively be spent on other matters including the NHS, schools and roads.

**26.** Dr Jac Larner, Lecturer in Politics at Cardiff University, outlined research on public attitudes towards plans to increase the number of Members.<sup>41</sup> The researchers had shown a representative sample of 2,988 voting age adults one of four arguments for increasing the size of the Senedd or, as a control, no argument. Respondents were asked about the extent to which they agreed that the number of Members should be increased. The research had concluded:

*"A clear plurality of the Welsh electorate opposes increasing the number of Senedd members and none of the arguments seriously*

<sup>39</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, paras 336-337

<sup>40</sup> [Petition: 'I oppose the Welsh Government "Senedd Reform Bill", published 18 September 2023, becoming law'](#) [accessed 2 January 2024]

<sup>41</sup> Griffiths, J. D., Wyn Jones, R., Poole, E. G. & Larner, J. M. (2023) '[Making the Case for More Politicians: A Survey Experiment to Investigate Public Attitudes to an Expanded Welsh Parliament](#)', Parliamentary Affairs

*challenge this generalised picture of hostility. That said, there are significant differences in attitudes across Welsh society that are worthy of note. Groups most positively inclined to support the development of the Welsh polity are also the most positive about expanding the size of the Senedd. Voters who identify as Welsh, are pro-autonomy, support Plaid Cymru, and skew younger—groups among which there tends to be considerable overlap—support an expanded Senedd”.<sup>42</sup>*

**27.** Dr Larner explained that this reflected broader international findings on the relatively unpopularity of politicians, which meant:

*“[...] it's very difficult to know whether that's something specific about this proposal, or whether that just reflects general levels of, 'Oh, politicians, we don't want any more', sort of feelings”.<sup>43</sup>*

**28.** We asked the Member in charge whether the Welsh Government had public support for its proposals. He said:

*“[...] in order to [make the reforms set out in the Bill], there's a need for manifesto commitments to do it; I think there is a majority of Members who belong to parties where those commitments have already been given, and I think, for this type of democratic reform, that is appropriate”.<sup>44</sup>*

**29.** When asked about whether the manifesto commitments had provided sufficient detail in respect of the particular reforms proposed in the Bill, he responded:

*“I think the public support that we seek is for the reform. The precise detail of the mechanics is one that I think you have to work out within a constitutional structure, and this is what this Bill does—it creates a constitutional structure that delivers, I think, a recognition that there was a need for reform, there was a need to change, a need to increase the size. I think the precise details of it are complicated, ones that have been subject to the special purpose committee and the*

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<sup>42</sup> SCME(P)7 Jac Larner

<sup>43</sup> RoP [paras 17, and 20-21], 9 November 2023

<sup>44</sup> RoP [para 23], 5 October 2023

*various recommendations, and so on. Those are taken forward by Government to try and implement the recommendations of that committee, and convert it into legislation that is workable”.*<sup>45</sup>

**30.** We also asked whether the Welsh Government was taking any additional steps to assess public support for the proposals in the Bill. The Member in charge referred us back to the evidence he had given about the manifesto commitments made by the Welsh Labour party, Plaid Cymru and the Welsh Liberal Democrat party in 2021. He added that consideration had been given during the development of the Bill to previous consultations undertaken by other bodies, such as the Expert Panel and the Senedd Commission.<sup>46</sup> We note that these consultations did not include the specific proposals in the Bill.

**31.** Some individual contributors called for the proposals to be subject to a referendum. Similarly, Flintshire County Council said that its councillors were “united in their view that [...] the proposals should be first tested via a referendum” because of their “type and scale [...] and the significant costs”.<sup>47</sup>

**32.** The Member in charge emphasised that the powers over the Senedd’s size and electoral arrangements, devolved by the Wales Act 2017 (“the WA 2017”), did not require a referendum. Referring to recent changes to the number of UK Parliament constituencies and the electoral system for mayoral candidates in England made without being put to referenda, he added:

*“I don't think a referendum is necessary. And I think putting these things in terms of manifestos and commitments for reform et cetera is actually the way forward. We are an accountable, elected parliamentary democracy, and that's the way our democracy works”.*<sup>48</sup>

## Responsibility for legislative reform

**33.** During our work the complexity of the various stakeholder roles, responsibilities and functions has been evident (see Table 1).

<sup>45</sup> RoP [para 27], 5 October 2023

<sup>46</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>47</sup> SCME(P)24 Flintshire County Council

<sup>48</sup> RoP [para 147], 5 October 2023

**Table 1 Senedd reform roles and responsibilities**

	<b>Policy development</b>	<b>Bill development</b>	<b>Legislative scrutiny</b>	<b>Implementation for 2026 and review</b>
<b>Welsh Government (working with Plaid Cymru as Co-operation Agreement partners)</b>	<p>Development of proposals that have not emanated from the Senedd or its committees.</p> <p>For proposals that have emanated from the Senedd or its committees, further policy development as required to turn outline policy instructions into workable proposals.</p>	<p>Development of the Bill and associated documentation, including the EM and RIA.</p>	<p>Member in charge in accordance with Standing Order 24.</p>	<p>Implementation of the Bill.</p> <p>Exercise of order-making powers under section 13 of the GOWA 2006.</p> <p>Regulations under Schedule 1 to the Bill.</p> <p>Working with partners to communicate the changes and raise public awareness and understanding.</p>
<b>Senedd and its committees</b>	<p>CSER examined the recommendations of the Expert Panel.</p> <p>SPCSR developed policy instructions, which were subsequently endorsed by the Senedd.</p> <p>Business Committee made recommendations on specific matters.</p>	<p>Consulted by the Welsh Government as a significant stakeholder affected by the Bill.</p>	<p>Scrutiny of the Bill.</p> <p>Business Committee functions relating to timetabling/referral to a responsible committee.</p> <p>Consulted by scrutiny committees as a significant stakeholder affected by the Bill.</p>	<p>Scrutiny of subordinate legislation.</p> <p>Decisions on structures in the Seventh Senedd.</p> <p>If the Senedd agrees motions under sections 7 and/or 19, undertake the specified reviews.</p>

	<b>Policy development</b>	<b>Bill development</b>	<b>Legislative scrutiny</b>	<b>Implementation for 2026 and review</b>
<b>Llywydd</b>	Member of the SPCSR.	Consulted by the Welsh Government as a significant stakeholder affected by the Bill.	Functions relating to legislative process. Consulted by scrutiny committees as a significant stakeholder affected by the Bill.	After 2026 election, the PO must table motions under sections 7 and 19 of the Bill to propose the establishment of committees.
<b>Senedd Commission</b>	Established the Expert Panel, and consulted on its conclusions.	Consulted by the Welsh Government as a significant stakeholder affected by the Bill.	Consulted by scrutiny committees as a significant stakeholder affected by the Bill. Ensuring the Senedd and its committees have the resources and support needed for legislative scrutiny.	Implementation, including support for Senedd bodies. Working with partners to communicate the changes and raise public awareness and understanding.
<b>Independent Remuneration Board of the Senedd (“the Remuneration Board”)</b>	None.	Consulted by the Welsh Government as a significant stakeholder affected by the Bill.	Consulted by scrutiny committees as a significant stakeholder affected by the Bill.	Determination of the remuneration and financial support required by Members.

**34.** The Llywydd described the Bill as:

*"[...] more [...] unusual in its construct than other more straightforward Government Bills that come via manifesto and programmes of government that a Government would put forward".<sup>49</sup>*

**35.** Noting the policy development work undertaken by Senedd committees, and the role of the Co-operation Agreement between the Welsh Government and Plaid Cymru, she confirmed that the Bill was nevertheless a Welsh Government Bill. She added that some of its proposals did not emanate from the work of Senedd committees, and had not been included in the motion agreed by the Senedd in June 2022.<sup>50</sup>

**36.** In contrast, the Member in charge said:

*"This is a Bill that I'm bringing forward. It's not a Government Bill; it's the Welsh Government facilitating the ability of a Bill to pass through the Senedd".<sup>51</sup>*

**37.** On 13 December 2023, when asked about the Welsh Government's reform proposals, the Member in charge responded:

*"Well, it's not the Government that wants to pursue this particular reform—this is a reform that comes from the Senedd itself. My role as Counsel General and the Minister responsible for taking this Bill forward is to convert into legislation the recommendations from the special purpose committee".<sup>52</sup>*

**38.** When asked how he would consider any recommendations or amendments, he said:

*"The Welsh Government would certainly wish to take account of committees' recommendations in considering amendments, and will*

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<sup>49</sup> RoP [paras 141], 26 October 2023

<sup>50</sup> RoP [paras 141-142 and 144], 26 October 2023

<sup>51</sup> RoP [paras 16], 5 October 2023

<sup>52</sup> RoP [para 12], 13 December 2023



*be open to any views, evidence and recommendations that Committees receive or make during scrutiny.*

*However, as I'm sure Members will appreciate, it may not always be possible to bring forward amendments to give effect to committees' recommendations for a variety of reasons. For example, the government will need to consider a recommendation's legal and practical implications when formulating its response".<sup>53</sup>*

**39.** When similarly asked about the approach he would take to engaging with Co-operation Agreement partners and other political parties to assess whether the Bill commanded a supermajority, and/or whether any alternative proposals could command a supermajority, the Member in charge said:

*"During the development of the Bill, the Welsh Government engaged regularly with Co-operation Agreement partners. I also personally spoke with Members of other political parties on the development of the legislation. I am grateful to such Members for this constructive dialogue and anticipate that this engagement will continue during the Senedd's scrutiny of the legislation.*

*I anticipate that all Members will likewise wish to consider whether alternative approaches being considered for recommendations by Senedd Committees, or amendments put forward by individual Members, will enable the Bill to be passed by a supermajority".<sup>54</sup>*

**40.** The First Minister reiterated these points in correspondence in response to a request to give oral evidence, which he declined:

*"We remain confident that the proposals in the Bill, which largely give effect to the recommendations of the Special Purpose Committee on Senedd Reform (SPC), will command a supermajority within the Senedd. As you will be aware, the SPC was by its remit only permitted to make recommendations to the Senedd that carried the support of a supermajority.*

*[...]*

<sup>53</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>54</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

*We are of course open to the findings of your committee, as well as the other committees involved in the scrutiny of the Bill. The committee will, I am sure, consider as part of its deliberations whether alternative proposals will enable the Bill to be passed by a supermajority.*

*I must be clear, however, that the Bill represents a carefully calibrated package of measures. Changes to any one element in the Bill cannot be considered in isolation, because individual changes will alter the nature of the proposals taken as a whole”.<sup>55</sup>*

## **Timescales**

**41.** Many contributors have raised the tight timescales, and highlighted the Gould Principle, which argues that all legislation (primary and secondary) should be in place a minimum of six months before the election, and ideally earlier. As the Electoral Commission explained, this is to provide clarity and time to plan and prepare for campaigners and electoral administrators.<sup>56</sup> In oral evidence, Rhydian Thomas, Head of the Electoral Commission’s Wales office, said this meant all legislation must be in place by autumn 2025.<sup>57</sup>

**42.** The Member in charge provided us with an overview of the planned implementation timescales (see Figure 1), saying he was “very confident that the expertise and the structure are there, and will be there to enable all of that to happen”. He added that the key point was to ensure there was effective communication with and across the electoral community.<sup>58</sup>

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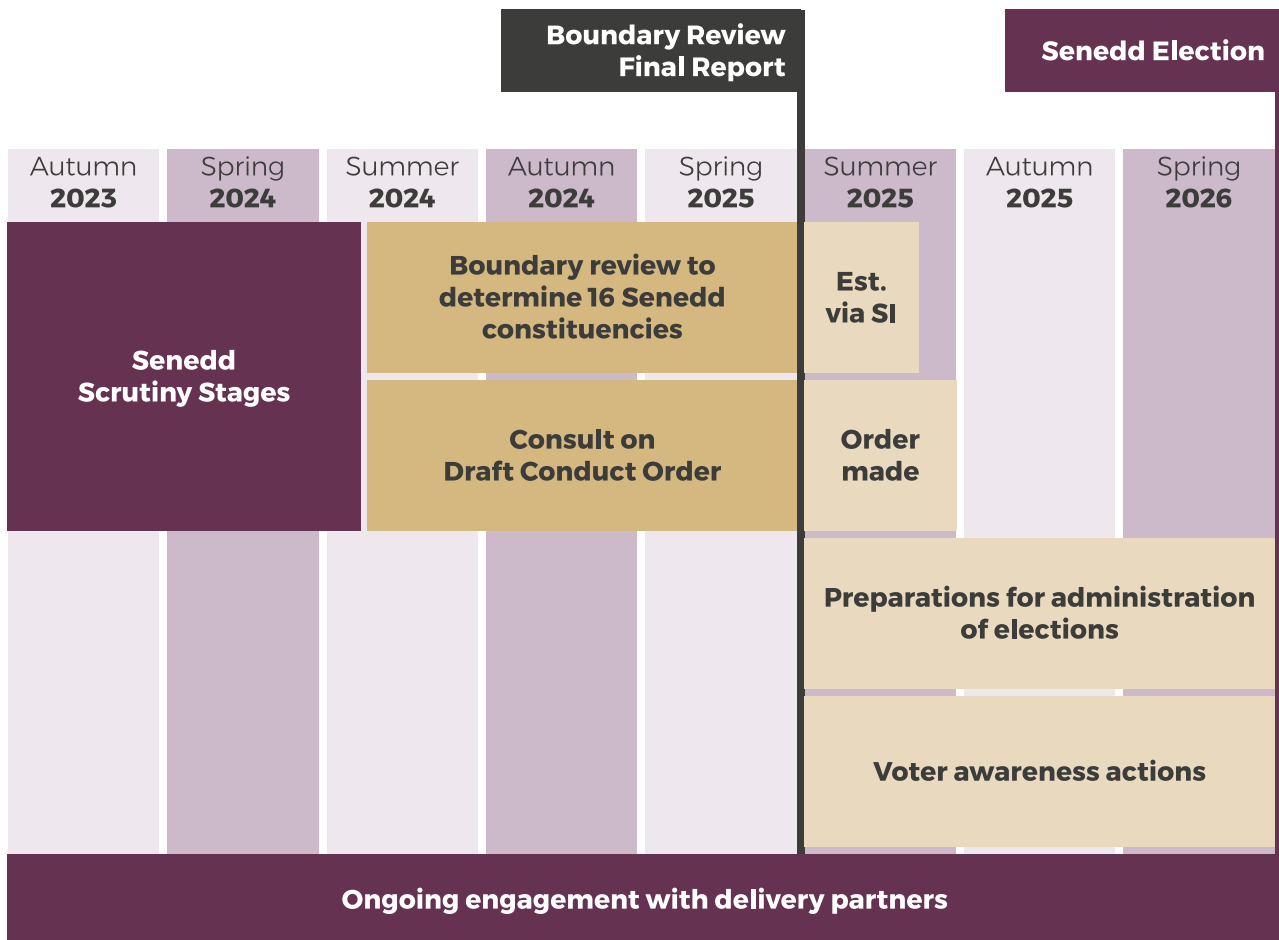
<sup>55</sup> [Letter from the First Minister](#), 29 November 2023

<sup>56</sup> SCME(P)9 Electoral Commission

<sup>57</sup> RoP [para 42], 22 November 2023

<sup>58</sup> RoP [paras 18-19], 13 December 2023

Figure 1 Senedd reform timescales<sup>59</sup>



43. Some contributors said the importance of the Gould Principle was heightened by the complexity associated with increasing divergence in electoral legislation underpinning reserved and non-reserved elections. The Wales Electoral Coordination Board (“the WECB”) called for divergence in law and practice to be minimised to avoid voter confusion and administrative errors, adding that electoral law must be developed and tested in partnership with those who have legal and practical responsibility for its implementation.<sup>60</sup> The Electoral Commission welcomed the proposal in the Welsh Government’s October 2022 White Paper consultation on electoral administration and reform<sup>61</sup> to consolidate devolved electoral law in Wales and improve its accessibility.<sup>62</sup>

44. The Member in charge explained the National Assembly for Wales (Representation of the People) Order 2007 (as amended) (“the Conduct Order”)

<sup>59</sup> Letter from the Counsel General and Minister for the Constitution, 1 December 2023

<sup>60</sup> SCME(P)12 Wales Electoral Coordination Board

<sup>61</sup> Welsh Government, Consultation on the electoral administration and reform White Paper, October 2022

<sup>62</sup> SCME(P)9 Electoral Commission

had originally been made in 2007 and subsequently amended by the Secretary of State for Wales before the power was transferred to the Welsh Ministers by the WA 2017. The Conduct Order includes provision for a range of matters, including ballot paper design, and rules for the conduct of the election and the election campaign.<sup>63</sup> The Member in charge added that its review and remaking ahead of the 2026 election would provide a valuable opportunity as part of the Welsh Government's ambition to consolidate Welsh law and deliver "an accessible, bilingual legislative framework".<sup>64</sup>

## **Our view**

**45.** Our role is to consider and report on the general principles of the Bill. In doing so, we have reflected on the views shared with us by the public, including those who have signed the petition opposing the Bill. We have also reflected on the body of academic and parliamentary evidence developed over the last 20 years, from the Richard Commission onwards. While we understand the concerns, and respect the views of those who oppose the Bill, a majority of Committee members believe the evidence is clear that legislative reform is needed to ensure the Senedd has sufficient capacity to fulfil its functions on behalf of the people of Wales. Therefore, the majority of Committee members agree the Senedd should vote in favour of the general principles of the Bill at Stage 1 to enable it to proceed to the amending stages of the legislative scrutiny process.

**46.** If the Bill is passed by the Senedd, Members of the Sixth Senedd and our successors in the Seventh Senedd have a responsibility to ensure that the potential benefits and improved outcomes that could be delivered for the people and communities of Wales through increased scrutiny and representation, better policy, more effective legislation, and more efficiently-targeted spending, are realised in practice.

**47.** Darren Millar MS does not agree that the Senedd should support the general principles of the Bill as he does not believe there is a public mandate or sufficient public support for either an increase in the number of Members of the Senedd or a significant change to the electoral system. In reaching this view, he has taken into account the views members of the public have shared with the Committee and the academic research undertaken by Dr Lerner et al which suggested that, even if provided with arguments in favour of increasing the number of Members, public support remains limited.

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<sup>63</sup> [Letter from the Counsel General and Minister for the Constitution](#), 1 December 2023

<sup>64</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

**Recommendation 1.** By majority, we recommend that the Senedd should agree the general principles of the Senedd Cymru (Members and Elections) Bill, but, throughout their ongoing scrutiny of the Bill, Members of the Senedd should have regard to the issues highlighted in our report.

**48.** The majority view outlined above should not be interpreted as unqualified support for all of the provisions in the Bill. As we explore in the relevant chapters of this report, there are elements of the detailed proposals we believe require further reflection and amendment if the Bill progresses beyond Stage 1. Our most significant concern is the system by which Members are elected, but we also have reservations about other matters including the number of additional commissioners that may be appointed to the DBCC, and the unintended consequences associated with the practical application of the requirement for candidates and Members to be registered to vote at an address in Wales.

**49.** We are mindful that for the Bill to be passed at Stage 4, it will need the support of at least 40 Members. But, equally important is that any Bill that is passed must represent a step forward for democracy in Wales. We encourage the Member in charge, and all Members, to reflect on this.

**50.** Undoubtedly, this is a constitutionally significant Bill, but, in many ways it is no different from any other Welsh Government Bill whose development has been informed by engagement with key stakeholders affected by it. While we understand the time pressures associated with implementing reforms for 2026, it is nevertheless disappointing that in place of conducting its own consultation the Welsh Government relies in the EM on consultation undertaken by Senedd committees or the Senedd Commission on entirely different reform proposals. We accept that some of the policies to which the Bill gives effect have been developed, in part, by the Senedd or its committees. The work of the Senedd and its committees has, in turn, been informed by evidence and views from the Welsh Government and the Co-operation Agreement partners. In developing the specific provisions in the Bill, the Member in charge has necessarily undertaken further policy development work to inform his choices about how to give effect to the SPCSR's proposals. He has also added two entirely new policy areas to the Bill.

**51.** It is not our role to scrutinise the Senedd reform process. Nevertheless, we observe it may reasonably be described as unusual. For example:

- The Memorandum of Understanding between the Llywydd and the First Minister to enable Welsh Government civil servants to provide policy and legislative support to the Senedd Commission on the franchise

provisions in the Senedd and Elections (Wales) Bill was novel.<sup>65</sup> In 2020, the then Minister for Finance and Trefnydd said such arrangements would be “unworkable and untenable for more extensive areas of policy and/or longer periods”, and that the Welsh Government’s view was that “the Welsh Government of the day should lead on any future reform” to reflect the capacity, expertise and stakeholder relationships and “provide a clear understanding about accountability for the policy in the Bill”.<sup>66</sup>

- Until the SPCSR the Senedd had never before established a committee with the express purpose of providing policy instructions to inform the development of Welsh Government legislation.

**52.** Legislative reform of a parliament is inevitably complex. The Senedd, as a mature parliament, must have scope and flexibility to shape and guide its own future. To that end, the Senedd, and its committees, may choose to undertake policy development including committee Bills. However, the Welsh Government, as the executive, has responsibility for developing policy and legislation, and has the capacity and the expertise to do so. Balancing the roles and responsibilities of the Senedd and the Welsh Government may not always be straightforward. It may be helpful for informing decisions about how to approach any future legislative reform of the Senedd if the Welsh Government and the Senedd Commission were to evaluate the process followed over recent years.

**53.** For the reasons outlined above, we disagree with the Member in charge’s repeated characterisation of the Bill as “a Senedd Bill”<sup>67</sup> or “not a Government Bill”<sup>68</sup>. This is not an insignificant or semantic matter. In a context of patchy public understanding of the roles of the executive and legislature, failing to communicate these roles accurately is, at best, unhelpful, and, at worst, potentially detrimental to people’s understanding of their democracy. We urge the Member in charge to be clear in future that this is a Welsh Government Bill, subject to scrutiny by the Senedd and its committees.

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<sup>65</sup> [Letter from the Llywydd to the Constitutional and Legislative Affairs Committee](#), 2 April 2019, Annex E

<sup>66</sup> [Letter from the Minister for Finance and Trefnydd to the Committee on Senedd Electoral Reform](#), 11 August 2020

<sup>67</sup> Finance Committee RoP [para 178], 18 October 2023

<sup>68</sup> RoP [paras 16 and 124], 5 October 2023; Plenary RoP [para 114], 11 October 2023

## 3. Number of Members of the Senedd

### Background

#### Current arrangements

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**54.** Sections 1 and 2 of the GOWA 2006 between them provide that the Senedd comprises:

- One Member for each Senedd constituency (the number of which is specified in the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006 (as amended)).
- Four Members for each of the five electoral regions.

**55.** The effect is a Senedd of 60 Members.

#### Provision in the Bill

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**56.** Section 1 of the Bill amends the GOWA 2006 to provide that there will be 16 Senedd constituencies, each returning six Members. The effect is a Senedd of 96 Members.

### Rationale for increasing the number of Members

**57.** The EM describes increasing the number of Members as “key” to achieving the Bill’s purpose of making the Senedd more effective:

*“The size of a parliament has a critical bearing on the capacity of its Members to hold an executive to account. It impacts on its ability to scrutinise, oversee and improve policy, legislation and spending and taxation, to engage with and serve the people it represents”.<sup>69</sup>*

**58.** It adds that the current number risks: ineffective scrutiny; limiting Members’ capacity to specialise, facilitate engagement with the public, and scrutinise UK-

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<sup>69</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 26



wide common frameworks, international agreements or UK legislation which affects Wales' interests; and constraining any devolution of further powers.<sup>70</sup>

**59.** Outlining the Senedd's increased responsibilities in areas such as transport, economic development, rail and taxation, and the importance of intergovernmental relationships (including the UK Government's legislative programme), the Member in charge said that the rationale was:

*"[...] about the capacity to have the depth of scrutiny that is needed, and for having enough Members who will be able to develop the particular skills, the expertise, the specialisms that are necessary. And I think increasing the size of the Senedd enables that to happen. It doesn't guarantee it happens, but I think, without that increase in size, the ability to fulfil all those new, additional functions to the standard that is required is not going to be possible".<sup>71</sup>*

**60.** The vast majority of the responses from individuals did not support the proposed increase. Their reasons varied, but common themes included the costs; views that there were already enough (or too many) Members; dissatisfaction with Welsh Government policy or Senedd scrutiny; and uncertainty about how any increase would benefit people and communities across Wales.

**61.** The majority of organisations and professionals supported the increase. Some highlighted the evolving functions, powers and roles of the Senedd. Outlining these changes, Professor Thomas Glyn Watkin said it was "somewhat surprising" that the Senedd's size had not previously increased. He described the case for increasing capacity to ensure informed and effective scrutiny as "unanswerable", adding:

*"Not to recognise this necessity and act upon it risks condemning Wales' democratic institutions to an inevitably poorer level of performance. [...] To argue that now is not the right time because of other problems facing the nation or because of increased cost misses*

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<sup>70</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, paras 36-53

<sup>71</sup> RoP [para 8], 5 October 2023

*the point that these other problems can only be properly addressed and resolved by properly resourced bodies”.<sup>72</sup>*

**62.** Professor Stirbu highlighted the evidence set out in other reports, including the Richard Commission and the Expert Panel. She explained that debates centred on:

*“[...] this mismatch between the capacity to scrutinise, to make legislation, to represent and engage with the people of Wales, and the pace of change that the Assembly, now the Senedd, has had to absorb, especially after 2007 and then 2011”.<sup>73</sup>*

**63.** Her own research on the effectiveness of Senedd committees had suggested that the impact of the Senedd’s small size on the structure and operation of its committees could lead to “ineffective work”, for example as a result of small committee sizes or Members (and chairs) sitting on multiple committees. Noting that the Senedd was small relative to international standards, she added:

*“And whilst it has done a great job of overcompensating for this weak political capacity with adapting and adjusting its administrative capacity to support politicians more, I think there’s a great danger there around the scope, the nature and the quality of political democratic deliberation, which should be the essence of this”.<sup>74</sup>*

**64.** Unison similarly suggested a Senedd with increased capacity would enable greater Member specialisation, “facilitate improved governance and decision-making”, and provide a “stronger pool of talent” from which Welsh Government Ministers could be drawn.<sup>75</sup> The Electoral Reform Society Cymru (“the ERS Cymru”) noted increased responsibilities in devolved areas following Brexit, and the planned reduction in the number of Welsh MPs from 40 to 32.<sup>76</sup>

**65.** Some contributors focused on how a larger Senedd could operate to ensure increased capacity delivered benefits for the people of Wales. While supportive of the increase, the Institute for Welsh Affairs (“the IWA”) called for more clarity about how the extra capacity would be reflected in Senedd structures and practical

<sup>72</sup> SCME(P)21 Thomas Glyn Watkin

<sup>73</sup> RoP [para 328], 26 October 2023

<sup>74</sup> RoP [paras 329-331], 26 October 2023

<sup>75</sup> SCME(P)25 Unison

<sup>76</sup> SCME(P)5 Electoral Reform Society Cymru

ways of working, such as the number of Plenary sessions and sitting days, the number and structure of Senedd committees, the balance of time Members spend at the Senedd and in their constituencies, and the support available to Members. It told us that greater clarity on these matters could raise public understanding of the case for reform.<sup>77</sup>

## 96 Members

**66.** In its 2017 report, the Expert Panel recommended:

*“[...] at least 80 Members, and preferably closer to 90 Members, to ensure that the parliament [...] 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.”<sup>78</sup>*

**67.** In a position statement published in May 2022 to inform the work of the SPCSR, the First Minister and the then leader of Plaid Cymru stated their view that the Senedd should have 96 Members.<sup>79</sup> The SPCSR subsequently recommended that the Senedd should have 96 Members, and that this should be specified in primary legislation.<sup>80</sup> The SPCSR acknowledged this was outside the Expert Panel’s recommended bracket, but said this was:

*“[...] a proportionate adjustment, in light of the wide array of changes in the political landscape of Wales, since the Expert Panel reported. We also believe that increasing the Senedd’s capacity to 96 will future proof and mitigate against debates about the appropriate devolution of powers being curtailed by the limits of the Senedd’s capacity.”<sup>81</sup>*

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<sup>77</sup> SCME(P)23 Institute of Welsh Affairs

<sup>78</sup> Expert Panel on Assembly Electoral Reform, [A parliament that works for Wales: the report of the Expert Panel on Assembly Electoral Reform](#), November 2017, recommendation 1

<sup>79</sup> Welsh Government, [Press release: A way forward for Senedd reform](#), 10 May 2022

<sup>80</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, recommendations 2 and 3

<sup>81</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, para 30

**68.** The EM notes that the Welsh Government’s proposals are based on the SPCSR’s conclusions that:

- The 32 UK Parliament constituencies should be paired to create 16 Senedd constituencies to be used as the basis for the 2026 Senedd general election.
- All Senedd constituencies should return the same number of Members.
- It would be preferable for constituencies to have a district magnitude no greater than six.<sup>82</sup>

**69.** Taken together, this suggests either an 80-Member Senedd (district magnitude of five), or a 96-Member Senedd (district magnitude of six).

**70.** Flintshire County Council described the justification for an increase in the number of Members as “weak”, in particular the proposal for a size outside the Expert Panel’s bracket. Its councillors were not persuaded by comparisons with the Scottish Parliament, which has different powers and represents a larger population. It added that if a multiple of 16 were required, the Senedd should have 80 Members.<sup>83</sup>

**71.** However, among contributors to our work who supported an increase in the number of Members, the majority were comfortable with 96.<sup>84</sup>

**72.** Professor McAllister said that 96 Members could be justified by the need to respond to changing circumstances (including Brexit), and the benefits of futureproofing the Senedd (and the Welsh Government) for the devolution of any further powers. She noted, however, that the benefits of increased capacity must be balanced against the costs.<sup>85</sup> Professor Alan Renwick, former member of the Expert Panel, said that an 80- to 90-Member Senedd would still experience some constraints on committee size and memberships. He explained that while the Expert Panel had concluded in 2017 that the balance between capacity benefits and the financial costs became “harder to justify” above 90, circumstances had changed:

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<sup>82</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 216

<sup>83</sup> SCME(P)24 Flintshire County Council

<sup>84</sup> SCME(P)21 Thomas Glyn Watkin

<sup>85</sup> RoP [paras 5 and 11-12], 26 October 2023

*“[...] Brexit in particular has happened and brings additional changes, and the desirability of futureproofing is considerable. So, I would be quite comfortable with 96 as a number at this stage”.<sup>86</sup>*

**73.** In 2013, ERS Cymru recommended an increase to around 100 Members, based on its analysis of similar legislatures across Europe. Jess Blair, ERS Cymru’s Director, described 96 as “probably about right”.<sup>87</sup> The Llywydd agreed that a 96-Member Senedd would have more capacity and flexibility.<sup>88</sup>

**74.** We asked the Member in charge whether, if the size of the Senedd were to be increased to 96, it would need to be revisited again in future. He said:

*“Not in my lifetime, I hope. I think the figure of 96 is one that you want to futureproof; you do not want these sorts of discussions or need necessarily to have the sort of discussions and reforms on an ongoing basis. [...] As I see this, this is something that sees us through for the next 30, 40, 50 years. That’s how I would see it—that what we’re doing now is basically creating a model that will carry us through the twenty-first century”.<sup>89</sup>*

## **Financial implications**

### **Summary of estimated costs to the Senedd Commission**

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**75.** Many contributors highlighted the costs. As it does for all Bills, the Finance Committee has conducted focused scrutiny on the financial implications. We have also considered these issues throughout our work.

**76.** The majority of the costs associated with increasing the number of Members fall to the Senedd Commission. The estimates in the RIA are, necessarily, based on assumptions, but the Llywydd described them as the “most accurate, robust costings we could’ve supplied at that time”.<sup>90</sup> Will Whiteley, the Welsh Government’s Deputy Director for Senedd Reform, similarly confirmed that “the

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<sup>86</sup> RoP [paras 14-16], 26 October 2023

<sup>87</sup> RoP [paras 278 and 280], 9 November 2023

<sup>88</sup> RoP [para 217], 26 October 2023

<sup>89</sup> RoP [para 81], 5 October 2023

<sup>90</sup> RoP [para 155], 26 October 2023

First Minister, in agreement with the Llywydd, was satisfied that [the estimates in the RIA] were best estimates”.<sup>91</sup>

**77.** Manon Antoniazzi, the Chief Executive and Clerk of the Senedd, explained that the estimates had been prepared on the basis of common assumptions developed by the Senedd Commission working in conjunction with the Remuneration Board and the Business Committee (see Box 5). The assumptions had informed Senedd Commission service-level planning. The estimates were scrutinised in accordance with the Senedd Commission’s internal governance structures, culminating in “the Executive Board finally satisfying itself that those cost estimates were modelled correctly, that there were no gaps or duplications, [and] presenting those figures to the Commission”. Once agreed by the Senedd Commission, the cost estimates were sent to the Welsh Government in March 2023. A period of dialogue followed to ensure that the Welsh Government understood the figures.<sup>92</sup> During this period, at the Welsh Government’s request, two key adjustments were made to reflect the Welsh Government’s:

- Proposal that the time between elections should be reduced to four years.
- Preferred methodology of estimating staff costs based on the average of the relevant salary scale rather than the top point.<sup>93</sup>

#### **Box 5 Senedd Commission’s common assumptions**

Annex 5 of the EM outlines the Senedd Commission’s common assumptions developed in consultation with the Business Committee and the Remuneration Board, for the purposes of estimating the financial implications. It also provides further detail on the methodology, including assuming that **increases in Senedd Commission staff headcount are kept to a minimum**, and within any ‘caps’ agreed in the Commission’s Medium Term Financial Plan. It notes that this “**will necessitate a review of service levels**”.

#### **Legislative assumptions**

- Reforms take effect for the **Seventh Senedd** (elected in May 2026).
- The Senedd’s **powers remain as they were** when the estimates were made.

<sup>91</sup> RoP [para 194], 5 October 2023

<sup>92</sup> RoP [paras 152-153], 26 October 2023

<sup>93</sup> RoP [para 150], 26 October 2023

- 96 Members, elected on the same basis to represent 16 multimember constituencies.

Business assumptions (minimal or greater change)

- The **minimal change scenario** assumes that the Senedd will: comprise up to **four party groups**; establish **one additional committee** (compared to the number of committees established by the Sixth Senedd at the time the estimates were made); meet in **Plenary for a similar amount of time** as during the Sixth Senedd; sit for a **similar number of weeks**; facilitate the introduction of a **similar number of Member Bills**; have no more than **12 Welsh Government Ministers** in addition to the First Minister and Counsel General; and elect no more than **one DPO**.
- The **greater change scenario** assumes that the Senedd will: comprise up to **five party groups**; establish **three additional committees**; meet in **Plenary for an additional day per week**; sit for an **additional week**; facilitate the introduction of a **proportional increase in the number of Member Bills**; have no more than **17 Welsh Government Ministers** in addition to the First Minister and Counsel General; and elect **two DPOs**.

**78.** The RIA estimates the costs to the Senedd Commission over an eight year period: 2024-25 to 2031-32.

**Table 2 Overall estimated costs to the Senedd Commission between 2024-25 and 2031-32<sup>94</sup>**

	<b>Minimal change scenario</b>	<b>Greater change scenario</b>
<b>Estimated ongoing costs</b> (including additional Senedd Commission staff, officeholder costs, and costs associated with Member and Members' support staff salaries and other allowances)	£82,196,900	£100,017,500
<b>Estimated transitional costs</b> (including expansion of the Siambr, creation of additional offices in Tŷ Hywel, and staff costs associated with the implementation of the Bill)	£5,787,300	£5,986,800

<sup>94</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, Senedd Research analysis of Table 8.7



**79.** The RIA notes that in order to support the additional Members, Senedd Commission staffing will need to increase. The estimated increases are less than proportional to the increase in Members.<sup>95</sup>

**Table 3 Estimated increases in Senedd Commission staff compared to the 2023-24 headcount of 522<sup>96</sup>**

	<b>Minimal change scenario</b>	<b>Greater change scenario</b>
<b>Estimated staffing increases</b>	78.1 FTE	113.0 FTE
<b>Percentage change compared to 2023-24 headcount of 522</b>	14.96 per cent	21.65 per cent
<b>Percentage change in the overall number of Members from 60 to 96</b>	60.00 per cent	60.00 per cent

**80.** The non-staff costs estimated by the Senedd Commission include:

- Accommodation costs, including work to refit Tŷ Hywel and expand the Siambr. This includes architectural and design costs.
- Other capital costs, including mobile and specialised interpretation kits for group meetings and headsets; hardware for Members, support staff and offices; and ICT replacement/renewal costs.
- Revenue costs, including externally contracted services for Members (such as constituency translation services), ICT licences, security, and, in the greater change scenario, the Welsh Youth Parliament. In the greater change scenario, it also includes increased utility costs for heating, cooling and lighting during additional Senedd business.
- Election costs, including payment of resettlement grants to eligible Members, and costs arising from work such as the purchase of ICT kit and refurbishment of Members' areas of the estate.<sup>97</sup>

<sup>95</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 473-476

<sup>96</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 474

<sup>97</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, paras 477-486

**Table 4 Estimated non-staff costs to the Senedd Commission between 2024-25 and 2031-32<sup>98</sup>**

		<b>Minimal change scenario</b>	<b>Greater change scenario</b>
<b>Accommodation costs</b>	Ongoing	£0	£0
	Transitional	£1,880,000	£1,880,000
<b>Other capital costs</b>	Ongoing	£335,100	£413,100
	Transitional	£1,369,900	£1,426,900
<b>Revenue costs</b>	Ongoing	£3,193,100	£6,790,400
	Transitional	£38,800	£78,700
<b>Election costs</b>	Ongoing	£1,800,000	£1,800,000
	Transitional	£0	£0

**81.** The costs estimated by the Senedd Commission in respect of salaries and allowances for Members and their support staff have been calculated on the basis of the 2022-23 Determination (Table 5).

**82.** Dr Elizabeth Haywood, Remuneration Board Chair, described this as “a sensible baseline to work from”, describing the approach as “probably the simplest and the most transparent way of establishing potential costs for a future Senedd”. She acknowledged the impact of inflation and changes in working patterns could affect the accuracy of the estimates, but said that it was possible that costs in some areas could go down as a result of more hybrid working or changes in working practices.<sup>99</sup> The Remuneration Board Clerk, Daniel Hurford, confirmed the cost estimates were based on assumptions that all additional Members would claim the maximum available through the Determination, although previous experience suggested this rarely happened in practice.<sup>100</sup>

<sup>98</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, Senedd Research analysis of Table 8.3

<sup>99</sup> RoP [para 8], 30 November 2023

<sup>100</sup> RoP [paras 52-53], 30 November 2023

**Table 5 Estimated costs associated with Member, officeholder and Members' support staff salaries and associated allowances between 2024-25 and 2031-32<sup>101</sup>**

	<b>Minimal change scenario</b>	<b>Greater change scenario</b>
<b>Member salaries</b>	£19,502,400	£19,502,400
<b>Members' support staff salaries</b>	£29,336,400	£29,336,400
<b>Additional DPO</b>	£0	£172,200
<b>Welsh Ministers and Deputy Ministers</b>	£0	£1,505,400
<b>Committee chairs</b>	£103,200	£310,200
<b>Political group leaders</b>	£103,200	£207,000
<b>Business Committee members</b>	£66,000	£132,600
<b>Member allowances and office costs</b>	£5,204,400	£5,204,400
<b>Residential accommodation</b>	£1,600,800	£1,600,800
<b>Members' travel</b>	£900,000	£900,000
<b>Support for political parties</b>	£3,777,000	£3,777,000
<b>Total</b>	£60,593,400	£62,648,400

**83.** The RIA also identifies “sunk costs” of £515,000 for the Senedd Commission (relating to staff costs, preparatory work on accommodation and some capital costs), and £2.2 million for the Welsh Government (relating to the preparation and delivery of the legislation). It explains that these costs have already been incurred, or are expected to be incurred before the Bill receives Royal Assent, and that they will not be recoverable if the Bill falls.<sup>102</sup>

### **Certainty about the estimated costs**

**84.** Reflecting on the differences between these estimates and the early financial estimates provided to the Expert Panel (annexed to its 2017 report), the Llywydd

<sup>101</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para Senedd Research analysis of Tables 8.4 and 8.5

<sup>102</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 456

highlighted the extent of change over the last six years. This included significant changes in working patterns and arrangements as a result of the COVID-19 pandemic, and the Senedd's subsequent decision to maintain hybrid working.<sup>103</sup> In correspondence, she noted that the Expert Panel had described the estimates provided to it as an "indicator of magnitude rather than precise predictions". In comparison, she said the estimates set out in the RIA were based on specific legislative proposals and "more detailed underlying assumptions" informed by changes since 2017. She gave the example of Tŷ Hywel office space. The estimates provided to the Expert Panel had assumed that Senedd Commission staff would be relocated to enable Tŷ Hywel to be repurposed for Members and their staff. In contrast, the estimates in the RIA reflect post-pandemic working patterns, which render such relocation unnecessary.<sup>104</sup> This reflects the oral evidence given by the Llywydd that while the estimates in the RIA represent "the best costings at the time", in a "dynamic Parliament" activity and ways of working will always be subject to change.<sup>105</sup>

**85.** In written evidence, the Llywydd outlined the governance arrangements in place within the Senedd Commission to support preparations for the implementation of the Bill should it receive Royal Assent.<sup>106</sup> Alun Davidson, Constitutional Change and Parliamentary Business Strategy Clerk, explained that as part of this process, Members would be consulted to inform planning for reconfiguration and use of the estate. He explained that Members' feedback would be reflected in the final decisions and plans.<sup>107</sup>

**86.** The Llywydd explained that while the estimates were robust, more detailed spending plans would necessarily be prepared as part of annual budget cycles. Specific decisions taken by the Seventh Senedd about its structures and operation could result in actual spend differing from the estimates in the RIA. She confirmed the Senedd Commission would ensure that implementation was conducted "as prudently and as wisely in terms of public finance as is possible to do".<sup>108</sup> Manon Antoniazzi added that during annual budget cycles further account would be taken of inflation, and any emerging clarity about Senedd business or detailed design work. She emphasised that throughout the implementation of

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<sup>103</sup> RoP [para 165], 26 October 2023

<sup>104</sup> [Letter from the Llywydd](#), 1 December 2023

<sup>105</sup> RoP [paras 155], 26 October 2023

<sup>106</sup> SCME(P)2 Llywydd

<sup>107</sup> RoP [para 163], 26 October 2023

<sup>108</sup> RoP [paras 147-148], 26 October 2023

the Bill the Senedd Commission would be “looking hard for savings through ways of working”.<sup>109</sup>

### Balancing costs and benefits

**87.** We have explored whether the costs are proportionate to the benefits expected to accrue from the increased capacity of the legislature.

**88.** Professor Renwick said that while it was important to consider the costs carefully:

*“[...] when we're thinking about the merits of a larger Senedd, it seems to me, in the grand scheme of things, these are fairly small sums of money, and the benefits of a well-functioning legislature are very, very considerable. So, it's absolutely right to be careful about the costs, but I'm just wary of placing too much emphasis on those when we're looking at the Bill as a whole”.*<sup>110</sup>

**89.** Professor McAllister suggested that the focus should be on ensuring that the right support structures were in place to reflect the increase in Members. She noted decisions on Senedd Commission staffing and the resource available to Members via the Determination to appoint their own support staff had partly been taken to “compensate” for the time and capacity constraints experienced by Members. She emphasised, however, that once over the threshold of 90 Members, there “probably needs to be a revisiting of what staffing resource is given to Members”, and cautioned against diluting the benefits of having more politicians by having “heavy staff complements”.<sup>111</sup>

**90.** Dr Haywood outlined the Remuneration Board’s work on Members’ support staff roles, grades and remuneration.<sup>112</sup> Daniel Hurford explained that this would include engagement with existing Members and their support staff as well as considering what would be appropriate in a larger Senedd.<sup>113</sup>

**91.** The Public and Commercial Services Union (“the PCS Union”), one of the trade unions that represents Senedd Commission and Welsh Government staff, cautioned that inadequate funding for the Senedd Commission could limit the

<sup>109</sup> RoP [para 161], 26 October 2023

<sup>110</sup> RoP [para 32], 26 October 2023

<sup>111</sup> RoP [paras 21-22 and 41], 26 October 2023

<sup>112</sup> RoP [paras 41-42], 30 November 2023

<sup>113</sup> RoP [para 44], 30 November 2023

extent to which the overall objective of increasing the capacity of the Senedd—to make it a more effective legislature—would be achieved in practice. It expressed concerns in particular about:

- Assumptions about the ongoing patterns of hybrid working. It called for more details how the Senedd estate would be adapted to accommodate Members, event space and Senedd Commission staff, and the resources required to make best use of the estate.
- Limits on Senedd Commission staff headcount, which could affect the extent to which Members and committees would be able to make use of their additional capacity and flexibility.
- The extent to which any additional requirements for Welsh Government staff were reflected in the estimates.
- The extent to which preparatory work and work required for implementation of the Bill had been reflected in decisions on the Senedd Commission’s budget for 2024-25.
- Whether an opportunity could be missed to invest in communities across Wales and achieve savings by establishing 16 “regional centres” within which Members could establish their constituency offices and Commission staff could work.<sup>114</sup>

**92.** We asked the Remuneration Board whether consideration was being given to establishing constituency hubs. Dr Haywood said that she understood the Senedd Commission was not pursuing it because of “serious negativity about it from the Members”.<sup>115</sup> The Senedd Commission confirmed that, following feedback from Members, no further consideration was planned.<sup>116</sup>

## **Our view**

**93.** The question of whether the Senedd has the number of Members it needs has been debated repeatedly over the last 20 years. Like those who have considered this issue before us, we have heard evidence about the risks associated with the current size, and the opportunities that may be missed to improve

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<sup>114</sup> SCME(P)13 PCS Union

<sup>115</sup> RoP [para 82], 30 November 2023

<sup>116</sup> [Letter from the Senedd Commission](#), 14 December 2023

outcomes for people and communities across Wales if the Senedd's scrutiny and representative capacity is not increased.

**94.** Among all contributors to our work, even those who supported the increase, the cost has been one of the most frequently-raised issues. We understand the challenges of estimating the financial implications of any legislation. The actual costs could vary significantly as a result of decisions to be made by Seneddau that are yet to be elected, Welsh Governments that are yet to be formed, and Members who may not even have considered putting themselves forward as candidates yet. We recognise the difficulty of the task undertaken by the Senedd Commission, working with the Business Committee and the Remuneration Board, to provide estimates to the Welsh Government, and we are grateful for the information and evidence provided to inform our scrutiny. A majority of Members are broadly content that the estimates provide a reasonable indication of the potential costs. Darren Millar MS believes that the costs to the Senedd Commission have been underestimated. As a Committee, we are not persuaded that using the 2022-23 Determination as the basis for estimating costs relating to Members' pay and allowances was the best approach. The 2023-24 Determination was published in March 2023<sup>117</sup>, and in our view would have provided a better basis for the estimates.<sup>118</sup>

**Recommendation 2.** If the Bill passes Stage 1, the Senedd Commission should write to us in advance of Stage 2 proceedings to outline what the differences in the financial estimates would be if the estimates had been based on the 2023-24 Determination rather than the 2022-23 Determination. The Member in charge should then incorporate these estimates into the revised Explanatory Memorandum and Regulatory Impact Assessment to be laid after Stage 2.

**95.** It is also challenging to quantify the benefits that may accrue from the enhanced effectiveness of the Senedd expected to result from the increase in the number of Members. Evaluating and quantifying the impact of scrutiny is difficult, not least because such impacts may be pre-emptive; Ministers' approach to decisions on policy, legislation or spending may be influenced by the prospect of facing robust scrutiny. We note that Professor Stirbu produced a report for the Senedd Commission exploring the impact and effectiveness of Senedd

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<sup>117</sup> Independent Remuneration Board of the Senedd, [Determination on Members' Pay and Allowances 2023-24](#), March 2023

<sup>118</sup> We note that the [Determination on Members' Pay and Allowances 2023-24 \(Number 2\)](#) was published in December 2023 to make provision for one-off cost of living payments for Members' support staff and a temporary uplift for the lowest paid Members' support staff to reflect the increase in the Real Living Wage.



committees. If we are to see growth in public and stakeholder understanding of the role of the Senedd, and of the rationale for the reforms in the Bill, the Senedd, its committees and its Members must continue to find ways to understand, measure and communicate the impact of their scrutiny and representative work, whether through implementing Professor Stirbu's recommendations or other means.

**96.** Standing Order 26.6(viii) requires the explanatory material accompanying a Bill to set out the "best estimates" of the financial implications of the Bill and its provisions. Notwithstanding our comments above about how the estimates in the EM and RIA could be improved, we recognise that the actual costs may vary up or down to reflect specific decisions taken about the organisation of business, how Members want to work, and the services and facilities provided to them. It is clear from the evidence we have heard that the Bill provides an opportunity to think strategically about the needs of a 96-Member Senedd in which the current constraints on Members' time have been alleviated.

**97.** We note the approach taken by the Senedd Commission of ringfencing provision for Senedd reform in its 2024-25 budget. We welcome the transparency this provides. It will be important for the Senedd Commission to maintain transparency in the presentation of costs associated with the implementation of the Bill in its budgets and annual accounts throughout the implementation period. This will provide a means through which the Senedd, the Finance Committee, the Public Accounts and Public Administration Committee, Members and the public can understand the costs, and how they may vary from the original estimates in the EM. In addition, such clarity will also help to inform engagement with Members of the Sixth and Seventh Seneddau on the potential implications of the detailed implementation decisions to be taken on Senedd business, Senedd Commission services and the Senedd estate that will be required should the Bill pass.

**98.** We note that the Senedd Commission's Cardiff Bay 2032 project<sup>119</sup> is exploring options for office accommodation beyond the end of the Tŷ Hywel lease in 2032. The project is at an early stage, and the costs are, as yet, unclear. The project is required whether or not the Bill passes, but it is inevitable that the number of Members will affect the Senedd's accommodation needs.

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<sup>119</sup> Senedd Commission, [Draft budget: 2024-25](#), September 2023, page 13-14

**Recommendation 3.** In its response to our report, the Senedd Commission should provide information about any interaction between the proposals in the Senedd Cymru (Members and Elections) Bill (if passed) and the Cardiff Bay 2032 accommodation project. This should include information about how any increase in the number of Members would affect the potential costs of the 2032 project. If it is not possible to provide cost estimates at this stage, the Senedd Commission should provide an indication in its response of when the information may be available. The Senedd Commission should also commit to keeping the Senedd, and the public, updated on these matters.

**99.** A majority of Committee members agree with those who have explored these matters through previous committees, panels and commissions that there is a clear rationale for increasing the number of Members. While we do not offer a view on whether 96 is the optimum size, none of the evidence that we have heard has persuaded us that this number is inappropriate. 96 is higher than the 80 to 90 proposed by the Expert Panel. However, we note that the Expert Panel’s report acknowledged that potential benefits such as capacity and Member specialisation would continue to rise if the size of the Senedd were to increase above 90, albeit it cautioned that “potential public concern about the costs of an increase would grow [and] the marginal gains would diminish quite rapidly”.<sup>120</sup> We also note that 96 is divisible by 16, enabling the implementation of the paired constituency boundary model with a district magnitude of six, which is within the range of four to six recommended by the Expert Panel.<sup>121</sup>

**100.** One member of the Committee did not agree with this conclusion, stating that he did not support any increase in the number of Members.

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<sup>120</sup> Expert Panel on Assembly Electoral Reform, [A parliament that works for Wales: the report of the Expert Panel on Assembly Electoral Reform](#), November 2017, para 03.16

<sup>121</sup> Expert Panel on Assembly Electoral Reform, [A parliament that works for Wales: the report of the Expert Panel on Assembly Electoral Reform](#), November 2017, recommendation 5

## 4. Number of Deputy Presiding Officers

### Background

#### Current arrangements

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**101.** Section 25 of the GOWA 2006 requires the Senedd to elect one DPO at its first meeting following a general election. It also makes a range of other provision in respect of the DPO, including:

- The title by which they are to be known.
- The period for which they hold office (until they resign, cease to be a Member of the Senedd otherwise than by the Senedd's dissolution, are removed from office by the Senedd, or the Senedd is dissolved).
- Restrictions on the PO and the DPO both belonging to the same political group, or to different political groups both of which have an executive role (unless the Senedd resolves by a two-thirds majority of Members who take part in the vote to disregard the restrictions).<sup>122</sup>
- That they may exercise the PO's functions if the office of PO is vacant or the officeholder is unable to act, or if the PO so authorises them (subject to any restrictions in Standing Orders).

#### Provision in the Bill

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**102.** Section 4 of the Bill amends section 25 of the GOWA 2006 to make provision for the Senedd to have the flexibility to elect one additional DPO if it wants to. Nothing in section 4 requires the election of an additional DPO.

**103.** Other provision in Section 4 includes:

- The election of any additional DPO is not one of the limited items of Senedd business in which a Member can take part before they have taken the oath or made the affirmation.

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<sup>122</sup> Standing Order 6.12 restates this provision, and supplements it with an additional restriction that both the PO and the DPO may not belong to different political groups neither of which has an executive role. Standing Order 6.13 gives effect to the provision in the GOWA 2006 that the Senedd may disregard the restrictions on the basis of a two-thirds majority of Members who take part in the vote, and extends this to the additional restriction applied by Standing Order 6.12.

- The Senedd may elect an additional DPO at any time during a Senedd term, but may not elect more than one additional DPO at any time.
- An additional DPO may be elected to hold office for a period of time which is shorter than the time remaining until the Senedd is dissolved.
- Unless the Senedd resolves by a two-thirds majority of Members voting to disregard such requirements, any additional DPO may not belong to the same political group as either the PO or the DPO elected under section 25(1)(b). And, if both the PO and the DPO elected under section 25(1)(b) belong to political groups without an executive role, the additional DPO may not also belong to a political group without an executive role.

**104.** If the Senedd decides to elect an additional DPO, then both they, and the DPO the Senedd is required to elect under section 25(1)(b):

- Are to be known as DPO (or by such other title as the Standing Orders may provide).
- May exercise the PO's functions if the office of PO is vacant or the officeholder is unable to act, or if the PO so authorises them (subject to any restrictions in Standing Orders). This may include chairing the Llywydd's Committee.<sup>123</sup>

**105.** If the DPO elected under section 25(1)(b) ceases to hold office, any additional DPO would not automatically take their place; the Senedd would still be required to elect a new DPO under section 25(1)(b). The additional DPO would be eligible to stand for election if they wished. If elected, they would cease to be the additional DPO. The Senedd could, if it wished, elect a different Member as additional DPO.

### Rationale for the provision

**106.** The EM explains that, when developing its legislative proposals, the Welsh Government was mindful that a larger Senedd may decide to sit more frequently or for longer. On the basis that “effective management of Senedd business may reasonably be expected to have a positive effect on the Senedd’s capacity to

<sup>123</sup> Paragraph 16A of Schedule 1 to the Political Parties, Elections and Referendums Act 2000 requires the Senedd to establish a committee to be known as the Llywydd's Committee or Pwyllgor y Llywydd. The committee must be chaired by either the PO or the DPO. The role of the Llywydd's Committee is to scrutinise the Electoral Commission's financial estimates and five-year plans as they relate to the exercise of the Electoral Commission's functions in relation to devolved Welsh elections and referendums.

deliver its role of holding the Welsh Government to account”, the Bill includes provision for flexibility for the Senedd to elect an additional DPO to assist in managing business and/or carrying out the PO’s wider responsibilities and functions.<sup>124</sup> The EM notes that Standing Orders already allow for temporary or acting chairs of Plenary meetings, but that such roles may not undertake the PO’s broader functions and responsibilities.<sup>125</sup>

**107.** Professor Alistair Clark of Newcastle University described section 4 as “an entirely reasonable reform” providing additional capacity for the conduct of parliamentary business.<sup>126</sup> Professor Stirbu agreed, confirming that it is “quite common” internationally for small legislatures to elect more than one officeholder equivalent to the DPO. She added that when deciding whether or not to elect an additional DPO the Senedd should be clear about their role and responsibilities.<sup>127</sup>

### **Operation in practice**

**108.** The Bill does not prescribe a hierarchy between DPOs elected under section 25(1)(b) and new section 25(1A). The Member in charge indicated that the only potential differences between the two officeholders would be the timing and length of their appointments.<sup>128</sup> He added that he had considered whether the Bill should make provision for how any dispute between two DPOs over how the PO’s functions were to be exercised would be resolved should the office of PO be vacant or the PO unable to act, but thought this would result in an “arbitrary determination of hierarchy” that would be out of step with the legislation underpinning the appointment of deputies elsewhere in the UK.<sup>129</sup>

### **Eligibility for election**

#### **Membership of political groups with executive and non-executive roles**

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**109.** Siwan Davies, Deputy Chief Executive and Clerk of the Senedd and Director of Senedd Business, confirmed that the Bill gave effect to the Business Committee’s recommendation that the whole cohort of PO and DPOs could not

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<sup>124</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 85

<sup>125</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 87

<sup>126</sup> SCME(P)4 Alistair Clark

<sup>127</sup> RoP [paras 383-384], 26 October 2023

<sup>128</sup> Another difference is that a Member who has not yet taken the oath or made the affirmation could not take part in the election of the additional DPO.

<sup>129</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

all belong to the same political group, to different political groups all with an executive role, or to different political groups none of which had an executive role. The Bill also maintains the current arrangements that enable the Senedd, on a two-thirds majority of Members voting, to disregard that requirement.<sup>130</sup>

## Gender balance

**110.** In the House of Commons, there is provision in Standing Orders for a hierarchy of Deputy Speakers, and provision to ensure that the cohort of Speaker and Deputy Speakers includes at least one man and at least one woman.<sup>131</sup> There is no such provision in the Scottish Parliament. When asked whether he had given any consideration to arrangements in place in other UK legislatures in respect of criteria applicable to their cohorts of Speakers/POs and their deputies, the Member in charge said that the Bill gave effect to the Business Committee's recommendations in respect of giving the Senedd flexibility to elect up to two DPOs.<sup>132</sup> He did not indicate whether any consideration had been given to the gender balance requirements that apply in the House of Commons.

## Welsh language

**111.** The Welsh Language Commissioner suggested that consideration be given to applying Welsh language requirements within the cohort of PO and DPOs; for example to require that at least one should be able to speak Welsh. She said this would help facilitate the use of the Welsh language in the Senedd.<sup>133</sup>

## Officeholder titles

**112.** In its response to the SPCSR's recommendations, the Business Committee concluded:

*“Conclusion 3: The Welsh Government should explore changing the legislative titles of ‘Presiding Officer’ and ‘Deputy Presiding Officer’ to provide for the following bilingual titles in the Government of Wales Act: ‘Llywydd/ Speaker’ and ‘Dirprwy Lywydd/ Deputy Speaker’. Such provision should only be included in the reform legislation if the Welsh*

<sup>130</sup> RoP [para 299], 26 October 2023

<sup>131</sup> House of Commons, [Standing Orders: Public business 2023](#), 23 October 2023, Standing Order 2A(5)(e)(iii)

<sup>132</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>133</sup> RoP [para 436], 9 November 2023; SCME(P)6 Welsh Language Commissioner

*Government has full confidence that they are within the Senedd's legislative competence".<sup>134</sup>*

**113.** The Llywydd explained that this remained her preference, as the English title 'Speaker' is better understood than 'Presiding Officer'. However, she said the Welsh Government had told her the change would be outside the Senedd's competence.<sup>135</sup>

**114.** The Member in charge confirmed:

*"The Trefnydd subsequently wrote to the Business Committee on 21 June 2023 to advise that the Welsh Government had concluded that it could not state that it would have full confidence that such changes would be within the Senedd's legislative competence. As a result, the Bill does not address this issue".<sup>136</sup>*

## **Our view**

**115.** We are content with the provision in section 4 of the Bill to give the Senedd flexibility to elect an additional DPO if it wishes. It is appropriate that a parliament has flexibility over its own internal arrangements and structures. It will be a matter for the Seventh Senedd (and subsequent Seneddau thereafter) whether to make use of the flexibility, and what reasons they might consider appropriate for doing so.

**116.** We are also content with the provisions in the Bill that mean that the cohort of PO and DPOs could not all belong to the same political group, to different political groups all with an executive role, or to different political groups none of which had an executive role, unless the Senedd votes to the contrary by a two-thirds majority of Members voting.

**117.** It is appropriate that the legislation does not specify any hierarchy between the two DPOs. We note, however, that if the Senedd were to elect an additional DPO, the PO in place at the time may wish to consider whether any formal or informal arrangements or agreements would be appropriate or helpful in order to

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<sup>134</sup> Business Committee, [Response to the Special Purpose Committee on Senedd Reform's report - Reforming our Senedd: A stronger voice for the people of Wales](#), December 2022

<sup>135</sup> RoP [para 301], 26 October 2023

<sup>136</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023



provide clarity and transparency for Members, Senedd Commission officials and the public.

**118.** We understand the objective underlying the Welsh Language Commissioner’s proposal that the Bill should include a requirement that at least one of the cohort of PO and DPOs should be a Welsh speaker, but are not persuaded of the need to include this within the Bill. If the Senedd wishes to make provision in this regard in the future, consideration could be given to doing so through Standing Orders. In the absence of such provision, it is open to individual Members to decide whether they wish to take the Welsh language skills of a candidate for these offices into account. In addition, a Member holding one of these offices may choose to develop and improve their Welsh language skills and confidence while in the role, and they should be supported in doing so.

**119.** Review of the Senedd’s Standing Orders will be required to ensure that procedures are in place to facilitate any decision by future Seneddau about whether to elect an additional DPO, and any subsequent officeholder elections.

**Recommendation 4.** The Business Committee should, as part of its procedural review prior to the 2026 election, consider whether any changes are required to Standing Orders to ensure that the appropriate procedures are in place to facilitate any election of an additional Deputy Presiding Officer under section 25(1A) of the Government of Wales Act 2006 (to be inserted by section 4 of the Bill).

**120.** We understand that the Senedd does not have the legislative competence to modify section 25(1)(a) of the GOWA 2006, which provides that the Senedd must elect a “Presiding Officer”, but that the Senedd does have legislative competence to modify section 25(1)(b) which provides that the Senedd must elect a “Deputy Presiding Officer”. We note that section 25(2) of the GOWA 2006 provides that the officeholders are to be known as the Presiding Officer/Deputy Presiding Officer “or by such other title as the standing orders may provide”. In English, Standing Orders currently reflect the titles specified in the GOWA 2006. In Welsh, Standing Orders use the terms Llywydd and Dirprwy Lywydd. We agree with the Business Committee and the Llywydd that the English titles are not widely-understood. Where the English titles for these officeholders are used in Standing Orders (and elsewhere) we would prefer the terms Speaker and Deputy Speaker to be used. We accept this may mean that explanations will be needed in some circumstances as to why the terms used in legislation (or some other formal settings) differ from those used in Standing Orders and common parlance, but we do not consider that any inconvenience associated with this would outweigh the

benefits that would arise from greater clarity and understanding about the roles of senior Senedd officeholders. In addition, we welcome the increasing normalisation of the terms Llywydd and Dirprwy Lywydd in both languages; our recommendation is not intended to affect this, but rather to ensure there is greater clarity when the English terms are used.

**Recommendation 5.** The Business Committee should, as part of its procedural review prior to the 2026 election, make use of the power in section 25(2) of the Government of Wales Act 2006 to specify that in English the Presiding Officer and Deputy Presiding Officer are to be known by the titles of Speaker and Deputy Speaker respectively.

## 5. Number of Welsh Ministers

### Background

#### Current arrangements

**121.** Section 51(1) of the GOWA 2006 provides that “no more than 12 persons are to hold a relevant Welsh Ministerial office at any time”. Section 51(2) defines this as the offices of Welsh Minister or Deputy Welsh Minister. These offices are in addition to the First Minister and the Counsel General<sup>137</sup>, providing an overall limit of 14 (23.3 per cent of the Senedd’s membership).

#### Provision in the Bill

**122.** Section 5(a) of the Bill amends section 51(1) of the GOWA 2006 to increase the maximum number of persons who may hold office as a Welsh Minister (or Deputy Welsh Minister) from 12 to 17. Section 5(b) inserts a new regulation-making power into section 51. The power enables the Welsh Ministers to increase the limit from 17 to either 18 or 19, or from 18 to 19.<sup>138</sup> The power may not be used to decrease the limit, and is subject to the affirmative scrutiny procedure i.e. regulations would not come into effect unless approved by a simple majority in the Senedd. Table 6 shows the maximum proportion of Members who could hold Welsh Government office as a result of section 5.

**Table 6 Maximum proportion of Members who could hold Welsh Government office**

	60 Members		96 Members	
<b>First Minister and Counsel General</b>	2	2	2	2
<b>Maximum number of Ministers and Deputy Ministers</b>	12	17	18	19
<b>Maximum proportion of Members holding Welsh Government office</b>	23.3 per cent	19.8 per cent	20.8 per cent	21.9 per cent

<sup>137</sup> Under section 49 of the Government of Wales Act 2006, the appointment of a Counsel General is not necessarily limited to Members of the Senedd. For example, during the Fourth Assembly, Theodore Huckle QC was appointed Counsel General.

<sup>138</sup> In all cases, these limits exclude the First Minister and the Counsel General

## Rationale for increasing the maximum number of Welsh Ministers

**123.** In written evidence, Professor Renwick suggested weighing the potential benefits of increasing Welsh Government capacity against the impact on the Senedd’s scrutiny capacity. As a point of principle, he said that any increase should be less than proportional to the increase in the number of Members.<sup>139</sup>

**124.** One of the central arguments for increasing the number of Members is increasing scrutiny capacity. We asked the Member in charge why the Bill enables some of the additional capacity to increase the size of the executive. He told us that the additional responsibilities devolved to the Welsh Government (or that could be devolved in future) created a need for “a more enhanced, skilled, expertised Government”. In his view, increasing the size of the Welsh Government could enable greater specialism within government, and facilitate more effective engagement with Senedd committees:

*“At the moment, we combine everything that has been added on in terms of governmental responsibilities into the same number, so it means that Ministers have probably more functions than it is desirable to have, in an area where the Minister needs to be fully in control of what they are doing, but also, then, to be able to engage with the Senedd, which has a committee structure that is also capable of holding Government to account in that particular way as well.”<sup>140</sup>*

**125.** The EM outlines changes in the Welsh Ministers’ powers and responsibilities since the current limit was set in 2006<sup>141</sup>, including:

- Additional powers and responsibilities resulting from the WA 2017 by virtue of the transfer of functions under section 58A of the GOWA 2006.
- Additional powers and responsibilities as a result of the UK’s withdrawal from the European Union (particularly regarding environment, rural affairs and economic affairs).

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<sup>139</sup> SCME(P)1 Alan Renwick

<sup>140</sup> RoP [para 10], 5 October 2023

<sup>141</sup> The limit on the maximum size of the Welsh Government was increased by the Government of Wales Act 2006 to 14 (12 Ministers or Deputy Ministers in addition to the First Minister and Counsel General) from a previous overall limit of nine established by the then Assembly’s Standing Orders in accordance with the Government of Wales Act 1998.

- Increase in intergovernmental working to “co-ordinate policies, programmes, and the operation of the intergovernmental frameworks”.<sup>142</sup>

**126.** The EM argues that the Welsh Government needs flexibility to react to events. It notes there is no statutory limit on the number of Scottish Ministers, which enabled the Scottish Government to appoint an additional Minister for matters arising from the UK’s departure from the European Union. As the Welsh Government had already comprised the maximum number of Welsh Ministers at the time, the First Minister had to allocate additional responsibilities to an existing Welsh Government officeholder, the Counsel General.<sup>143</sup>

**127.** While supportive of an increase in the limit on Welsh Ministers, the Wales Environment Link said it was also important to ensure there is sufficient capacity in the Welsh Government civil service. Insufficient civil service resource could hinder policy development and implementation, and make it more difficult for Ministers to engage effectively with Senedd scrutiny.<sup>144</sup>

**128.** In its response to the SPCSR’s recommendations, the Business Committee considered the size of the Welsh Government. By majority<sup>145</sup> it recommended a limit of 17.<sup>146</sup>

**129.** The CSER recommended in 2020 that the Welsh Government should “commission academic research into the structure and capacity of the Welsh Government, including the allocation of responsibilities among Ministers and Deputy Ministers”.<sup>147</sup> When pressed on what analysis the Welsh Government had done of whether 17 was an appropriate maximum limit, the Member in charge highlighted changes in Senedd and Welsh Government responsibilities, the potential for devolution of additional responsibilities in future, and the Ministerial workload associated with accountability to Senedd committees.<sup>148</sup>

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<sup>142</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, paras 70-73

<sup>143</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, paras 74-75

<sup>144</sup> SCME(P)27 Wales Environment Link

<sup>145</sup> The report notes that “Darren Millar, representing the Welsh Conservatives, and the Llywydd both expressed a view that the maximum number of Welsh Ministers should be set at 16”.

<sup>146</sup> Business Committee, [Response to the Special Purpose Committee on Senedd Reform’s report – Reforming our Senedd: A stronger voice for the people of Wales](#), December 2022, para 15

<sup>147</sup> Committee on Senedd Electoral Reform, [Senedd reform: the next steps](#), September 2020, recommendation 3

<sup>148</sup> RoP [paras 106-107], 13 December 2023

**130.** Flintshire County Council stated that its councillors were “sympathetic” to an increase, but felt that “the number chosen appeared to lack any empirical basis or like comparison”.<sup>149</sup> Among the other organisations and people sharing their professional views who commented on section 5, there was broad consensus that an increase in the maximum number of Welsh Ministers was appropriate, and that 17 was acceptable.<sup>150</sup>

**131.** Professor McAllister said an increase could help address “large and unwieldy” Ministerial portfolios.<sup>151</sup> The Welsh Language Commissioner suggested that an increase could provide scope for a Minister to “concentrate solely on the Welsh language”, arguing this could “ensure that the Welsh language is considered strategically across the portfolios of all ministers in the Government”.<sup>152</sup>

**132.** Professor Stirbu described the increase as “justifiable” on the basis of the breadth of current Ministerial portfolios, and futureproofing. She cautioned that future Seneddau would need to ensure that the committee system was designed appropriately to scrutinise the Welsh Government effectively.<sup>153</sup> Professor McAllister agreed, noting that while the design of the committee system was a matter for the relevant Senedd, the Expert Panel’s report had explored matters such as committee size and operation.<sup>154</sup>

**133.** When asked about the assumption in the EM that the Seventh Senedd might establish between one and three additional committees if there were between five and seven additional Welsh Ministers, the Member in charge said committee structures were a matter for the Senedd. He told us that the increase in Senedd and Welsh Government capacity would enable all Members (including Ministers) to specialise more, and engage in analysis and policy development, with positive implications for the effectiveness of committee work and the effectiveness and accountability of Ministers:

*“What I would hope is that with 96 Members the accountability and scrutiny of Government is going to be not only much sharper, but far more specialist, and far more effective. Ultimately, the quality of any Parliament is the quality of the Members themselves and their ability to actually do the job and be motivated to do that. I think that would*

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<sup>149</sup> SCME(P)24 Flintshire County Council

<sup>150</sup> For example, SCME(P)4 Alistair Clark, SCME(P)21 Thomas Glyn Watkin

<sup>151</sup> RoP [para 55], 26 October 2023

<sup>152</sup> SCME(P)6 Welsh Language Commissioner

<sup>153</sup> RoP [para 342], 26 October 2023

<sup>154</sup> RoP [para 63], 26 October 2023

*be achieved by an increased membership of the Senedd, but I think, equally so, it would mean that Ministers would be far more effective as well”.<sup>155</sup>*

**134.** The Llywydd cautioned against focusing too much on the number of committees. For the purposes of estimating costs, the Senedd Commission had needed to make such assumptions, but she described this as “quite a crude way of thinking about it” as the alleviation of the current capacity constraints on individual Members could enable Senedd committees to operate differently and more flexibly.<sup>156</sup>

### Mechanism for any subsequent changes

**135.** The Statement of Policy Intent states that there is no expectation that the power to further increase the maximum number would be used immediately. It adds that should a future Welsh Government use the power—for example as a result of further devolution or other circumstances—that future Government would have to justify the increase as part of the affirmative scrutiny procedure to which the regulations would be subject.<sup>157</sup> The Member in charge reiterated this, arguing that the Senedd’s approval would be required for any increase.<sup>158</sup> He said the prohibition on reducing the maximum limit had been recommended by the Business Committee, but added that it would always be up to the relevant First Minister to decide how many Ministers to appoint within the limit.<sup>159</sup> He emphasised this point further on 13 December 2023, stating that what the Bill would do, if passed, was represent:

*“[...] the Senedd recognising that these are things that are potentially necessary for good governance and you're empowering that to actually happen, but with certain caveats, and the caveat is an affirmative vote in the Senedd”.<sup>160</sup>*

<sup>155</sup> RoP [paras 19 and 21], 5 October 2023

<sup>156</sup> RoP [paras 223-224], 26 October 2023

<sup>157</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Statement of Policy Intent for Subordinate Legislation](#), 18 September 2023

<sup>158</sup> RoP [para 12], 5 October 2023

<sup>159</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>160</sup> RoP [para 112], 13 December 2023



**136.** He went on to say:

*"I think the issue of whether there should be a reduction is something that doesn't—. I think that then begins to hold a Government hostage to fortune in terms of internal politics and so on, in terms of what the mechanisms might be for a First Minister who's basically saying, 'We need these number of Ministers in order to do this particular function', and how that would actually be reduced. I don't think that is the best way forward; I think the way forward is to give the empowerment for it to happen and then for Government and the First Minister to actually justify the ministerial structure within those frameworks that have been set".<sup>161</sup>*

**137.** When asked whether the powers could be used to increase the limit on the size of the Welsh Government to accommodate coalition agreements, or other scenarios that could be described as "political gain", the Member in charge repeated that any regulations would be subject to an affirmative vote.<sup>162</sup> He added:

*"And the position with regard to the issue of coalitions, I think that is part of the capacity to actually form stable Governments. In this Senedd there has never been one party that's had an absolute majority in it—I'm sure someone will correct me if I'm wrong on that—so, there's always been a dependency on partnerships, co-operations, agreements of one form or another. And if this were to facilitate that to give stability to Government, then I think that is a very positive outcome".<sup>163</sup>*

**138.** The affirmative procedure to which the regulations would be subject requires only a simple majority. However, section 111A(2)(f) of the GOWA 2006 specifies "the number of persons who may hold the office of Welsh Minister appointed under section 48 or the office of Deputy Welsh Minister" as a matter which, if included within a Bill, would trigger a supermajority requirement i.e. that Bill could not be passed by the Senedd unless the Members voting in favour of the Bill at Stage 4 represented at least two-thirds of the total number of Senedd seats. This is a significantly higher bar than the affirmative scrutiny procedure for subordinate

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<sup>161</sup> RoP [para 113], 13 December 2023

<sup>162</sup> RoP [para 117], 13 December 2023

<sup>163</sup> RoP [para 121], 13 December 2023

legislation, not least because provisions in a Bill are also subject to the full primary legislative scrutiny process.

**139.** Professor Renwick told us that, as a matter of principle, the determination of the maximum number of Welsh Ministers should be “set out in primary legislation and should not be subject to change by secondary legislation”.<sup>164</sup> He described the inclusion in the Bill of the power to change the limit as “a clear concern”:

*“It just seems to me a really fundamental point that it shouldn't be for Ministers to decide an increase in the number of Ministers; that ought to be a decision that is made by the Senedd as a whole, through full scrutiny, i.e. through primary legislation”.*<sup>165</sup>

**140.** Professor McAllister did not object in principle to a future increase in the maximum number of Welsh Ministers, for example to reflect any further changes in the Senedd’s powers such as the devolution of justice, welfare or broadcasting. However, she was definite that any such increase should be subject to the full primary legislation scrutiny process and supermajority vote.<sup>166</sup> Professor Clark described it as “inconsistent” that the initial increase required primary legislation, but subsequent increases would require only subordinate legislation.<sup>167</sup>

**141.** Professor Watkin took a different view, seeing the provision as an appropriate use of a Henry VIII power<sup>168</sup>:

*“[...] a proposal to increase the number to 18 or 19 neither changes the principles of the enabling statute nor amends the detail in a manner which requires anything more than simple agreement or disagreement. The use of the affirmative procedure, allowing the Senedd to approve the change before it takes effect, is also entirely in accordance with democratic principles”.*<sup>169</sup>

<sup>164</sup> SCME(P)1 Alan Renwick

<sup>165</sup> RoP [para 51], 26 October 2023

<sup>166</sup> RoP [paras 55 and 57], 26 October 2023

<sup>167</sup> SCME(P)4 Alistair Clark

<sup>168</sup> A power that enables changes to primary legislation to be made through statutory instruments.

<sup>169</sup> SCME(P)21 Thomas Glyn Watkin

**142.** When asked whether it would be more appropriate, if there were to be a subordinate legislation mechanism by which the maximum number of Ministers could be increased, for it to be subject to a supermajority of at least two-thirds of the number of Senedd seats, the Member in charge said:

*"[...] I think the supermajority goes to the Bill and to the empowerment of the change. The actual implementation of the change within the Bill is one that will be a simple majority. But it's a matter for the Senedd as to how they want that to happen. If it was the Senedd's view that that's what should be the case, well then that would be a matter for the Senedd. But I don't think that was one of the recommendations that came through".<sup>170</sup>*

## **Our view**

**143.** We understand the rationale for the increase in the maximum number of Welsh Ministers. We accept that it could provide future First Ministers with greater flexibility and scope to ensure that Ministerial portfolios do not become too broad or unwieldy. We also accept that it has the potential to increase the effectiveness of government, although ensuring this happens in practice will depend on decisions to be taken by future First Ministers, including the specification of portfolios and the level of civil service capacity and resource. The evidence we have received has not pointed towards any specific maximum size for the Welsh Government, but we have not heard any evidence that has persuaded us the proposed limit of 17 Welsh Ministers or Deputy Ministers (in addition to the First Minister and Counsel General) is not appropriate. Darren Millar MS is concerned that increasing the number of Ministers will undermine the objective of the Bill to increase the Senedd's scrutiny capacity.

**144.** The committee structure in any future Senedd is a matter for that Senedd. We note that the Senedd's committees have not generally shadowed Ministerial portfolios or departments as is the case in some other parliaments. What matters is that the committee structure covers the Senedd's full range of functions and responsibilities, and has sufficient capacity to hold all Welsh Government officeholders to account. We recognise that some committee portfolios are currently very broad; it is possible there may be an increase in committee numbers in future. However, while the number of Welsh Ministers appointed by a

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<sup>170</sup> RoP [para 14], 5 October 2023

future First Minister will be a relevant factor in the design of a committee structure, we do not believe it should be determinative.

**145.** We accept that there may be circumstances under which it could be appropriate for there to be further increases in the maximum number of Welsh Ministers, for example to reflect devolution of significant further powers. However, a majority of Committee members do not believe it is appropriate for any further changes to the maximum limit to be made by subordinate legislation. Llyr Gruffydd MS<sup>171</sup> is content with the provision in the Bill as drafted.

**146.** A majority of Committee members believe changes of such constitutional significance should be made by primary legislation, and subject to the full legislative scrutiny process. This includes, as the number of Welsh Ministers and Deputy Ministers relates to a protected subject matter specified in section 111A of the GOWA 2006, a supermajority of Members representing at least two-thirds of the total number of Senedd seats at Stage 4. We do not consider the timescales associated with introducing and passing such legislation to be a barrier, as the devolution of any further powers would be highly unlikely to take place without notice.

**Recommendation 6.** By majority, we recommend that the Member in charge should bring forward amendments at Stage 2 to remove section 5(b) of the Bill (the power for the maximum number of Welsh Ministers to be increased by regulations).

**147.** As stated above, a majority of Committee members would prefer to see the regulation-making power removed from the Bill. However, if the Member in charge is not minded to accept our Recommendation 6, as a minimum the Bill should be amended to provide that regulations may not be made unless they have been approved by a supermajority of Members representing at least two-thirds of the total number of Senedd seats. This is the bar that would need to be met if the provisions were included in a Bill, and we see no reason why the same requirement should not apply if the matter is addressed in any other way.

**Recommendation 7.** If the Member in charge does not accept our Recommendation 6, he should bring forward amendments at Stage 2 to provide that regulations under section 51(3) of the Government of Wales Act 2006 (to be inserted by section 5 of the Bill) to increase the maximum number of Welsh

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<sup>171</sup> Llyr Gruffydd MS substituted for Heledd Fychan MS at our meeting on 10 January 2024, during which we discussed and agreed this report.

Ministers may not be made unless they have been approved by a supermajority of Members representing at least two-thirds of the total number of Senedd seats.

**148.** We are also concerned that the regulation-making power cannot be used to reduce the limit once it has been increased. Our concerns were increased by the evidence from the Member in charge that the ability to increase the limits by regulations would be a positive step to accommodate potential coalition agreements.<sup>172</sup> We believe that restrictions should be placed on the powers to provide that the increased limit only remains in effect for the terms of appointment of Ministers appointed during the Senedd in which the regulations are made i.e. the appointment of Ministers by a First Minister following each ordinary or extraordinary general election will be subject to the limit of 17 specified in primary legislation, unless regulations have been made after the relevant election to increase the limit to either 18 or 19. We recognise this adds a degree of legislative complexity, and may be considered disproportionate if the limit has been increased to reflect a permanent situation such as the devolution of further powers. However, our majority view, as noted above, is that increases in the permanent limit should be made through primary legislation. Changes made in primary legislation would therefore be unaffected by the sunset provision we are suggesting be embedded in the regulation-making power within the Bill.

**Recommendation 8.** If the Member in charge does not accept our Recommendation 6, he should bring forward amendments at Stage 2 to provide that regulations under section 51(3) of the Government of Wales Act 2006 (to be inserted by section 5 of the Bill) to increase the maximum number of Welsh Ministers may not be made unless they include within them a sunset provision that results in the expiry of the regulations (and thereby the resetting of the limit as it stands in primary legislation) before the appointment of any Welsh Ministers by the First Minister nominated by the Senedd following the next ordinary or extraordinary general election.

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<sup>172</sup> RoP [para 121], 13 December 2023

## 6. Frequency of ordinary general elections

### Background

#### Previous arrangements

**149.** Prior to the Fixed-term Parliaments Act 2011 (“the FTPA 2011”) which set a five-year interval between UK Parliament ordinary general elections, elections to the then Assembly took place every four years.<sup>173</sup> On 16 March 2011, the Assembly passed a resolution which called for its next election to be delayed by one year to avoid a clash with the UK Parliament ordinary general election in 2015.<sup>174</sup> This was implemented by section 5 of the FTPA 2011 which moved the date of the next Assembly election from 7 May 2015 to 5 May 2016.

**150.** Section 3(1) of the GOWA 2006 was subsequently amended by section 1 of the Wales Act 2014 to provide for ordinary general elections every five years.

**151.** The FTPA 2011 was repealed by the Dissolution and Calling of Parliament Act 2022.

#### Current arrangements

**152.** Section 3(1) of the GOWA 2006 provides for Senedd ordinary general elections “to be held on the first Thursday in May in the fifth calendar year following that in which the previous ordinary general election was held”, unless a UK Parliament general election prevents the poll being held that day or the day of the poll is determined by a proclamation under section 4.

**153.** Where a UK Parliament general election prevents a Senedd ordinary general election being held that day, section 3(1B) gives Welsh Ministers a power to move the date of the poll (unless the day of the poll is determined by a proclamation under section 4).

**154.** Section 4 makes provision for the PO to propose holding the poll on a day “which is not more than one month earlier, nor one month later, than the first Thursday in May”. His Majesty may then, by proclamation under the Welsh Seal, dissolve the Senedd, require the poll at the election to be held on the day

<sup>173</sup> First Assembly: 1999-2003; Second Assembly: 2003-2007; Third Assembly: 2007-2011

<sup>174</sup> Third Assembly: Plenary RoP [page 65], [16 March 2011](#).

proposed, and require the Senedd to meet within the period of fourteen days beginning immediately after the date of the poll.

**155.** Section 5 provides a mechanism for holding a Senedd extraordinary general election. If an extraordinary general election is held less than six months before the date on which an ordinary general election would normally be held (disregarding section 4), section 5(5) provides that the ordinary general election is not to be held, and section 5(6) provides that the date of subsequent ordinary general election would not be affected.

**156.** Since 2011, Senedd ordinary general elections have taken place every five years.<sup>175</sup>

### **Provision in the Bill**

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**157.** Section 3 of the Bill proposes that the length of a Senedd term be decreased from the current fixed five-year term to a fixed four-year term. The EM notes that the move to five-year Senedd terms was in response to changes made to UK Parliament elections through the FTPA 2011, and suggests that it “appears logical” that Senedd elections should revert to the pre-2011 position now that the FTPA 2011 has been repealed.<sup>176</sup>

**158.** The Welsh Government argues that the move to four-year terms is in keeping with the overarching aim of making Wales a more democratic country by allowing voters “to cast their verdict on the performance of governments more frequently and to give increased popular legitimacy to Welsh governance”. It says that it considers that four-year terms sufficiently balance three key factors:

- Democratic renewal.
- Voter fatigue.
- Providing a sufficient amount of time for an administration to implement its agenda.<sup>177</sup>

**159.** The Welsh Government’s integrated impact assessment notes that more frequent elections would mean that staff employed by Members of the Senedd

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<sup>175</sup> Fourth Assembly: 2011-2016; Fifth Senedd: 2016-2021; Sixth Senedd: 2021-2026

<sup>176</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 193

<sup>177</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, paras 194-195



“potentially face a risk of redundancy on a more frequent basis”, would increase the overall cost of administering Senedd elections and would also necessitate more frequent boundary reviews (once every eight years instead of once every ten years).<sup>178</sup> The equality impact assessment states that the proposed move to four-year Senedd terms would have a positive impact, as it would increase “the frequency with which the electorate exercise their democratic mandate to select the legislature”.<sup>179</sup> In his letter of 8 November 2023, the Member in charge stated that the Welsh Government’s impact assessment “noted that the change in term lengths was not considered to have a differential impact upon people with protected characteristics”.<sup>180</sup>

**160.** The EM acknowledges that the flexibility of the prerogative powers to call a UK general election means that Senedd and UK Parliament elections could still clash, whether the Senedd terms remain five years or revert back to four years.<sup>181</sup>

### Principle of reducing the frequency of ordinary general elections

**161.** The evidence we have received has been generally supportive of the move to four-year Senedd terms. In his written evidence, Professor Renwick highlighted that the most common length of a parliamentary term is five years but most of the world’s healthiest democracies have shorter terms. He felt four-year terms “probably provides better balance between the need for government to be able to plan ahead and the need for voters to have their say”.<sup>182</sup>

**162.** Professor Clark was also supportive of a return to four-year terms, noting that it allows for “greater accountability” and provides an imperative for governments to be responsive and implement commitments quickly and effectively.<sup>183</sup>

**163.** The ERS Cymru described the move as “good for democracy” and suggested that four years “seems about right”.<sup>184</sup> In written evidence, it also called on the

<sup>178</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Integrated impact assessment](#) [accessed on 19 December 2023]

<sup>179</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Equality impact assessment](#) [accessed on 19 December 2023]

<sup>180</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>181</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 197

<sup>182</sup> SCME(P)1 Alan Renwick

<sup>183</sup> SCME(P)4 Alistair Clark

<sup>184</sup> RoP [para 228], 9 November 2023

Welsh Government to consider changing the frequency of local government elections.<sup>185</sup>

**164.** Unison also supported a four-year cycle, highlighting that existing legislation such as the Well-being of Future Generations (Wales) Act 2015 (“the WFG(W) Act 2015”) and the Social Partnership and Public Procurement (Wales) Act 2023 “secures long-term policy making and acts as a safeguard against short-term policy making encouraged by electoral cycles”.<sup>186</sup>

**165.** In contrast, the WLGA felt five years “allows for stability and effective government and to get a programme of government through” and would help avoid Senedd and local council elections falling at the same time.<sup>187</sup>

**166.** The principle of four-year terms was supported by WYPMs participating in our online focus group; they felt it would provide more opportunities to vote as well as improving diversity and encouraging more people to stand. They did not think a shorter four-year term would make a difference to any decision they made about whether to stand for election.<sup>188</sup>

**167.** We received mixed views from people responding to our children and young people consultation. Those in favour suggested that a four-year term “is a long enough period of time to enact change but short enough that people would not become complacent and reluctant to do anything” and could lead to “new and fresh ideas and perspectives” more frequently. Another felt a shorter term could “lead to people making short-term knee jerk decisions that result in no actual benefit to the population” and one respondent said it is “a pointless change that differs from the precedent accepted by other elected bodies in the UK”.<sup>189</sup>

**168.** There was a clear split in the views of individuals addressing the proposal in their consultation responses. While those in favour of four-year terms did not generally elaborate on their reasons, those against the proposal were concerned about the additional cost. Respondents opposing the proposal also suggested that four-year terms would reduce the time available for Members to improve their skills and knowledge and would “make policies even shorter term in their focus”.<sup>190</sup>

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<sup>185</sup> SCME(P)5 Electoral Reform Society Cymru

<sup>186</sup> SCME(P)25 Unison

<sup>187</sup> SCME(P)29 Welsh Local Government Association

<sup>188</sup> Reform Bill Committee, [Senedd Cymru \(Members and Elections\) Bill: Welsh Youth Parliament Focus Group](#), November 2023, para 10

<sup>189</sup> Senedd Cymru (Members and Elections) Bill: [children and young people's views](#)

<sup>190</sup> Responses may be found in full on the [consultation webpage](#).

## Mandate to legislate

**169.** We asked the Member in charge why he had decided to include provision in the Bill to reduce the length of time between Senedd elections, when this was not an issue considered or recommended by the Expert Panel, the CSER or the SPCSR. He said:

*“I think that is solely that, when you're bringing legislation of this type forward, there are other things that are there that naturally fit within that, that are an opportunity to raise, and again will go through, or not go through, depending upon the wishes of the Senedd itself. So, for example, the reversion to four years, we in fact never had a detailed policy discussion in terms of moving to five years. It was essentially a technical change to avoid a conflict of elections when the Fixed-term Parliaments Act 2011 came through. That has been repealed, so we would naturally go back to four years, but there needs to be a mechanism to do that. So, that is very much a mechanistic issue”.*<sup>191</sup>

**170.** While not consulted on the provision's inclusion in the Bill, the Llywydd explained that the Senedd Commission had been informed, and subsequently reprofiled its costings, which differ “considerably from an election year to a non-election year”.<sup>192</sup>

## Impact of the provision

**171.** The Welsh Language Commissioner had no view on the frequency of ordinary Senedd elections but asked Members to ensure that four years provides “sufficient time to scrutinise and legislate on policy and legislation in all areas within the competence of the Senedd, including the Welsh language”, and that the Welsh Government is sufficiently resourced to deliver within the time available.<sup>193</sup>

<sup>191</sup> RoP [para 44], 5 October 2023

<sup>192</sup> RoP [para 234], 26 October 2023

<sup>193</sup> SCME(P)6 Welsh Language Commissioner

**172.** Addressing the impact of reduced Senedd terms on the effectiveness of Senedd committees, Professor Stirbu said:

*“If we look back at the Senedd committees before the five-year term, I don't think that would make a great impact, in my view. I would say that it's only reverting to something that was happening before anyway. But I don't have any strong views or evidence that I can rely on on this, and in the 2026 term, this would probably need to be one of the things that we need to look at carefully in terms of evaluating what impact this might have on committees' work”.*<sup>194</sup>

**173.** In written evidence, the Auditor General for Wales highlighted some cost implications arising from the increased frequency of electoral cycles that were not identified in the EM:

- Section 15 of the WFG(W) Act 2015 requires the Auditor General for Wales to undertake at least one sustainable development examination of each public body in each electoral cycle. The additional cost associated with examining and reporting on 48 designated public bodies is approximately £435,000 (though this could be greater if further bodies are designated). This increase in mandatory reporting also places additional pressure on his overall work programme and reduces scope to undertake discretionary examinations.
- Section 8 of the WFG(W) Act 2015 requires the Welsh Government to set and publish “well-being objectives” six months after each general election. In the EM that accompanied the Well-being of Future Generations (Wales) Bill, the setting of well-being objectives was estimated to cost £186,600 (at 2016-17 prices), although repeat exercises may not be as resource intensive.
- The increased costs associated with the requirement on the Welsh Government to produce a “Future Trends Report” each electoral cycle (section 11 of the WFG(W) Act 2015), and on the Future Generations Commissioner to produce a “Future Generations Report” each electoral cycle (section 23 of the WFG(W) Act 2015).<sup>195</sup>

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<sup>194</sup> RoP [para 377], 26 October 2023

<sup>195</sup> SCME(P)15 Audit Wales

**174.** Daniel Hurford told us that the budget needed for the Remuneration Board would not increase as a result of managing its work in a shorter four-year window.<sup>196</sup>

**175.** When questioned about the potential impact of the reduction in the length of Senedd terms on the extent of the policy and legislative ambitions parties may be able to set out in their manifestos, and the time available to the Senedd to scrutinise and develop legislation, the Member in charge said:

*“In terms of my view, I think that having a four-year refresh, having a refresh of accountability of the Senedd and Members is, I think, an attractive one. There is a counter-argument that says, ‘Well if you have that extra year, it gives you that much more time to fulfil your manifesto, to carry out further legislation.’ I think those are things for Senedd Members to weigh up. But I think reverting to four years, which was the original intention within the Senedd, that there would be an accountability through an election every four years, is the correct starting point. If Senedd Members are not happy with that, then, no doubt there will be opportunities to look at that during the process of this legislation”.*<sup>197</sup>

**176.** We pressed the Member in charge on the potential for the shorter terms to lead to the legislative programme becoming more congested towards the end of a Senedd term, with potential implications for the time and capacity available for the Senedd to scrutinise legislation. He suggested that “smaller, more focused legislation” could be a more effective approach for government and, whatever time was available, parties and governments would need to prioritise what they wanted to achieve and develop their manifestos accordingly. His view was that four year terms were “probably more efficient”, but said he would listen to the Senedd’s views on this point<sup>198</sup>

**177.** The Senedd only gained primary law-making powers in 2011, and powers to set taxation in 2014 and 2019. When asked whether it was reasonable to use pre-2011 four-year terms as a basis for assessing the sufficiency of four-year terms post-2026, the Member in charge argued that the increased powers strengthened “the imperative of going back to the people more regularly”.<sup>199</sup>

<sup>196</sup> RoP [para 26], 30 November 2023

<sup>197</sup> RoP [para 49], 5 October 2023

<sup>198</sup> RoP [para 60], 5 October 2023

<sup>199</sup> RoP [para 51], 5 October 2023

## Interaction with other elections

**178.** Table 7 summarises the legislative provisions that either prevent Senedd elections from taking place on the same day as other polls, or permit the combination of Senedd elections with such polls.

**Table 7 Summary of possible interactions between elections**

	<b>UK Parliament general election (reserved)</b>	<b>UK Parliament by-election (reserved)</b>	<b>Police and crime commissioner elections (reserved)</b>	<b>Local government elections (non-reserved)</b>
<b>Senedd ordinary general election (non-reserved)</b>	<p>✗</p> <p>Section 3(1A) of the GOWA 2006 prevents Senedd ordinary general elections on the same day</p>	<p>✓</p> <p>Section 13A(1)(a) of the GOWA 2006 provides the Secretary of State with a power to combine (with the agreement of Welsh Ministers)</p>	<p>✓</p> <p>Section 58(2)(e) of Police Reform and Social Responsibility Act 2011 provides the Secretary of State with a power to combine polls</p>	<p>✗</p> <p>Section 37ZA(2) of the Representation of the People Act 1983 prevents local government elections on the same day</p>
<b>Senedd extraordinary general election (non-reserved)</b>	<p>✓</p> <p>Section 13A(1)(b) of the GOWA 2006 provides the Secretary of State with a power to combine (with the agreement of Welsh Ministers)</p>	<p>✓</p> <p>Section 13A(1)(b) of the GOWA 2006 provides the Secretary of State with a power to combine (with the agreement of Welsh Ministers)</p>	<p>✓</p> <p>Section 58(2)(e) of Police Reform and Social Responsibility Act 2011 provides the Secretary of State with a power to combine polls</p>	<p>✓</p> <p>There is no interaction between section 5 of the GOWA 2006 (Senedd extraordinary general elections) and the date of local government elections</p>

✗ Elections that are prevented by legislation from being combined or held on the same day

✓ Elections that may be combined or are not legislatively prevented from being held on the same day

## Reserved elections

**179.** Colin Everett, Chair of the WECB, told us that moving to four-year terms is “not a major challenge” in resource terms but went on to say:

*“Our biggest nightmare is a combined election of any sort, because logistically it's so difficult. Our biggest, biggest nightmare is we end up with a reserved and a non-reserved election falling, where the franchise is different, the system is different, and we know there's been a really strong commitment from Ministers of both Governments to avoid that, but there is still a legislative loophole, and we are terrified by it.”<sup>200</sup>*

**180.** He acknowledged that there are some legislative protections and ministerial agreements in place, but would prefer to see provisions to stop reserved and non-reserved elections being held on the same day.<sup>201</sup>

**181.** In relation to the potential for the timing of Senedd elections and UK Parliament elections to clash, the Member in charge said:

*“I think there is a recognition with the UK Government and with ourselves, and indeed, with the Scottish Government—this is one of those areas we've discussed that everyone wants to avoid a conflict of elections. The way the UK parliamentary constitution works, you can never predict when a general election might actually take place. And with the repeal of the 2011 Act—[Inaudible.] And if you have, after the next general election, a different Government, or you have a Government that is dependent on an agreement between a number of political parties and so on, you cannot predict how long that stability might be there, when there might be a general election, when there might not be one. So, those are always a risk. I think what there is agreement on is that we all want to see that not happen. And secondly, it is desirable that there is a mechanism that were that to happen, we would need to do something to ensure it didn't happen. There already are some provisions in terms of the length of time by*

<sup>200</sup> RoP [para 144], 15 November 2023

<sup>201</sup> RoP [para 154], 15 November 2023



*which you can actually defer an election and so on, but I think that is an area that is well worthy of scrutiny”.<sup>202</sup>*

## Non-reserved elections

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**182.** While recognising that Senedd and local elections share the same franchise, the WECEB’s written evidence highlighted that the scale and complexity of combining these elections would also present significant challenges to returning officers and electoral administrators:

*“If we are to have legally-enabled combined elections of this type in the future then full consideration should be given to the resourcing needs of local authorities, and also possible further electoral change such as a lengthened elections period/timetable for non-reserved elections”.<sup>203</sup>*

**183.** The WLGA shared these concerns and also emphasised that the different voting systems would need to be communicated to the Welsh electorate.<sup>204</sup>

**184.** The Electoral Commission’s written evidence noted that elections for the Senedd and principal and town and community councils will be due to fall on the same day in 2042. It acknowledged that section 37ZA of the Representation of the People Act 1983 would require Welsh Ministers to change the date for local government elections by statutory instrument, but suggested that the Welsh Government should consider clarifying its position in relation to holding Senedd and local elections in the same year.<sup>205</sup>

**185.** In respect of local government elections, the Member in charge referred to “quite mixed views” when the Welsh Government consulted<sup>206</sup> on whether principal and town and community councils should revert to four-year terms:

*“There was obviously a concern that relates to the synchronisation between local government and with the Senedd. It’s a matter for local government in terms of their views on how this might impact. But I think, for the purpose of this Bill, and for the purpose of the Senedd, I*

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<sup>202</sup> RoP [para 54], 5 October 2023

<sup>203</sup> SCME(P)12 Wales Electoral Co-ordination Board

<sup>204</sup> SCME(P)29 Welsh Local Government Association

<sup>205</sup> SCME(P)9 Electoral Commission

<sup>206</sup> Welsh Government, [Electoral administration and reform White Paper](#), October 2022

*think the key issue is whether it is considered, firstly, right that it reverts back in the light of the repeal of the 2011 Act, but secondly, whether it's what the Senedd actually wants".<sup>207</sup>*

**186.** When pressed on whether any consultation had taken place with local government about whether any corresponding changes should be made to the local government term length to avoid potential for election date clashes, the Member in charge told us that local government wanted to review the position “in the light of what the Senedd decides”. He added:

*“Clearly, there are views that this has a relevance to the local government situation, which was four years but also went to five years. Whether that would change in the future I think is probably a matter for further discussion. I've certainly got no mandate. It's not within my portfolio of policy decisions. All I think I can say on it is that, clearly, it is a relevant factor that is consequential upon this legislation, and I think those discussions will take place and a decision will need to be taken at some stage whether that should change or not. It's not a part of this Bill, but it clearly is something that will be considered in the round later on”.<sup>208</sup>*

**187.** In subsequent correspondence, the Member in charge confirmed that there are no plans to change the frequency of local government elections in Wales and, as the next clash is expected to be in 2042, there would be “a significant period of time in which to determine the most appropriate response”.<sup>209</sup>

## Unintended consequences

**188.** Addressing the proposal to revert to four-year terms, the Llywydd referred to the public appointments made by the Senedd and suggested that “there may be some coincidence of appointments that is avoided by five-year terms”.<sup>210</sup>

**189.** Siwan Davies expanded on this point:

*“[...] the term had changed from four to five and now we're back to four, so there are many statutory office holders who would have*

<sup>207</sup> RoP [para 52], 5 October 2023

<sup>208</sup> RoP [paras 63, 67 and 71], 5 October 2023

<sup>209</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>210</sup> RoP [para 242], 26 October 2023

*predated the five, but there are some—the auditor general, the standards commissioner, the remuneration board—who have terms that are not the same as Senedd terms and so there would be an impact in terms of when these people are appointed. But it would depend on the nature of the term of the individuals and whether, when the legislation creating those offices was put together, it was done on the basis of the Senedd terms, and it would depend on the officer holder in question. But it would have an impact, potentially, as to which Senedd and at what point in the Senedd term an office holder was to be appointed”.*<sup>211</sup>

**190.** In correspondence on 1 December 2023<sup>212</sup>, the Llywydd identified the public appointments that could be affected by the change in the duration of Senedd terms:

**Table 8 Public appointments made by the Senedd, the Senedd Commission, or His Majesty on the nomination of the Senedd**

<b>Appointment</b>	<b>Period of appointment</b>
Auditor General for Wales (in post since 21 July 2018)	A maximum of eight years
Chair and Non-Executive Members of the Wales Audit Office	No more than four years (for a maximum of two terms) <i>One Member ending their second term in June 2025</i> <sup>213</sup>
Public Services Ombudsman for Wales (in post since 1 April 2022)	Seven years
Commissioner for Standards (in post since 1 April 2021)	Six years
Members of the Independent Remuneration Board of the Senedd	Five years (for a maximum of two terms) <i>Two Members ending their second term in September 2025</i>

<sup>211</sup> RoP [para 243], 26 October 2023

<sup>212</sup> [Letter from the Llywydd](#), 1 December 2023

<sup>213</sup> [Appointment of the Non-Executive Members and Chair of the Wales Audit Office](#), September 2020

**191.** The Llywydd noted that the shorter duration of Senedd terms “will not necessarily be problematic” for the public appointments listed and went on to say:

*“The drivers which determine the length of their term in office in legislation will vary according to the functions of each of these public appointments and will have due regard to the effectiveness. The interaction between the duration of public appointments and parliamentary terms can be a consideration from the perspective of administering appointments and perceptions of independence of statutory officeholders and their ability to act without fear or favour. In addition, two of the category of offices relate specifically to Members of the Senedd, namely the Standards Commissioner and the Independent Remuneration Board”.<sup>214</sup>*

## Our view

**192.** We note the Member in charge’s rationale for moving to four-year terms and his justification for including the proposal in the Bill, despite it not featuring in any work on Senedd reform to date. It is disappointing that a substantive policy proposal has been brought forward by the Welsh Government without any prior consultation or engagement. It is also regrettable that the equality impact assessment does not explain why the Welsh Government does not consider that the proposed reduction will not have a differential impact on the basis of any protected characteristics.

**193.** Although we have received no compelling evidence to suggest that a move to four-year Senedd terms is necessary, we recognise that most contributors to our work support the increased accountability and focus that shorter electoral cycles would offer.

**194.** However, we are also mindful that more frequent Senedd elections will increase the likelihood of clashes with other elections. We agree with electoral administrators that the combination of elections—especially of reserved and devolved elections—must be avoided given the increasing divergence in electoral arrangements and the risks it presents to the administration of elections and voter confusion.

<sup>214</sup> [Letter from the Llywydd](#), 1 December 2023

**195.** We acknowledge that certain clashes are beyond the Welsh Government's control, however, the timing of local government elections is within its gift. The Member in charge has indicated that there are no immediate plans to change the frequency of local government elections in Wales and that the next scheduled clash in 2042 provides "a significant period of time in which to determine the most appropriate response".<sup>215</sup> The argument presented by the Welsh Government is that four-year Senedd terms sufficiently balance democratic renewal, voter fatigue and providing adequate time for an administration to implement its agenda. It is not clear why these principles would not be extended to local elections in Wales. We are not satisfied with the Member in charge's response on this point.

**Recommendation 9.** In his response to our report the Member in charge should explain the Welsh Government's rationale for not reducing the length of local government terms at the same time as it is reducing the length of Senedd terms. The Member in charge's response should also outline what plans the Welsh Government has to engage with local authorities in Wales on this point, and what legislative mechanisms would be required to make any changes to the length of local government terms.

**Recommendation 10.** Without delay, the Welsh Government should commence consultation on reducing the length of time between principal, town and community council elections from five to four years, with a view to making this change unless there is strong evidence to the contrary.

**196.** We note the additional costs identified by the Auditor General for Wales in relation to the increased frequency of undertaking his statutory responsibilities under the WFG(W) Act 2015, and the implications for his overall work programme. He highlighted similar effects of four-year terms on the work of the Future Generations Commissioner and the Welsh Government. These costs should be reflected in the RIA.

**Recommendation 11.** The Member in charge should, in consultation with the Auditor General for Wales and Future Generations Commissioner for Wales, undertake further work to estimate the cost implications of section 3 (frequency of ordinary general elections) on the requirements of the Well-being of Future Generations (Wales) Act 2015, and update the Regulatory Impact Assessment after Stage 2.

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<sup>215</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

**197.** We acknowledge the Llywydd's evidence regarding the potential impact that four-year terms may have on Senedd-related public appointments. Although we have not received evidence from others to suggest that it is likely to result in any significant issues, we recognise the importance of considering the length of Senedd terms when undertaking future public appointments.

**Recommendation 12.** The Senedd Commission should, as part of its Senedd Reform Programme, consider whether any changes are required to the processes for undertaking Senedd-led (or Senedd Commission-led) public appointments to account for more frequent electoral cycles.

**Recommendation 13.** In his response to our report the Member in charge should outline what consideration has been given to the term lengths for Welsh Government-led public appointments in light of the proposed move to four-year Senedd terms, particularly those for which there is agreement that the Senedd may hold pre-appointment hearings.

## 7. How Members are elected

### Background

#### Current arrangements

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**198.** Part 1 of the GOWA 2006 provides that Members are elected by a form of mixed member proportional representation:

- **Voting at general elections.** Section 6 provides that a person entitled to vote in a Senedd election has two votes: a vote for a candidate to be the constituency Member for the relevant constituency; and a regional vote i.e. a vote either for a list of candidates submitted by a registered political party or an individual regional candidate.
- **Voting systems.** Section 6(4) provides that constituency Members are returned by the simple majority system (also known as first past the post). Section 6(5) provides that regional Members are returned by the additional member system which ‘compensates’ political parties for any lack of proportionality in the constituency election results.
- **Candidates at general elections.** Provision in section 7 includes preventing a person from standing in more than one constituency or region at the relevant election<sup>216</sup>; and stipulation that a list of regional candidates submitted by a political party may comprise between one and twelve names.
- **Calculation of seat allocation figures.** Section 8 provides that the calculation of electoral region figures is conducted after it has been determined which constituency candidates are to be returned. Then, under the D’Hondt method, seat allocation figures are calculated on the basis of the following formula:<sup>217</sup>

*Number of votes won by a political party or individual candidate*

*(Number of constituency and regional seats won so far by the relevant political party + 1)*

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<sup>216</sup> A person may be both a constituency candidate and a regional candidate, but only if the relevant constituency is in the relevant region. A person standing as both a constituency candidate and a regional candidate must either be standing for the same registered political party in both capacities, or as an individual candidate in both capacities i.e. they may not stand as a constituency candidate for one party and as a regional candidate for another party.

<sup>217</sup> The divisor for an individual regional candidate will always be 1.



- **Allocation of seats to electoral region Members.** Section 9 makes provision for the allocation of seats to political parties or individual candidates on the basis of their seat allocation figures. The first seat in each constituency is allocated to the party or individual candidate with the highest seat allocation figure. The formula is then reapplied to take account of the seat that has been allocated, and the second seat is allocated to the party or individual candidate which then has the highest seat allocation figure. The process continues until all seats have been allocated. Section 9 also includes provision for resolving any ties in seat allocation figures.
- **Filling of vacancies.** Sections 10 and 11 make provision for filling vacancies that arise between general elections. Constituency vacancies are filled by a first past the post by-election; vacancies in regional seats held by political parties are filled by the next eligible person on the relevant party's list from the previous election (if the list is exhausted, the seat remains vacant until the next election); and vacancies in regional seats held by Members elected as individuals remain vacant until the next election.
- **Power of the Welsh Ministers to make provision about elections etc.** Section 13 gives Welsh Ministers powers to make provision by order in regard of the conduct of elections, the questioning of an election of a Member and the consequences of irregularities, and the return of a Member other than at an election. Such an order is subject to the affirmative scrutiny procedure. Currently, much of the detail about the conduct of Senedd elections is set out in Schedule 5 to the Conduct Order.

## Provision in the Bill

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**199.** Part 2 of the Bill provides for a new closed list electoral system using the D'Hondt electoral formula for the allocation of seats to political parties' lists (or individual candidates), and arrangements for the filling of vacant seats between general elections.

**200.** Section 8 substitutes new sections 6 to 9 of the GOWA 2006:

- **Voting at general elections.** New section 6 provides that a person entitled to vote in a Senedd election may vote either for a registered political party that has submitted a list of candidates for the relevant

constituency, or for a candidate who is not on a registered political party's list but who is standing as an individual candidate for the constituency.

- **Candidates at general elections.** New section 7 makes provision regarding the nomination of candidates. It specifies that political parties registered with the Electoral Commission may submit lists of between one and eight candidates, and that individuals may stand as individual candidates. It also prevents any person from standing on both a party's list and as an individual candidate, and prevents any person from being a candidate in more than one Senedd constituency at the same election.
- **Calculation of seat allocation figures.** New section 8 provides for the D'Hondt method to be used to calculate seat allocation figures for political parties and/or individual candidates. Under the D'Hondt method, seat allocation figures are calculated on the basis of the following formula:

$$\frac{\text{Number of votes won by a political party or individual candidate}}{(\text{Number of seats won so far by the relevant political party} + 1)}$$

- **Allocation of seats.** New section 9 makes provision for the allocation of seats to political parties or individual candidates on the basis of their seat allocation figures. The first seat in each constituency is allocated to the party or individual candidate with the highest seat allocation figure. The formula is then reapplied to take account of the seat that has been allocated, and the second seat is allocated to the party or individual candidate which then has the highest seat allocation figure. The process continues until all seats have been allocated. New section 9 also includes provision for resolving any ties in seat allocation figures.

**201.** Section 9 of the Bill amends the GOWA 2006 to:

- Remove what would become redundant provision in section 10 of the GOWA 2006 in respect of filling vacancies in the current 40 seats held by Members elected by first past the post.
- Substitute a new section 11 which largely replicates arrangements currently in place for the filling of the 20 regional seats held by Members elected by closed lists in the context of the current additional member system arrangements.

**202.** Section 10 makes consequential amendments to the GOWA 2006 and other legislation to reflect provision in the Bill.

### Closed lists

**203.** In their May 2022 position statement, the First Minister and the then leader of Plaid Cymru stated their view that the Senedd should be elected by closed lists, with seats allocated using D’Hondt.<sup>218</sup> The SPCSR subsequently recommended by majority<sup>219</sup> that the Senedd should be elected by closed lists, with seats allocated using D’Hondt.<sup>220</sup> The SPCSR acknowledged the impact of closed lists on the relationship between voters and Members, but concluded:

*“This majority<sup>221</sup> recognises that this system will not provide for the public to directly elect individual Members. However, it is considered that Members would ultimately still be accountable to the electorate, because their performance as individual Members will have a bearing upon the votes cast for their parties, which in turn will determine their likelihood of election”.<sup>222</sup>*

**204.** During our work we have heard about some potential advantages of closed lists (see Box 6). However, the majority (including those who acknowledged the potential advantages) expressed reservations and concerns about the disadvantages (see Box 7).

<sup>218</sup> Welsh Government, [Press release: A way forward for Senedd reform](#), 10 May 2022

<sup>219</sup> The report states in paragraph 83 that Jane Dodds MS “favoured the use of the Sainte-Laguë formula, considering that Sainte-Laguë would offer greater proportionality and more accurately reflect the votes cast for smaller parties [...] the rationale for the D’Hondt formula under the existing Senedd electoral system—which was essentially to correct disproportionality in the constituency election results—would not apply in a Senedd that did not contain a mix of single-member constituencies and lists”, and in paragraph 84 that Siân Gwenllïan “favoured the use of the Sainte-Laguë formula. However, in the spirit of achieving the supermajority required to deliver Senedd reform, she considered that allocating seats to parties via the D’Hondt formula would be acceptable and would be more proportional than the current system of election to the Senedd”.

<sup>220</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, recommendations 7 and 8

<sup>221</sup> The report states in paragraph 75 that Jane Dodds MS “did not favour the adoption of closed lists”, and in paragraph 76 that Siân Gwenllïan “favoured an open or flexible list proportional system [...] However in the spirit of achieving a negotiated set of outcomes on the supermajority required to deliver Senedd reform, she considered that a closed list proportional system would be acceptable”.

<sup>222</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, para 78

### **Box 6 Advantages of closed lists**

#### **Proportionality**

- Some suggested closed lists could result in more proportional outcomes than the current system, and therefore deliver a Senedd that was more representative of the views of the people and communities it serves.<sup>223</sup> Make Votes Matter said greater proportionality could improve governance, and result in “policy that’s more resistant to electoral volatility”.<sup>224</sup>
- Others cautioned that more proportional outcomes were not guaranteed. Professor Renwick concluded that historic voting patterns in Wales, six-Member constituencies and D’Hondt would mean only a “moderate” increase.<sup>225</sup>

#### **Voter understanding and familiarity**

- Closed lists are used to elect regional Members, providing a degree of voter familiarity. Closed list ballot papers are relatively simple for voters to complete.<sup>226</sup>
- But, academic research suggests that while voters report knowing how to complete regional ballot papers, there is widespread misunderstanding about how closed lists work in practice. Dr Larner explained that research in Wales and Scotland suggests that the misunderstanding that the current system is preferential is more common than the correct understanding of how seats are allocated.<sup>227</sup>

#### **Familiarity for electoral administrators**

- Electoral administrators said they and returning officers were familiar with closed list count and seat allocation processes. They described closed lists as “a tried and tested system in Wales”.<sup>228</sup>

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<sup>223</sup> For example, RoP [para 372], 26 October 2023; RoP [para 151], 9 November 2023

<sup>224</sup> RoP [para 193], 9 November 2023

<sup>225</sup> SCME(P)1 Alan Renwick

<sup>226</sup> For example, RoP [para 151], 9 November 2023; RoP [paras 61-63], 15 November 2023; SCME(P)12 Wales Electoral Coordination Board; SCME(P)18 Keith Bush

<sup>227</sup> RoP [paras 23-24], 9 November 2023; SCME(P)7 Jac Larner

<sup>228</sup> RoP [paras 61-63], 15 November 2023; SCME(P)12 Wales Electoral Coordination Board

### Role of political parties in the UK

- The Member in charge said a closed list system would enable the election of Members on the basis of “a clear common manifesto”.<sup>229</sup>
- Professor McAllister acknowledged that the power political parties have in closed list systems is consistent with the general culture of political party dominance in politics in the UK.<sup>230</sup>

### Ease of integration of gender quotas with vertical and horizontal placement criteria

- The Member in charge said closed lists would “make it easier to introduce a gender quota system”.<sup>231</sup>
- Others told us that closed lists would not, even with statutory gender quotas, guarantee a gender-balanced Senedd<sup>232</sup>, and that regardless of the electoral system there was more that political parties could already do within the current statutory framework to address participation and equality in selection processes.<sup>233</sup>
- Academic evidence suggests that the likelihood of voters discriminating against women candidates is declining.<sup>234</sup> Dr Lerner said this meant that the need for lists to be closed to contribute to gender-balanced outcomes “can be overplayed”.<sup>235</sup>

### Preferable to first past the post

- Some noted that closed lists were preferable to first past the post.<sup>236</sup>

<sup>229</sup> RoP [para 186], 13 December 2023

<sup>230</sup> RoP [paras 89-90], 26 October 2023

<sup>231</sup> RoP [para 131], 5 October 2023

<sup>232</sup> RoP [paras 198-199], 9 November 2023

<sup>233</sup> SCME(P)25 Unison

<sup>234</sup> For example, RoP [para 79], 26 October 2023; RoP [para 203], 9 November 2023

<sup>235</sup> RoP [paras 142-143], 9 November 2023

<sup>236</sup> SCME(P)25 Unison Cymru

### **Box 7 Disadvantages of closed lists**

#### Impact on voter choice

- Many, including people responding in a personal capacity, were concerned about the extent to which voter choice and autonomy would be reduced by closed lists.<sup>237</sup> WYPMs described being able to vote for an individual candidate as “an important principle”.<sup>238</sup>
- The EM states that part of the reason for disqualifying candidates who are not registered to vote in Wales is because voters will not be able to choose not to vote for them if they are on a party’s list<sup>239</sup>; the ERS Cymru described this as an argument against closed lists as there could be “endless reasons why an elector may not support the candidate at the top of a given party’s list but wish to support one or more of the candidates further down the list”.<sup>240</sup>

#### Link between representatives and voters

- Many contributors were concerned about the potential erosion of direct accountability between representatives and voters.<sup>241</sup>

#### Role of political parties

- Many expressed concerns about the balance of power between political parties and voters in closed list systems, and the extent to which political parties’ interests would be prioritised over those of voters.<sup>242</sup>
- Keith Bush noted that political parties are self-governing bodies, subject to statutory regulation only in respect of financial activities. He queried whether this is sustainable if parties’ influence over membership of the Senedd increased through closed lists. He also said that the majority of political parties are UK bodies “which, at most, decentralise decisions over some

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<sup>237</sup> For example, RoP [para 10], 9 November 2023; SCME(P)29 Welsh Local Government Association

<sup>238</sup> Reform Bill Committee, [Senedd Cymru \(Members and Elections\) Bill: Welsh Youth Parliament Focus Group](#), November 2023, para 4

<sup>239</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, paras 183-184

<sup>240</sup> SCME(P)5 Electoral Reform Society Cymru

<sup>241</sup> For example RoP [para 89], 26 October 2023; RoP [para 10], 9 November 2023; SCME(P)23 Institute of Welsh Affairs; Reform Bill Committee, [Senedd Cymru \(Members and Elections\) Bill: Welsh Youth Parliament Focus Group](#), November 2023, para 5

<sup>242</sup> For example, RoP [para 89], 26 October 2023; RoP [para 10], 9 November 2023; SCME(P)13 PCS Union; SCME(P)24 Flintshire County Council

matters [...] under purely internal arrangements”. He argued this was counter to the decentralisation principle underpinning devolution.<sup>243</sup>

### Impact on the capacity and effectiveness of the Senedd

- Some contributors said closed lists would reduce the effectiveness of the Senedd’s scrutiny. Dr James Gilmour said it could “reinforce the elected members’ dependence on their respective parties for their election and re-election as Senedd members and would diminish the influence of the local voters who the members are elected to represent”.<sup>244</sup> Professor Renwick similarly cautioned of the risk of “giving parties undue control over their MSs, thereby limiting the value of the expanded chamber”.<sup>245</sup>

### Impact on political discourse

- The ERS Cymru said that research showed that closed lists “can lead to voters selecting which party to vote for based solely on single, often divisive, issues. This was due to the overall party line on a topic being broadly applied to everyone standing under that list and the lack of consideration for individual candidate viewpoints, which may vary even within a specific party”.<sup>246</sup>
- Under current arrangements, voters can ‘split’ their votes by voting for one party’s constituency candidate and another party’s regional list; under a purely closed list system this will not be possible.<sup>247</sup> It was suggested that this could reduce opportunities to “foster the development of parties or individuals representing minority groups or viewpoints”.<sup>248</sup>

### Impact on descriptive diversity

- Voters will be unable to choose between a party’s candidates, removing their ability to prioritise candidates on the basis of demographic characteristics such as ethnicity or sex. They will have to rely on political parties’ prioritisation and ranking of candidates.<sup>249</sup> Professor McAllister told us voters could favour female candidates and candidates from ethnic minority backgrounds, but be unable to express this in a closed list system.<sup>250</sup>

<sup>243</sup> SCME(P)18 Keith Bush

<sup>244</sup> SCME(P)22 James Gilmour

<sup>245</sup> SCME(P)1 Alan Renwick

<sup>246</sup> SCME(P)5 Electoral Reform Society Cymru

<sup>247</sup> SCME(P)1 Alan Renwick

<sup>248</sup> SCME(P)18 Keith Bush

<sup>249</sup> SCME(P)4 Alistair Clark

<sup>250</sup> RoP [para 80], 26 October 2023



- The WEN Wales argued that parties' increased influence over the demographic makeup of the Senedd should be reflected in greater accountability over candidate selection and list ordering. It added that research showed that party selection, not voter choice, was the limiting factor on women's representation.<sup>251</sup>

### Impact on smaller political parties and independent candidates

- The system proposed in the Bill accommodates independent candidates, and party lists of one to eight candidates. The combination of D'Hondt and district magnitude of six results in an effective constituency-level threshold of around 12 per cent.<sup>252</sup> The Member in charge said this was a reasonable threshold for achieving representation in the Senedd.<sup>253</sup>
- Some contributors were concerned about the effect on smaller parties and independent candidates, as D'Hondt tends to favour larger political parties.<sup>254</sup> Flintshire County Council suggested this could be "undemocratic and could deter people from standing and voting in an election".<sup>255</sup> Some, including the ERS Cymru preferred the Sainte-Laguë electoral formula.<sup>256</sup>

### Disempowering candidates

- The IWA suggested that political party candidates selected lower down on parties' lists could decide not to stand if they felt they had little chance of being elected, or might decide to stand as independent candidates instead.<sup>257</sup>

**205.** When asked about closed lists, Professor McAllister said that the Expert Panel had rejected the system "very early on in our deliberations" on the basis that it failed to meet most of the principles the Panel had identified for assessing the suitability of electoral systems. She warned that implementation of closed lists could affect public support for the reforms:

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<sup>251</sup> SCME(P)10 Women's Equality Network Wales

<sup>252</sup> The effective threshold would operate at a constituency level i.e. a party achieving more than 12 per cent of the national vote share could fail to win any seats if it did not meet the effective threshold in any individual constituencies.

<sup>253</sup> RoP [paras 160 and 164], 5 October 2023

<sup>254</sup> For example, RoP [paras 89-90], 26 October 2023; SCME(P)5 Electoral Reform Society Cymru; SCME(P)29 Welsh Local Government Association

<sup>255</sup> SCME(P)24 Flintshire County Council

<sup>256</sup> SCME(P)5 Electoral Reform Society Cymru

<sup>257</sup> SCME(P)23 Institute of Welsh Affairs

*"[...] I think, if anything, when people are aware of the fact that they won't be able to actually choose a specific candidate, that that will be chosen for them, I think that could cause some real issues in terms of public support for any change".<sup>258</sup>*

**206.** Similarly, we heard from Professor Stirbu about the risks of reducing, or appearing to reduce, voter choice within the "broader context of political dissatisfaction".<sup>259</sup> Professor Clark described the system as "sub-optimal", and "a step back from where you are at the moment with the additional member system".<sup>260</sup> Jess Blair said that it was "fundamental" that voters had choice over who their elected representatives are, and that it would be "a real risk [...] to public satisfaction around democracy if the closed list plans were to go ahead".<sup>261</sup>

**207.** Professor Renwick went further, saying that in a context of political dissatisfaction and disillusionment, when politicians were often perceived as being out of touch, and where evidence shows that voters value their ability to exercise choice between individual candidates:

*"It just seems to me very, very clear that to remove that ability for voters to vote for individual candidates would create a significant danger of increasing public disaffection with the system. And when we're talking about a reform to increase the number of politicians, when that is the context, then the suggestion that you also then change the voting system in order to give voters less power to determine who the individual politicians filling those seats are seems to me really dangerous. I just would urge the committee and the Senedd as a whole to think very seriously about whether it really wants to go down that kind of path".<sup>262</sup>*

**208.** He added in written evidence that the introduction of closed lists would "put Wales out of line both with the British democratic tradition and with modern European democratic practice".<sup>263</sup>

<sup>258</sup> RoP [para 89], 26 October 2023

<sup>259</sup> RoP [para 372], 26 October 2023

<sup>260</sup> RoP [para 10], 9 November 2023

<sup>261</sup> RoP [para 150], 9 November 2023

<sup>262</sup> RoP [paras 67-71], 26 October 2023

<sup>263</sup> SCME(P)1 Alan Renwick

**209.** When asked about the impact on the balance of power between voters and political parties over who is elected to the Senedd, the Member in charge said that he did not consider the Bill represented much difference to current arrangements:

*“[...] just as we had with the 40 constituencies, where you have 40 candidates on that, and that's what the parties do—they're deciding who is going to be their candidate, and, at the end of the day, the electors have to decide they want it, they want that candidate, or they don't want that candidate. [...] But I don't think it changes the positions of the parties at all. If people don't want the candidates, the team of candidates, then they won't vote for them”.*<sup>264</sup>

**210.** On 13 December 2023, the Member in charge told us that his views on the democratic benefits of closed lists represented “just some of the thoughts I have as to the nature of the system”, but that “as far as I am concerned I've taken the recommendations that have come, converted them into legislation”. He added, however, that he disagreed with comments made by contributors about the disadvantages of closed lists, and sees the system as an improvement on the current arrangements.<sup>265</sup>

**211.** On 5 October 2023, we asked the Member in charge how, on the basis that he has said that his role is to facilitate the wishes of the Senedd, he would approach consideration of any proposals for alternative electoral systems. He reiterated that the Bill will require a supermajority of at least 40 Members:

*“As I say, at the end of the day, though, none of this happens unless there is a two-thirds majority. If there was a two-thirds majority that wanted a different system, then that is what would happen, but that would have to be changes that went through the process. As far as I understand the position at the moment, it seems clear that there is support for—there is a two-thirds majority of support—and satisfaction with this system”.*<sup>266</sup>

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<sup>264</sup> RoP [para 131], 5 October 2023

<sup>265</sup> RoP [para 187], 13 December 2023

<sup>266</sup> RoP [para 127], 5 October 2023

**212.** On 13 December 2023, he reiterated:

*“[...] first of all, I’m implementing the recommendations that have come through. In terms of, ‘Do I think that the system that is being recommended is much better than the existing system?’ The answer is I do think that, and I think that can be justified. There’ll be others with other perspectives who think a slightly different system or an open list system or a single transferable vote system or others are better systems. The reality of getting constitutional change through, though, is, in order to do that, there has to be a two-thirds majority, and the proposals that are there, that are within the statute, have that capability”.*<sup>267</sup>

**213.** In the next sections of this report we explore the two main alternative electoral systems proposed by contributors to our work:

- Flexible lists.
- Single transferable vote (“STV”).

## Flexible lists

**214.** Some contributors who raised reservations about closed lists advocated for open or flexible lists.<sup>268</sup> Professor Clark said that this would help to incorporate “some level of voter choice”. Political parties would be able to propose their preferred candidate ordering, and voters would be able to give a preference between candidates on parties’ lists.<sup>269</sup> Professor Renwick agreed that flexible lists would provide a balance between party control and voter control.<sup>270</sup> Dr Gilmour explained that with flexible lists the choice available to voters would be limited, although it would provide more scope than closed lists for voters to:

*“[...] decide the balance of representation of the differing views within that party, for example, on economic or social policy or in attitudes to coalition with other parties in the Senedd should a coalition be necessary or desirable”.*<sup>271</sup>

<sup>267</sup> RoP [para 231], 13 December 2023

<sup>268</sup> For example, SCME(P)24 Flintshire County Council, RoP [para 151], 9 November 2023

<sup>269</sup> SCME(P)4 Alistair Clark

<sup>270</sup> RoP [paras 73-75], 26 October 2023

<sup>271</sup> SCME(P)22 James Gilmour

**215.** While its preference is STV (as recommended by the Expert Panel and CSER), the ERS Cymru said that if STV could not be implemented as a result of a lack of time before the 2026 election, flexible lists would be preferable to closed lists. It noted that flexible lists are used in many European countries, and that some, such as Sweden, which have previously used closed lists have subsequently legislated to introduce flexibility. It described a system of the type recommended by the Expert Panel, in which voters may vote either for a party's list or for their preferred candidate, with candidates passing a certain personal vote threshold moving up the list order. It said that minimal amendments would be required to achieve this, but that the result would:

*"[...] improve voter choice, and give voters a mechanism to effectively deselect a candidate at the top of the list if they believe they were not doing a good job".<sup>272</sup>*

**216.** Professor Watkin also favoured the introduction of flexibility to maintain the link between voters and their representatives. He acknowledged that this could result in large or complex ballot papers, but did not consider that this should be a barrier, particularly if electronic voting were to be introduced in the future.<sup>273</sup>

**217.** When asked why the Bill did not introduce flexible lists, the Member in charge told us that the recommendation made by the SPCSR and endorsed by the Senedd had been closed lists.<sup>274</sup>

## **STV**

**218.** A significant number of contributors advocated for STV.<sup>275</sup> The ERS Cymru noted that STV had been recommended by the Expert Panel, the CSER, and two of the members of the SPCSR, as well as being the system that local authorities in Wales may choose to adopt in place of first past the post.<sup>276</sup> Keith Bush added that STV had been recommended by the Richard Commission in 2003, on the basis that it balanced proportionality and local accountability. He said:

*"Nothing has happened during the past 20 years to call into question the careful judgment of the Richard Commission as to the relative*

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<sup>272</sup> SCME(P)5 Electoral Reform Society Cymru

<sup>273</sup> SCME(P)21 Thomas Glyn Watkin

<sup>274</sup> RoP [para 193], 13 December 2023

<sup>275</sup> For example, SCME(P)4 Alistair Clark

<sup>276</sup> SCME(P)5 Electoral Reform Society Cymru

*merits of a closed party list system and the single transferable vote (STV) as methods of electing Members of the Senedd*".<sup>277</sup>

**219.** Dawn Bowden MS, the former CSER Chair, told us:

*"CSER recommended the introduction of the Single Transferable Vote (STV) electoral system. This is, of course, different to the closed list system recommended by the Special Purpose Committee and that has been provided for in the SCME Bill. However, the SCME Bill still provides for an electoral system that is not less proportional than the current system for Senedd elections. The SCME Bill goes some way towards meeting the principle of the CSER's recommendation, even if it does not deliver the system that was preferred by the CSER at the time of its work*".<sup>278</sup>

**220.** Professor Denis Mollison argued strongly in favour of STV, saying it enables voters to express preferential choices within and between parties.<sup>279</sup> The IWA similarly preferred STV on the basis of proportionality and the retention of the link between voters and their representatives.<sup>280</sup> Dr Gilmour agreed, suggesting that only STV could:

*"[...] provide the required proportional representation of the registered political parties and in addition, give PR within those parties, both as determined by the wishes of the voters. Uniquely, STV-PR would give voters a truly effective choice of representative, making all Senedd members more personally accountable to their constituents and thereby shifting the balance of power from the political parties to the voters. That would help to ensure that the elected members could hold the Government to account effectively in the unicameral Senedd*".<sup>281</sup>

**221.** Dr Gilmour added that the position in the Bill of filling vacancies arising between elections without by-elections could be maintained in STV, for example by using the "count again" approach in place in Malta and Tasmania. He said this

<sup>277</sup> SCME(P)18 Keith Bush

<sup>278</sup> [Letter from the former Chair of the Committee on Senedd Electoral Reform](#), 19 December 2023

<sup>279</sup> SCME(P)28 Denis Mollison

<sup>280</sup> SCME(P)23 Institute of Welsh Affairs

<sup>281</sup> SCME(P)22 James Gilmour

would require parties to put forward sufficient candidates at general elections, providing greater choice for voters and incentives for political parties to “broaden the diversity of the candidates within each team”.<sup>282</sup>

**222.** The complexity of translating votes into seats was acknowledged by many who advocated for the introduction of STV. Keith Bush said that this could be “overstated” as voters are only required to identify which candidates they want to vote for, and to order them according to their preferences. He noted that while allocating seats was “complex” the process could be done electronically. He added:

*“Whereas Welsh voters are currently unfamiliar with it, the same was true of Northern Irish voters before 1998 and of local government voters in Wales in the areas of any councils that opt to adopt STV instead of FPTP”.<sup>283</sup>*

**223.** In 2021 the Welsh Government published a report commissioned from academics at Oxford, Cardiff and Southampton Universities on the implementation of STV in Wales.<sup>284</sup> The report makes “specific recommendations for the design and implementation of a new STV electoral system for local elections in Wales”. The Welsh Government’s Local Government and Elections (Wales) Act 2021 and Local Elections (Principal Areas) (Single Transferable Vote) (Wales) Rules 2023 subsequently put in place the legislative framework to enable local authorities in Wales to adopt STV in place of first past the post (subject to a resolution of the relevant local authority agreed by a supermajority of at least two-thirds of the number of council seats). The legislation provides for vacancies arising between elections to be filled through by-elections.

### **A two-stage process?**

**224.** Some of those who expressed reservations about closed lists suggested that consideration could be given to a two-stage process of electoral reform, with closed lists used initially before moving to an alternative electoral system. Professor Stirbu said the Bill could be the beginning of the process, adding:

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<sup>282</sup> SCME(P)22 James Gilmour

<sup>283</sup> SCME(P)18 Keith Bush

<sup>284</sup> Devine, Daniel; Larner, Jac; Turnbull-Dugarte, Stuart and Jennings, Will, [Implementation of a Single Transferable Vote \(STV\) system for local elections in Wales](#), 2021



*"[...] if then there is a commitment to review these arrangements, then maybe this could be the start rather than the end of the journey".<sup>285</sup>*

**225.** Similarly, Alberto Smith of Make Votes Matter said that while flexible lists would be preferable, and should be achieved through the Bill if possible:

*"[...] it's really important to emphasise that the jump in the system in terms of voter understanding is quite small if we did add flexible lists later. And so that's not a barrier, and it doesn't fundamentally alter the intention of this legislation; it simply just bakes in an ability for the voter to select intra-party candidates, which we think is important for accountability".<sup>286</sup>*

**226.** Professor Renwick acknowledged that a two-stage process comprising closed lists in 2026 followed by further reform to take effect from 2030 could add to voter confusion, but said that for voters "none of these systems are actually terribly complicated".<sup>287</sup> He explained:

*"So, a shift from a closed list to a flexible list system is very easy to do. A shift from closed lists to STV is a little bit more, but actually not that much more, complicated. And similarly, you can do any of these systems in a system with six-Member districts. It makes a bit of a difference to the counting process, the ballot paper, that kind of thing, but it's not difficult to make that shift".<sup>288</sup>*

**227.** Emphasising his view that closed lists would represent progress, but acknowledging that the system has "ups and downs", the Member in charge said:

*"Whether, in its format, it is the exact system that would be maintained and adopted for future elections, well, that would obviously depend on the outcome of the statutory review that would take place after the 2026 elections, as to how this has all worked".<sup>289</sup>*

<sup>285</sup> RoP [para 372], 26 October 2023

<sup>286</sup> RoP [para 161], 9 November 2023

<sup>287</sup> RoP [para 96], 26 October 2023

<sup>288</sup> RoP [para 94], 26 October 2023

<sup>289</sup> RoP [para 186], 13 December 2023

**228.** However, Jess Blair did not favour a two-stage process. She acknowledged that a review conducted in accordance with section 19 of the Bill could provide a mechanism for further reform in future, but said:

*"[...] we would argue that it probably needs to be addressed now, that one election under a closed list is probably too many. I think there's a risk with a closed list that as soon as you run that election the public will disengage or they will feel disenfranchised by not having their say, so we would prefer that change to be made now, if possible".<sup>290</sup>*

## Filling vacant seats

**229.** Table 9 summarises mechanisms used to fill vacancies in closed list systems. The Bill would maintain the mechanisms currently applicable to the 20 regional seats, and repeal the provision for by-elections applicable to the current 40 constituency seats.

**Table 9 Mechanism for filling vacancies arising between elections in closed list systems**

Country	Mechanism for filling vacancy	Procedure when list is exhausted
<b>Wales/Scotland (regional Members)</b>	Next on list	Seat remains vacant
<b>Germany (Land Members only)</b>	Next on list	Seat remains vacant
<b>Kazakhstan</b>	Next on list	Seat remains vacant
<b>Moldova</b>	Next on list	Reassigned to the list with the next highest vote calculation
<b>Montenegro</b>	Next on list (subject to gender quota)	Reassigned to the list with the next highest vote calculation
<b>North Macedonia</b>	Next on list (subject to gender quota)	Additional election held
<b>Portugal</b>	Next on list	Seat remains vacant
<b>Serbia</b>	Next on list	Reassigned to the list with the next highest quotient
<b>Turkey</b>	By-election	

<sup>290</sup> RoP [para 153], 9 November 2023

**230.** The EM states that the Bill’s proposal to fill vacancies through lists rather than by-elections would reduce costs and the time between seats becoming vacant and the replacement Member being returned.<sup>291</sup> The saving would be around £140,000 per by-election, although this is not reflected in the cost estimates in the RIA as it is not possible to predict with any certainty the frequency with which by-elections might have needed to be called.<sup>292</sup>

**231.** The EM goes on to say that allowing political parties to submit lists of up to eight candidates will ensure that the Senedd “remains as fully constituted as possible”.<sup>293</sup> However, it does not explain why the Bill reduces the maximum list length from the current 12 (for the purposes of electing four Members per region) to eight (for the purposes of electing six Members per constituency). When asked about this, the Member in charge said that the current limit of twelve was intended to reflect the ability of candidates to stand for election in both a constituency and a region. He added that at previous Senedd elections parties had rarely stood more than eight candidates. Based on the rate of vacancies in previous Seneddau, the Member in charge said that in a 96-Member Senedd with a four year electoral term he would anticipate between four and five vacancies.<sup>294</sup>

**232.** Colin Everett described the provisions in the Bill as “workable”. He agreed with the Member in charge that the chances of lists being exhausted were “very, very slim” provided that parties stood sufficient candidates for each election and that candidates on parties’ lists remained eligible and willing to serve as Members. He acknowledged that there are different issues in relation to Members elected as independents:

*“My one concern throughout, as the Chair’s already mentioned, is where would independent candidates stand, and, of course, that might not be a feature so much of the Senedd, but it’s a very strong feature of local government, which we are versed in. And it is—if I can use a clumsy term—a slightly odd one out that, if an independent resigned or passed away, then it just remains vacant until the next*

<sup>291</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 138

<sup>292</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 531

<sup>293</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 131

<sup>294</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

*election. That could be within a month, theoretically, of the new Senedd being formed. That does seem a slight oddity, but I'm not sure we could suggest a system that could work with by-elections with regional lists that wouldn't be cumbersome or out of sync".<sup>295</sup>*

**233.** The Llywydd told us that while it might be unlikely for there to be many unfilled vacancies, the composition of the Senedd affects not only the representation of constituents but also matters such as the allocation of Plenary time, the distribution of committee chairs and the composition of Senedd committees. She did not offer a view on whether there should be any provision in the Bill to avoid seats remaining vacant if the outgoing Member were elected as an individual or a party's list has been exhausted, but said it was a matter that should be considered.<sup>296</sup>

**234.** Rhys ap Owen MS was concerned the potential for seats to be left vacant was “a blind spot that could be utilised by those who are against the Senedd”, with implications for representation and scrutiny capacity. He noted that in other proportional representation systems there are mechanisms for by-elections to be held. Suggesting that such by-elections would be “a rarity, only applying when a party-list is not active”, he argued that “we should not allow the potential for the under-representation of a part of the Welsh population purely because we fear the cost and hassle of electing a new representative”.<sup>297</sup> The IWA similarly called for provision for by-elections, suggesting that the absence of such provisions had implications for the Senedd's standards and accountability arrangements:

*“For example, if a Senedd Member resigns due to failing to meet the standards required, then is it fair and appropriate that the seat automatically goes to another candidate from the same party? In such instances, it would seem reasonable for a by-election to take place in that constituency, to establish whether the constituency still supports that seat being held by the party of the former Member. Not establishing such a mechanism weakens a structure which could influence accountability and transparency of Members to the electorate”.<sup>298</sup>*

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<sup>295</sup> RoP [paras 77-78], 15 November 2023

<sup>296</sup> RoP [para 255], 26 October 2023

<sup>297</sup> SCME(P)16 Rhys ab Owen

<sup>298</sup> SCME(P)23 Institute of Welsh Affairs

**235.** WYPMs offered different views; some favoured by-elections rather than filling vacancies through the list on the basis of how much could change between elections. Others felt that if lists had been exhausted parties should be allowed to nominate a person to take the seat to avoid it remaining vacant until the next election.<sup>299</sup>

**236.** The PCS Union was concerned that the lack of mechanisms to fill a vacancy arising if an independent Member vacated their seat could limit voter choice and exacerbate barriers for independent candidates (and smaller parties) if voters feel they must vote for larger parties instead of their preferred independent candidate:

*"[...] simply to ensure that their voice continues to be in the mix in a fair balance by means of someone vaguely of their political leaning sitting in every seat for their Constituency rather than leaving their voice depleted by means of an empty seat".<sup>300</sup>*

**237.** The Member in charge acknowledged that the Bill makes no provision for filling vacant seats for independent candidates or if there are no remaining candidates on the candidate list submitted by the party that won the vacant seat at the last election who are eligible or willing to take the seat.<sup>301</sup> He said that he thought it unlikely that there would be many vacancies that could not be filled:

*"Well, I think you've got to look at the likelihood of what may happen, but also that the system does operate in a particular way where you put forward a list of candidates. So, the current requirement would be a list of eight candidates for six places. I'm not sure there are any constituencies where any one party is going to win all six of those there. So, if you took it that a party that might win three or possibly even four at a stretch out of that, you've then got four reserved places in terms of the list system there. I think it's very unlikely that vacancies*

<sup>299</sup> Reform Bill Committee, *Senedd Cymru (Members and Elections) Bill: Welsh Youth Parliament Focus Group*, November 2023, paras 11-12

<sup>300</sup> SCME(P)13 PCS Union

<sup>301</sup> To be eligible to take up a seat, a candidate must have been included on the party's list at the last election and be willing to serve as a Member. They must still be a member of the relevant political party, and the party must not have indicated to the returning officer that the person's name is not to be notified to the PO (i.e. the party is able to block the return of a candidate or candidates who were on the list and who would otherwise be eligible to take up the seat).

*will occur. It is a possibility—I think it is a remote one—but it goes with the territory of an increased Senedd and this particular system”.<sup>302</sup>*

**238.** He added:

*“I know that there has been thought given to maybe there could be a by-election. Maybe a by-election could take place, for example, on a first-past-the-post system. Well, all that is possible. Of course, what it would do then is change the nature of the proportional representation system and the way in which people appear here and can have, obviously, significant impacts. It's probably something that benefits the larger parties within that system and so on. So, I think, for the moment, certainly my thinking is that what we've devised with an increase and with the remoteness of these possibilities, they are something that could remotely occur, but that's just one of the things that you have to accept as a consequence within the changes that are made”.<sup>303</sup>*

**239.** The ERS Cymru called for political parties to stand “a full list in each constituency if they can” in order to minimise the potential for vacancies to remain unfilled.<sup>304</sup> Jess Blair told us that she did not support by-elections in list systems, although she acknowledged that there are risks that seats held by independent Members would remain vacant:

*“Yes, it's definitely a risk. I think that there are similar provisions in Scotland, where seats are held vacant. It feels, on balance, like the appropriate response to take, but I totally accept that there are pluses and minuses with both approaches”.<sup>305</sup>*

## Ballot paper design

**240.** The ERS Cymru emphasised the importance of good ballot paper design and rigorous testing.<sup>306</sup>

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<sup>302</sup> RoP [para 171], 5 October 2023

<sup>303</sup> RoP [para 177], 13 December 2023

<sup>304</sup> SCME(P)5 Electoral Reform Society Cymru

<sup>305</sup> RoP [paras 231 and 233], 9 November 2023

<sup>306</sup> SCME(P)5 Electoral Reform Society Cymru

**241.** The design of ballot papers for use at Senedd elections is currently specified in the Conduct Order. The Welsh Government intends to review and consolidate changes to the Conduct Order prior to the 2026 election. The EM says that the consultation to inform this exercise will include “practical measures, such as the design of the ballot paper”.<sup>307</sup> Any changes to the design of the ballot paper would require prior consultation with the Electoral Commission, pursuant to section 7(1) of the Political Parties, Elections and Referendums Act 2000.

**242.** The Bill does not make any provision regarding ballot paper design, but the EM states:

*“The names of a party’s candidates will be included on the ballot, to give prospective candidates greater accountability than if only the party’s name was stated, as electors will be able to cast their vote in full knowledge of who could fill the seats from a party list”.*<sup>308</sup>

**243.** We asked the Member in charge why the Bill does not address this matter directly. He said:

*“Rules setting out what information needs to be set out on the Ballot Paper—and the design of the Ballot paper itself—will be set out in secondary legislation, as in previous elections. It is not therefore considered necessary to provide for this on the face of the Bill”.*<sup>309</sup>

## Implementing a new electoral system

### Experience of implementing a new electoral system in Scotland

**244.** The electoral system for local elections in Scotland was changed from first past the post to STV with effect from 2007. We asked Malcolm Burr, Convenor of the Electoral Management Board for Scotland (“the EMBS”), about the Scottish electoral community’s experience of implementing a new electoral system. While emphasising the need to keep the voter at the centre of any reforms, and the importance of structures such as electoral management boards in providing

<sup>307</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 342

<sup>308</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 133

<sup>309</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023



coordination, guidance and help for electoral administrators, he said there were three key things to avoid:

- Voter confusion.
- Overcomplexity for returning officers and electoral registration officers.
- A lack of understanding among candidates and agents.<sup>310</sup>

**245.** Noting the financial and capacity pressures on local government, Malcolm Burr stressed the need for effective voter education, and good information and materials for all electoral stakeholders, and careful planning.<sup>311</sup> We asked him about the impact of the variation in electoral franchise, boundaries and systems for the different elections administered by electoral administrators in Scotland. He acknowledged the potential complexity, especially as local and Scottish Parliament elections have fixed terms, but UK Parliament elections “can come at very short notice”, and added:

*“So, it is the quality of the materials, keeping in touch with your election teams, not just, of course, working with them at elections; that’s critical, that people realise at all times that they’re dealing with, in our case, three different systems”.*<sup>312</sup>

**246.** In written evidence, the EMBS said that multiple electoral systems made planning, training and administering more challenging, and introduced additional risks for electoral administrators and for candidates, agents and parties. It added:

*“These risks can all be managed but require robust governance frameworks and professional project planning to promote effective and well-managed systems”.*<sup>313</sup>

**247.** Malcolm Burr told us that since the first STV local election in Scotland in 2007, the level of rejected ballot papers has reduced in the majority of wards. He put this down to voter education. He explained that the majority of rejected ballots were rejected because voters had put multiple crosses on the paper rather

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<sup>310</sup> RoP [paras 331-333], 9 November 2023

<sup>311</sup> RoP [paras 333-334], 9 November 2023

<sup>312</sup> RoP [para 340], 9 November 2023

<sup>313</sup> SCME(P)14 Electoral Management Board for Scotland

than numbering their preferences in order.<sup>314</sup> Professor Clark said that his research showed that the level of spoiled ballots was at a similar level in Scotland as in Northern Ireland and the Republic of Ireland, both of which have used STV for much longer.<sup>315</sup>

### Implementing closed lists

**248.** The evidence we heard from electoral administrators is clear that closed lists are workable and capable of being implemented for the 2026 Senedd election.<sup>316</sup>

**249.** Clare Sim of the Association of Electoral Administrators (“the AEA”) said that the system proposed in the Bill would not require major changes. She explained:

*“So, it's a straightforward system, given how complex some forms of proportional representation can be to get people's heads around, the time frame that we have, and the other complexities that are coming in as well. So, having something that's familiar and understandable I think is a really helpful thing for the 2026 Senedd elections, mainly because of that familiarity. We are all used to that system, we know how it works and it shouldn't cause any additional burden in any respect because it's a tried and tested system in Wales.”<sup>317</sup>*

**250.** Colin Everett similarly said that, provided political parties adapted to the new system, the closed list system in the Bill would be “very easy to administrate”. He added that while precision and care was needed by electoral administrators:

*“[...] it is a very well administered and safe system that parties understand and we are familiar with it. I appreciate that the voting public might not be, but why would they be? It's a technical system for us to operate. [...] we're quite comfortable with the workability of the proposals.”<sup>318</sup>*

<sup>314</sup> RoP [paras 352-353], 9 November 2023

<sup>315</sup> RoP [para 29], 9 November 2023

<sup>316</sup> SCME(P)12 Wales Electoral Coordination Board

<sup>317</sup> RoP [paras 61-63], 15 November 2023

<sup>318</sup> RoP [paras 64-65], 15 November 2023

## Implementing alternative electoral systems

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**251.** The EMBS said key issues to consider in any adoption of STV would include:

- Focused training for electoral administrators.
- Steps to minimise spoilt ballot papers by ensuring that voters understand how to cast their vote, including effective public information and awareness campaigns.
- Consideration of whether to count electronically or manually. While electronic counting is used for elections and most by-elections for local authorities in Scotland, some returning officers count by-elections manually. Electronic counting offers speed and accuracy, and generates data on voting patterns of value to political groups and academics. The EMBS described electronic counting as “a major investment and a significant procurement exercise every five years”, but “an efficient option” when used across multiple counts.<sup>319</sup>

**252.** Professor Clark said that his research on the implementation of STV for local elections in Scotland suggested that “voters have little problem in adapting to STV as an electoral system”.<sup>320</sup> He added that the Welsh Government had already done “quite a lot” of preparatory work in relation to the STV as part of its programme of local government electoral reform. He said:

*“I don't see why there's any reason that couldn't be scaled up, to adapt to the 16 constituencies electing a six-Members model that this Bill actually presents”.<sup>321</sup>*

**253.** We asked electoral administrators to outline the extent of any training or guidance that would be required should the Bill be amended to provide for an alternative electoral system. Colin Everett told us that “a relatively small group of people” would require training. He said that the costs would not be “significant” (although could be greater for electoral systems that involved longer or more complex counts), but that it would be important to ensure that training included trials to give administrators opportunities to practice and build their experience. He added “everything is workable with good planning”.<sup>322</sup> Noting that the

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<sup>319</sup> SCME(P)14 Electoral Management Board for Scotland

<sup>320</sup> SCME(P)4 Alistair Clark

<sup>321</sup> RoP [para 30], 9 November 2023

<sup>322</sup> RoP [paras 72 and 75], 15 November 2023

implementation of any new system for the first time would be “a high risk”, he concluded:

*“I think any new system that was given to us we would make work. [...] And this all goes back to the principle that anything is decided early—the legislation is early, we can train people early, the guidance is early. So, I don't think anything would quite phase us, but we can only give you advice on what's before us at the moment or what we've done before, and Wales does have a very strong track record of delivering well, on time and without errors. So, we do show that we are adaptable, despite all the challenges that we have”.<sup>323</sup>*

**254.** Clare Sim agreed that training would be required for electoral administrators and count staff, but suggested this could give rise to “significant” costs, especially if the electoral system introduced was significantly different from the systems currently operated in Wales. She added that if STV were introduced, some expertise would be available from Northern Ireland and Scotland.<sup>324</sup> Recognising that local authorities could already decide to adopt STV, she said that if this were to happen, parties and the public would need to recognise that counts would take longer and be more complex for candidates and agents to understand. She concluded:

*“[...] it's all about timing. We don't have a view necessarily as to what the best system is. But all we'd ask for is that, whatever system is decided upon, there is sufficient time to provide that training to administrators to be able to deliver those elections safely, but also to make sure that the public are aware of what those changes are, what the implications are on them in terms of those changes to voting systems, as well as what they need to do with their ballot papers, to prevent any high levels of disenfranchisement from ballot papers being rejected at counts due to a lack of understanding of how that process works as well”.<sup>325</sup>*

<sup>323</sup> RoP [para 67], 15 November 2023

<sup>324</sup> RoP [para 80], 15 November 2023

<sup>325</sup> RoP [para 70], 15 November 2023

**255.** We heard less specific evidence about what would be involved in implementing a flexible list electoral system, although Professor Renwick described the flexible list system recommended by the Expert Panel as:

*"[...] a very simple system to operate. It's easy for voters to understand, easy for administrators to administer".<sup>326</sup>*

**256.** The Electoral Commission, when asked whether any changes to the electoral system in the Bill would affect the deliverability of the reforms for the 2026 election:

*"You will have heard from the WECB and the AEA, and there are pressures there, especially given the wider environment with other Bills and Acts that are affecting their work. But from the discussions that we've had with the WECB—and again, it goes back to having a strong community in Wales that works together very well—we understand that according to current timescales, new systems will be implementable".<sup>327</sup>*

### **Voter understanding and awareness**

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**257.** Many emphasised the importance, whatever new electoral system is implemented, of ensuring that there is effective communication to ensure that voters understand the changes and what it means for how they cast their votes.

**258.** The Electoral Commission said that any new electoral system could result in voter confusion, and noted that it planned to:

*"[...] run an awareness campaign to inform voters about the change to the electoral system, alongside our usual campaign to encourage people in Wales to register to vote".<sup>328</sup>*

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<sup>326</sup> RoP [paras 73-75], 26 October 2023

<sup>327</sup> RoP [para 49], 22 November 2023

<sup>328</sup> SCME(P)9 Electoral Commission

**259.** We asked about the extent to which voters currently understand how regional Members are elected. Rhydian Thomas said:

*“I think understanding has improved, and also we've seen a list system for European Parliament elections as well, although turnout was pretty low in many of those elections. I think public understanding has improved, but I think there's probably a fair bit of work to be done, especially ahead of this new election, with a focus on a list system, in actually explaining what their vote means and indeed how the individual candidates are elected as Members of the Senedd. So there's a piece of work that would need to be done around that, certainly”.*<sup>329</sup>

**260.** The EMBS similarly emphasised the importance of voter information campaigns being clear and effective, noting that they can be more challenging to deliver if there are multiple elections taking place on the same day with different electoral systems. It added that the impact of public awareness campaigns can be enhanced if local campaigns led by returning officers are aligned and coordinated with the Electoral Commission's national campaigns.<sup>330</sup>

**261.** Professor Clark referred to the proposals in the EEB(W) Bill for a voter information system, which he described as “a positive step” for “getting that information to voters at the time they need it, which is close to election day”.<sup>331</sup> He did not think there would be any significant risk of increased voter confusion if there was a different electoral system in place for Senedd elections than for other types of elections in Wales:

*“I think, just to reiterate that what is important is that public information campaigns, in the run-up to those elections, clearly explain what is required, as do polling station workers when people go to cast their vote. That works fairly well in Scotland; I don't see any reason why it shouldn't in Wales”.*<sup>332</sup>

**262.** The Member in charge of the Bill told us that the statutory electoral management board to be established within the DBCC by the EEB(W) Bill would take a lead in raising public awareness and communicating the changes to voters

<sup>329</sup> RoP [para 56], 22 November 2023

<sup>330</sup> SCME(P)14 Electoral Management Board for Scotland

<sup>331</sup> RoP [para 26], 9 November 2023

<sup>332</sup> RoP [paras 33-34], 9 November 2023

and the wider public.<sup>333</sup> Will Whiteley explained that the Welsh Government had established a delivery board to facilitate engagement with “key actors” in public awareness and communication. Partners represented on the board included the Senedd Commission, the Electoral Commission and electoral administrators. He added that the voter information platform to be established through the EEB(W) Bill would also provide a useful communication channel.<sup>334</sup>

## **Financial implications**

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**263.** In its written evidence, the Electoral Commission highlighted the implications for electoral administrators’ capacity and resourcing arising from the concurrent implementation of the SC(ME) Bill and the EEB(W) Bill. In addition to calling for effective planning and coordination, the Electoral Commission said:

*“The Welsh Government will also need to ensure that electoral administrators are properly supported to deliver these reforms, including ensuring that any changes that are required to electoral management software systems are developed and resourced”.*<sup>335</sup>

**264.** The WECB reiterated these points, stating that risks identified for the implementation of the legislation should be shared between the Welsh Government and electoral administrators, and that:

*“[...] any electoral reform initiated by Governments should be fully funded by the respective Government”.*<sup>336</sup>

**265.** Colin Everett said that electoral administrators had worked closely with the Welsh Government on the development of the financial estimates relating to the delivery of elections.<sup>337</sup> When asked who should be responsible for meeting the costs associated with any change to the Senedd’s electoral system, and whether they would expect the funding to come from the Welsh Government, he told us that the Welsh Government had not yet provided assurance that it would meet the costs, but:

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<sup>333</sup> RoP [para 244], 13 December 2023

<sup>334</sup> RoP [para 245], 13 December 2023

<sup>335</sup> SCME(P)9 Electoral Commission

<sup>336</sup> SCME(P)12 Wales Electoral Coordination Board

<sup>337</sup> RoP [para 8], 15 November 2023



*“We'd make that case, because our view is, rather like the UK Government with the Elections Act 2022 and what's changing for the system now, if a Government is introducing change, we would expect them to pay for the implementation, software, training, consequences. Training costs in the scheme, of your total RIA, are very, very small, so it might be a big increase in training, but it will still be a very small cost”.*<sup>338</sup>

## Our view

**266.** We note the Member in charge’s views that closed lists could deliver greater proportionality<sup>339</sup> than the current electoral system; that voters and electoral administrators in Wales already have a degree of familiarity with the closed lists used to elect regional Members; that closed lists could accommodate a gender quota that included placement criteria<sup>340</sup>; and that the Co-operation Agreement partners believe a Bill that includes this system could secure a supermajority at Stage 4.<sup>341</sup>

**267.** However, the evidence we have received suggests it would reduce voter choice, prioritise the influence and wishes of political parties over those of voters, erode Members’ links and accountability to their constituents, and introduce an effective electoral threshold of around 12 per cent at a constituency level, with potential implications for the electoral chances of individuals and smaller parties.

**268.** Getting the electoral system right is fundamental to the health of democracy in Wales. Having considered the evidence carefully, and notwithstanding the potential increase in proportionality that a closed list system could deliver, we have significant reservations about whether a Bill that implements closed lists necessarily represents a positive step forward for democracy in Wales.

**269.** It has not been part of our work to undertake detailed electoral system design. But, we have been assured by electoral administrators and the Electoral Commission that, providing the legislation is in place in sufficient time before the

<sup>338</sup> RoP [para 83], 15 November 2023

<sup>339</sup> The [Expert Panel on Assembly Electoral Reform](#) said in its report that the Gallagher Index of Disproportionality is the “internationally accepted measure of proportionality”. The Gallagher Index measures “the difference between the percentage of votes received and the percentage of seats a party gets in the resulting legislature” (para 11.08 and footnote 89).

<sup>340</sup> For example, a quota that included requirements for political parties to place women candidates at the top of their candidate lists, or which required parties to alternate women and men candidates.

<sup>341</sup> RoP [paras 185-187], 13 December 2023

2026 election in accordance with the Gould Principle, implementing an alternative electoral system would be achievable.

**270.** It is clear there are different preferences for electoral systems within the Senedd. It is also clear that if this Bill is to succeed, all Members must work together to reach a compromise that can command a supermajority. And, if that supermajority can be achieved, and the Bill is passed, all Members and the wider electoral community will need to work together to ensure that the people of Wales understand the new system and have confidence in the robustness and integrity of the next and subsequent Senedd elections.

**271.** Beyond our reservations about closed lists, we have not reached a Committee view on which electoral system should be used to elect Members of the Senedd. We note that the Expert Panel recommended either STV or a personal vote threshold-based flexible list. We note that the CSER recommended STV, and that STV is an option available to local government in Wales. Either of these systems could go some way towards addressing the concerns we have heard about voter choice, accountability and political party influence.

**272.** We urge the Member in charge to work with all political parties in the Senedd to reach agreement on amendments to the Bill that can ensure the electoral system provides greater voter choice and improved accountability for future Members to their electorates.

**Recommendation 14.** The Member in charge should work with all political parties represented in the Senedd to reach agreement on how the Bill could be amended at Stage 2 to ensure the electoral system provides greater voter choice and improved accountability for future Members to their electorates.

**273.** If the Bill progresses beyond Stage 1 as it stands, and the closed list system is retained, there are two aspects in particular that we believe need addressing:

- **Ballot papers.** If closed lists are retained, there should be provision on the face of the Bill that requires the inclusion on ballot papers of the names of candidates on parties' lists. We understand and accept that it is more appropriate for provision about the majority of the details of ballot paper design to be included in the Conduct Order, but our view is that the inclusion of candidates' names is an important matter of principle which should be elevated to the face of the Bill.
- **Vacancies.** It is unacceptable that the Bill does not include a mechanism for filling vacancies between elections that cannot be filled

either because the outgoing Member was elected as an independent or because the relevant party's candidate list has been exhausted. We understand the likelihood of such circumstances may be low. But, in our view, any risk of leaving a constituency underrepresented, or the Senedd's capacity diminished, is too great. We recognise that a seat being filled by a Member representing a different party from that represented by the outgoing Member will affect the proportionality of the Senedd as it stood after the last election. However, such an effect would likely be no greater than the effect on proportionality of leaving the seat vacant. A range of mechanisms could be considered, including first past the post or alternative vote by-elections, party nominations, or the allocation of the seat to the party or candidate that would have won the next seat at the time of the election. Each of these options has advantages and disadvantages; in our view the disadvantages are outweighed by the benefits of ensuring that vacancies can be filled. In addition, if it wished, the Senedd could include provision in Standing Orders to minimise the impact of any change in the Senedd's composition mid-term by, for example, providing that the allocation of Plenary time, the allocation of committee chairs and/or the composition of committee memberships is based on the makeup of the Senedd immediately following an election rather than tracking any changes in Members or political group membership.

**Recommendation 15.** The Member in charge should bring forward amendments at Stage 2 to include a requirement on the face of the Bill that ballot papers must include the names of all candidates, including the names of candidates standing on lists submitted by registered political parties.

**Recommendation 16.** The Member in charge should bring forward amendments at Stage 2 to ensure the Bill includes provision that enables all vacancies arising between elections to be filled, including vacancies left by Members elected as independents or by Members elected to represent parties whose candidate lists contain no further eligible or willing candidates.

**Recommendation 17.** The Business Committee should, as part of its procedural review prior to the 2026 election, consider whether any changes are required to Standing Orders, conventions or practices to mitigate the impact on Senedd business, including the committee system, either of vacancies that cannot be filled or of changes in the political composition of the Senedd between general elections.

**274.** Whichever electoral system is implemented, and whatever its detailed design, it is clear that the WECB (expected to be placed on a statutory footing within the DBCC by the EEB(W) Bill) will have a vital role to play in ensuring its successful implementation. This includes ensuring that public information and awareness-raising campaigns are effective, coordinated, and well-designed and delivered. Scrutiny of the proposals for a statutory electoral management board is a matter for the Local Government and Housing Committee, to whom the EEB(W) Bill has been referred. Our view is that it is vital that the transition is carefully planned and conducted to ensure the electoral management board is fully able to carry out its important role in implementing the SC(ME) Bill.

**275.** The delivery of effective public information and awareness-raising campaigns about the electoral reforms, and in particular the new electoral system, will require partners from across the electoral community to work together. This will include returning officers, local authorities, the Electoral Commission, the Welsh Government and the Senedd Commission (which has a power, although not a duty, to promote the current or pending electoral system and system of devolved government<sup>342</sup>). While we note the Member in charge's evidence that the statutory electoral management board will play a key role in leading and driving this activity, this is not necessarily clear from the Bill or the EM.

**Recommendation 18.** In his response to our report the Member in charge should provide clarity on who will be responsible for leading, driving and coordinating national and local public information and awareness-raising campaigns about the electoral reforms, and in particular the new electoral system.

**276.** It is also important that electoral administrators and returning officers have the financial and other support and resources they need to implement the provisions in the Bill.

**Recommendation 19.** The Member in charge should provide assurances to electoral administrators and returning officers that the Welsh Government will provide the financial and other support and resources required for the implementation of the provisions in the Bill.

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<sup>342</sup> Paragraph 5 of Schedule 2 to GOWA 2006.

## 8. Democracy and Boundary Commission Cymru

### Background

**277.** Part 3 of the Bill repurposes and renames the Local Democracy and Boundary Commission for Wales (“LDBCW”) to reflect its new responsibilities for undertaking boundary reviews of Senedd constituencies (discussed further in Chapter 9).

### Current arrangements

**278.** There are currently no legislative provisions or mechanisms in place for reviewing either the Senedd’s constituency boundaries or the apportionment of seats to Senedd constituencies and regions.

**279.** Before 2011, the Senedd’s boundaries were automatically linked to UK Parliament boundaries, with any changes made to UK Parliament boundaries being replicated in the Senedd’s boundaries. The Parliamentary Voting System and Constituencies Act 2011 severed this link.

**280.** In its 2017 report, the Expert Panel recommended that “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”.<sup>343</sup>

**281.** In its 2020 report, the CSER recommended that legislation should be introduced early in the Sixth Senedd to establish review arrangements for the Senedd’s boundaries, regardless of whether any other reforms were brought forward.<sup>344</sup>

**282.** The SPCSR subsequently recommended that:

- The power to review Senedd boundaries should be conferred on the LDBCW.

<sup>343</sup> Expert Panel on Assembly Electoral Reform, [A parliament that works for Wales: the report of the Expert Panel on Assembly Electoral Reform](#), November 2017, Recommendation 13

<sup>344</sup> Committee on Senedd Electoral Reform, [Senedd reform: the next steps](#), September 2020, Recommendation 8

- Legislation should reconstitute and rename the LDBCW to reflect its new functions, including appropriate adjustments to its configuration, governance, staffing and financial resourcing.<sup>345</sup>

## **Provision in the Bill**

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**283.** Section 11 amends the short title of the Local Government (Democracy) (Wales) Act 2013 to the ‘Democracy and Boundary Commission Cymru etc. Act 2013’ (“the DBCC etc. Act 2013”). This reflects the amendments being made to it by the Bill to extend its scope beyond local government.

**284.** Section 12 changes the name of the LDBCW to the ‘Democracy and Boundary Commission Cymru’ (“DBCC”). The EM says that renaming the body will “provide clarity and transparency on its revised functions”, and reflect the SPCSR’s recommendation.<sup>346</sup>

**285.** Section 13 makes provision to increase the number of members of the DBCC (including the chair and deputy chair) from a maximum of five to a maximum of nine. The EM states that this increase reflects the increases in the DBCC’s workload expected to result from both the Senedd boundary review work and the transfer of the Independent Remuneration Panel’s<sup>347</sup> (“the IRP”) functions (via the EEB(W) Bill).<sup>348</sup>

**286.** Section 14 provides for restrictions on persons who can be appointed as a member of the DBCC or employed as the DBCC’s chief executive “so that there remains impartiality when exercising its new Senedd constituency boundary review functions”.<sup>349</sup> Section 14(1) amends the current list of persons to change “Member of the National Assembly for Wales” to “Member of the Senedd”, and adds two new positions to the list of disqualifying offices: a member of Senedd

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<sup>345</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, recommendations 20 and 21

<sup>346</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 162-163

<sup>347</sup> The Independent Remuneration Panel is responsible for determining the level of payments to elected members of councils, national park authorities and fire and rescue authorities in Wales.

<sup>348</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 166

<sup>349</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, Explanatory Notes, para 34

staff (“Senedd Commission staff”) and a person appointed to assist a Member of the Senedd (“Members’ support staff”).

**287.** Section 15 inserts a new delegated power for the Welsh Ministers into the DBCC etc. Act 2013 to change the quorum for meetings of the DBCC. The quorum is currently set at three; the Bill provides that Welsh Ministers could change this by regulations, but not to a number less than three.

**288.** Section 16 amends the DBCC etc. Act 2013 in relation to the appointment of assistant commissioners to assist commissioners in the discharge of their duties. The amendments allow more than one person to be appointed as an assistant commissioner and makes provision equivalent to section 14(1) to amend the list of persons disqualified from being an assistant commissioner.

### Increasing the number of members of the DBCC

**289.** The EEB(W) Bill includes references to the new name of the DBCC, and places additional functions on that body that may rely on the increase in the number of members of the DBCC under section 13 of the SC(ME) Bill.

**290.** The EM notes that “economies of scales” arising from consolidating the functions of the IRP into the DBCC will mean the overall maximum number of commissioners and members will decrease, though this saving does not form part of the RIA for the SC(ME) Bill.<sup>350</sup>

**291.** We asked the Member in charge about the risks associated with including provisions relating to the DBCC in two Bills being scrutinised by the Senedd at the same time, with the potential for either to fall at either Stage 1 or Stage 4 (or be delayed by referral to the Supreme Court or a section 114 Order). While acknowledging that there are overlaps “that would need to be managed”, he said “one doesn't fall if the other falls”.<sup>351</sup>

**292.** The Member in charge told us he had not considered merging the SC(ME) Bill and the EEB(W) Bill into a single piece of legislation as the former was seen as “a constitutional reform” and the latter related to “a whole series of issues around how our elections actually operate”. He accepted that it was possible to combine the two Bills but said he favoured “smaller, more focused pieces of legislation”.<sup>352</sup>

<sup>350</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 167

<sup>351</sup> RoP [para 73], 5 October 2023

<sup>352</sup> RoP [para 78], 5 October 2023



**293.** Reflecting on the experience of taking on responsibility for Scottish Parliament electoral boundaries, Boundaries Scotland’s written evidence highlighted that “the scale of the work required in designing proposals, consulting effectively, analysing responses and so on falls largely on the staff”.<sup>353</sup> We explored the balance of work for commissioners and the secretariat further with the Chair of Boundaries Scotland, Professor Ailsa Henderson. She explained that the legislation in Scotland allows for a chair, deputy and up to four commissioners, though one commissioner position had typically been left vacant until responsibility for reviewing Scottish Parliament boundaries was transferred to Boundaries Scotland:

*“I think the commission needs to have a certain number of commissioners to do the job—but my point was just that there was no mention, given the expanded capacity for the democracy and boundary commission in Wales, of an enhanced capacity in terms of the secretariat, and so if there were to be significantly enhanced responsibilities, then secretariat size would, I think, become relevant”.*<sup>354</sup>

**294.** Professor Henderson told us that Boundaries Scotland has “managed well” with the number of commissioners it has. She explained that Boundaries Scotland deals with all of its functions (including finance, communications and performance) alongside its review work. While this may mean more frequent meetings, she felt that everyone’s involvement in all aspects of the work, including governance, was “no bad thing”.<sup>355</sup> When asked for a view on the number of additional commissioners who could be appointed under the Bill, she said:

*“Well, I think it would be for the Welsh commission to say what numbers they think are appropriate. What I’m saying is that, for our context, our numbers are fine”.*<sup>356</sup>

**295.** Addressing the maximum number of commissioners proposed in the Bill, Bev Smith, Chair of the LDBCW explained that the anticipated workload would be quite significant:

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<sup>353</sup> SCME(P)8 Boundaries Scotland

<sup>354</sup> RoP [paras 307-308], 9 November 2023

<sup>355</sup> RoP [para 358], 9 November 2023

<sup>356</sup> RoP [para 362], 9 November 2023

*"[...] I think what's important is that we have the right capacity, the right skills and the right resources to be able to deliver, especially within the tight timescales, perhaps, around phase 1 of the Senedd reform in particular. So, to make sure that we can manage community and electoral reviews and not impact that programme and take on the additional functions, I think the number is about right".<sup>357</sup>*

**296.** Shereen Williams, Chief Executive of the LDBCW said commissioners would be utilised differently compared to Scotland due to the additional functions of the Electoral Management Board and the IRP. She told us that a full cohort of commissioners would be required to undertake the DBCC's work.<sup>358</sup>

**297.** In correspondence on 8 November 2023, the Member in charge indicated that initial discussions with the LDBCW secretariat suggested that the initial pairing review for 2026 could potentially be undertaken within the existing complement of commissioners. In relation to the proposed increase to a maximum of nine commissioners, and the increase in the DBCC's workload in the longer term, the Member in charge said:

*"[...] this is a maximum number of Commissioners, and not a target. Any increase in the actual number of Commissioners will be subject to requirement, and a robust public appointment procedure".<sup>359</sup>*

## Appointment of commissioners

**298.** Professor Renwick stressed that the "automaticity" in the implementation of boundary reviews made the impartiality of the review process even more important, and suggested that safeguards against "undue political influence" were needed:

*"There's very little in the legislation currently about how the commissioners are appointed, and ensuring that there's some kind of independent process that produces either a candidate or a small list*

<sup>357</sup> RoP [para 149], 22 November 2023

<sup>358</sup> RoP [paras 155 and 162], 22 November 2023

<sup>359</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

*of candidates, from whom Ministers then choose, would seem to be appropriate*".<sup>360</sup>

**299.** Professor McAllister agreed that “there’s not enough substance around how the commission would be constituted” and emphasised the importance of territorial diversity in the appointment of new commissioners “because that’s the only way the public will feel that it has a legitimacy and integrity of its own”.<sup>361</sup> Bev Smith explained that during recruitment for commissioners the LDBCW focuses on knowledge and understanding of the community context of the areas to be reviewed:

*“When we ask a commissioner to do a review of an electoral boundary or a community boundary, in order to ensure that total independence, we don’t ask them to do a review of the area that they live in. What they need to have is an understanding of the context, the community context, of the area that they’re reviewing. That doesn’t mean to say they have to live within that area in order to do that. So, it is a balance, really, between analytical, communication and engagement skills, an ability to look at a lot of complex information and make a good, robust judgment on that evidence before them, and an understanding of the Welsh context, but not necessarily to live within the community that they’re reviewing”*.<sup>362</sup>

**300.** Professor Renwick also advised that commissioners should be appointed for non-renewable terms “so that there is no danger of their being inappropriately influenced in order to hope for re-election”.<sup>363</sup>

**301.** Professor Henderson told us the appointments to Boundaries Scotland are for a period of four years and renewable once, as is the case for appointments to the LDBCW. She explained the rationale for allowing commissioners to serve up to eight years:

*“My thinking on this relates to the cycle of electoral boundary reviews, and it depends how often those are happening, because, if they’re happening every eight years, it is possible then that, within one eight-year cycle, someone will be able to do one review and will not have an*

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<sup>360</sup> RoP [paras 104-105], 26 October 2023

<sup>361</sup> RoP [paras 108-109], 26 October 2023

<sup>362</sup> RoP [para 303], 22 November 2023

<sup>363</sup> RoP [para 106], 26 October 2023

*eight-year term in which they have undertaken no review work. Likewise, you're not likely to have multiple reviews during your eight-year term. But, if your term is four years, it's entirely possible that you would spend the entire four years on a boundary commission without ever having undertaken any review work".<sup>364</sup>*

**302.** When asked whether a single eight-year term would be better, Bev Smith felt the longer time commitment could deter people from applying and suggested that staggering appointments to avoid losing “skill sets all at once” was more important. She explained that the chair and one other commissioner would finish in 2026, with the remaining commissioners’ appointments ending in the spring of 2025, and said discussions were already underway with the Welsh Government to make sure there is continuity at a key point in the programme of work.<sup>365</sup>

### Disqualification from DBCC appointments

**303.** The Bill updates the current list of persons disqualified from being appointed as a commissioner, assistant commissioner or chief executive of the DBCC.

**304.** In written evidence, the PCS Union raised a number of issues with the additional persons disqualified from being appointed as a DBCC commissioner under sections 14(1)(b) and 14(2) of the Bill:

- As the Senedd does not employ staff directly, it believed the reference to “a member of the staff of Senedd Cymru” should be to “a member of the staff of the Senedd Commission”.
- It considered the term “appointed to assist a Member of the Senedd with carrying out the Member’s functions” to be a very loose definition which could encompass voluntary or party roles, and was concerned that it could have the unintended consequence of reducing the possible representation on the DBCC.
- It noted that disqualification applies on appointment to the DBCC and argued that provision should also be made for disqualification from the DBCC on appointment as “a member of the staff of Senedd Cymru” or a

<sup>364</sup> RoP [para 370], 9 November 2023

<sup>365</sup> RoP [paras 165 and 300], 22 November 2023

person “appointed to assist a Member of the Senedd with carrying out the Member’s functions”, given the conflict in holding both roles.<sup>366</sup>

**305.** Siwan Davies said the terminology used in sections 14(1)(b), 14(2) and 16(1)(b)(ii) to describe staff employed by the Senedd Commission and those employed as Members’ support staff could be clearer. She suggested it should be consistent with the terminology used in other legislation.<sup>367</sup> The Llywydd added:

*“[...] it's very important at all opportunities, in this legislation and elsewhere, that we are clear as to whether we're talking about non-political Commission staff or political staff working for Members. If there is any ambiguity in the Bill on that point, then I would welcome the committee in highlighting that in its work”.<sup>368</sup>*

**306.** Professor Renwick thought consideration should be given to disqualification on certain grounds, suggesting that a requirement that commissioners should not be members of political parties would be “a fairly obvious, basic starting point”.<sup>369</sup>

**307.** We heard that a candidate would not be disqualified from serving as a commissioner for Boundaries Scotland “by virtue of having belonged to a political party, or having served as an elected member of a legislature”. Professor Henderson explained that candidates would be asked about their engagement in politics as part of the public appointments process, and that this would be explored further if the candidate progressed to interview.<sup>370</sup>

**308.** Shereen Williams said that the list of office holders disqualified from appointment as members of the DBCC was “very comprehensive” and that additional changes to prevent an officeholder subsequently taking up a disqualifying office set out in the Bill and in the DBCC etc. Act 2013 “could be a slight overkill”.<sup>371</sup>

**309.** When asked why the Bill disqualifies Members’ support staff or Senedd Commission staff from appointment to the DBCC, but not civil servants or advisers to the Welsh Government, Shereen Williams described the existing public appointments process as “quite rigorous”. She said that she did not think there

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<sup>366</sup> SCME(P)13 Public and Commercial Services Union

<sup>367</sup> RoP [para 193], 26 October 2023

<sup>368</sup> RoP [para 195], 26 October 2023

<sup>369</sup> RoP [para 105], 26 October 2023

<sup>370</sup> RoP [paras 366 and 368], 9 November 2023

<sup>371</sup> RoP [paras 199 and 203], 22 November 2023

was a need to add civil servants or Welsh Government advisers to the list of persons disqualified from DBCC appointments.<sup>372</sup>

## Relationship with the Senedd

### Accountability

**310.** We sought the Llywydd’s views on what the relationship should be between the Senedd and the DBCC, given its new responsibilities for undertaking boundary reviews of Senedd constituencies:

*“Well, I would make the point that this commission is different to any other commission, in that it will have far more interest to political parties and potential politicians—direct interest in how constituencies are configured. So, the principle of retaining the total independence of the boundary commission from the party political process is quite an important principle to guard”.*<sup>373</sup>

**311.** Siwan Davies suggested that consideration could be given to accountability models elsewhere for boundary commissions, or to the arrangements in place for the accountability of the Electoral Commission to the Senedd’s Llywydd’s Committee (see Box 8).<sup>374</sup>

#### Box 8 Accountability models

##### Boundaries Scotland

- Boundaries Scotland is an advisory non-departmental public body sponsored and wholly funded by the Scottish Government. The chair and members of Boundaries Scotland are appointed by Scottish Ministers through the Scottish Government public appointment process. The Scottish Parliament plays no role in the appointment process. Boundaries Scotland’s three-year corporate plan is used to inform its budget allocation in the Scottish Government’s annual Budget Bill, which is scrutinised by the Scottish Parliament.<sup>375</sup> Boundaries Scotland produces an annual report summarising

<sup>372</sup> RoP [para 213], 22 November 2023

<sup>373</sup> RoP [para 273], 26 October 2023

<sup>374</sup> RoP [paras 283-284], 26 October 2023

<sup>375</sup> Local Government Boundary Commission for Scotland, [Corporate Plan 2021-2024](#)

key activities and outturn against its budget allocation.<sup>376</sup> The annual report is not laid before the Scottish Parliament.<sup>377</sup>

### UK Boundary Commissions

- There are four Boundary Commissions<sup>378</sup> each responsible for reviewing UK Parliament constituencies in a nation of the UK. They operate independently of the UK Government, as advisory non-departmental public bodies. The ex-officio chair of each Commission is the Speaker of the House of Commons who, by convention, plays no role in the proceedings of any Commission. The deputy chairs must be High Court Judges, as their independent footing ensures the impartiality and fairness of the review process.<sup>379</sup> Corporate governance and accountability for proper and efficient use of public money is overseen by the UK Government sponsor department.

### Electoral Commission

- The Llywydd's Committee, which must be chaired by either the PO or the DPO, is responsible for scrutinising the Electoral Commission's financial estimates (paid for from the Welsh Consolidated Fund) and five-year plans as they relate to the exercise of the Electoral Commission's functions in relation to devolved Welsh elections and referendums.<sup>380</sup>

**312.** When asked whether the DBCC should be subject to similar lines of accountability to the Senedd as the Electoral Commission, Shereen Williams said:

*"I appreciate that a lot of reform that's coming through the Bill mirrors what's in the Parliamentary Constituencies Act 2020. We currently don't have that kind of relationship with the UK Parliament. Our relationship as Boundary Commission for Wales is with our sponsor division, and we submit our reports directly to the Minister of State and the Speaker of the House of Commons. And we provide updates that way. So, that is the current programme of engagement we have with that, and if it is in the interest of transparency and*

<sup>376</sup> Boundaries Scotland, [Annual Report 2021-22](#)

<sup>377</sup> [Additional information provided by Boundaries Scotland following the evidence session on 9 November 2023](#)

<sup>378</sup> Boundaries Commission for England, Boundary Commission for Wales, Boundary Commission for Scotland and Boundary Commission for Northern Ireland

<sup>379</sup> House of Commons Library, [Constituency boundary reviews and the number of MPs, November 2023](#)

<sup>380</sup> Welsh Parliament, [Scrutiny of the Electoral Commission's financial estimate for 2024-25, November 2023](#)



*governance for that to change, when this new Bill comes through, then we'd be happy to take that on board".<sup>381</sup>*

**313.** The Member in charge said the existing requirement in section 20 of the DBCC etc. Act 2013 for the DBCC to submit an annual report to the Welsh Ministers, and for the Welsh Ministers to publish the report and lay it before the Senedd, would provide a mechanism for the Senedd to debate how the DBCC was functioning. He suggested that going any further would “impinge upon the independence of the [DBCC]”.<sup>382</sup>

**314.** In addition to protections against any potential political interference or influence from the Senedd, we pressed the Member in charge on the need to ensure that there is no political interference or influence from the Welsh Government. He told us:

*“[...] if the Senedd were to make suggestions that there were things that it was deeply unhappy with in terms of how the system had been operating, those would have to be taken into account. It depends what they are, what the format would be, what the mechanism would be, whether it's through primary legislation or whether there were other means of things being done, but the views of this committee and the views of whatever would come from the Senedd would obviously be of massive importance. I take the ownership of these systems as being ultimately within the Senedd itself”.<sup>383</sup>*

## Pre-appointment hearings

**315.** In correspondence on 8 November 2023, the Member in charge said that the DBCC commissioners and chair would be appointed through the public appointments process through which the LDBCW commissioners and chair have previously been appointed. He added that the Public Appointments Commissioner provides independent assurance that such appointments are made in line with the Code of Practice for Public Appointments.<sup>384</sup>

**316.** As part of the public appointments process that is followed for a number of Welsh Government-made appointments—such as the chairs of cultural bodies

<sup>381</sup> RoP [para 187], 22 November 2023

<sup>382</sup> RoP [para 78], 13 December 2023

<sup>383</sup> RoP [para 84], 13 December 2023

<sup>384</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

and health boards, and the Commissioners for Children, Older People, the Welsh Language and Future Generations—Senedd committees may conduct pre-appointment hearings. When asked whether there should be a pre-appointment hearing for the chair of the DBCC, the Llywydd suggested that it was “a matter for some consideration, given that it’s a Welsh Government appointee”.<sup>385</sup>

**317.** Stressing the importance of the process being independent, robust, and transparent, Bev Smith said she would be open to such hearings being held as part of the appointments process for the chair of the DBCC.<sup>386</sup>

**318.** The Member in charge also indicated his willingness to consider pre-appointment hearings being held for the position of chair:

*“[...] that’s something I think we would be very interested in giving consideration to. Don’t forget, pre-appointment scrutiny can also be a form of political interference as well, so it’s a question as to how it operates and what its purpose is—the scope and the framework within which it actually takes place as well”.*<sup>387</sup>

## **Relationship with other electoral partners**

**319.** In the absence of a statutory body, the WECB currently undertakes the strategic co-ordination of electoral administration in Wales on a voluntary basis, supported by the Electoral Commission.

**320.** The EEB(W) Bill confers the functions of an Electoral Management Board for Wales (“EMBW”) on the DBCC. The EMBW will take responsibility for oversight of the coordination and administration of devolved elections, collaboration with returning officers and electoral registration officers, and advising Welsh Ministers on issues related to the democratic health of the nation.<sup>388</sup>

**321.** Malcolm Burr told us that the EMBS had a very close relationship with Boundaries Scotland, which includes the secretary having a standing invitation to meetings of the EMBS as one of its advisers.<sup>389</sup> However, reflecting on the proposal

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<sup>385</sup> RoP [para 274], 26 October 2023

<sup>386</sup> RoP [para 196], 22 November 2023

<sup>387</sup> RoP [para 82], 13 December 2023

<sup>388</sup> Welsh Government, [Elections and Elected Bodies \(Wales\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), October 2023, para 1.2

<sup>389</sup> RoP [para 397], 9 November 2023

for the EMBW to be established within the DBCC, Malcolm Burr told us that part of the EMBS's strength was its independence:

*“Boundaries Scotland is one of our advisory group, like the electoral registration committee of the assessors, like the Association of Electoral Administrators, SOLAR, the Society of Local Authority Lawyers and Administrators in Scotland, the Scottish and UK Governments and the commission. You know, we work with all of these bodies, but I don’t immediately see it as—. I wouldn’t be recommending that we become part of any one of them or merged with any one of them. I don’t think that’s essential. But I don’t in any way suggest that it would compromise the independence of the EMB were that to happen”.*<sup>390</sup>

**322.** This view was shared by Professor Henderson, who said it was “absolutely essential that voters trust the EMB and trust the administration of elections”. She cautioned that negative press relating to boundary reviews could become associated with those administering elections, and risk undermining public faith in the electoral process.<sup>391</sup>

**323.** Dame Elan Closs Stephens, Electoral Commissioner for Wales, felt the “very different remits” of the two bodies could lead to confusion and expressed a preference for them to be standalone bodies.<sup>392</sup>

**324.** Clare Sim also expressed concerns about the proposal to confer the functions of the EMBW on the DBCC. She highlighted that the success of the EMBS relies “heavily on the expertise of highly knowledgeable and long-term electoral administrators”, and added:

*“[...] it’s making sure that the boundary commission going forward have that level of expertise that understands the complexity of electoral registration, not only in the Senedd and local government elections in Wales, but the bigger picture of the sort of increase in divergence issues that are becoming one of the biggest issues for administrators in Wales at the moment, and having that awareness to be able to plan that programme of work, to be able to review*

<sup>390</sup> RoP [para 414], 9 November 2023

<sup>391</sup> RoP [para 418], 9 November 2023

<sup>392</sup> RoP [para 79], 22 November 2023

*things effectively and carry on in the direction that the Wales Electoral Coordination Board have*".<sup>393</sup>

**325.** In contrast, Colin Everett was “entirely comfortable” with the proposal and felt the EMBW would “do just as well” as the WECEB, provided it has the expertise, integrity and is “given a degree of independence”. He advised that detailed discussions “about how to make it work” were underway with the LDCEW, and told us:

*“If I honestly thought, having set this up and run it for seven years, that that proposal would in any way curtail our ability to operate properly, I would tell you. I don't, provided the commission adopt it in the way that we're recommending in practice*”.<sup>394</sup>

**326.** We asked Bev Smith whether she perceived there to be any potential for conflict of interest if the new EMBW is embedded within the DBCC:

*“I don't, as long as we've got the governance and the clarity of roles and responsibilities clear, and that's a piece of work that we're working with the sponsorship body on now, so making sure that we understand where the decisions are being made, where the accountability and responsibility for those decisions sit, and also that we make sure that the commissioners that sit on the electoral management board have the right skill set to provide that level of support, and that the organisation as a whole has the governance and audit function and the right level of secretariat support for that electoral management board*”.<sup>395</sup>

**327.** Addressing the decision to include the functions of the EMBW within the DBCC rather than creating a separate statutory body, the Member in charge referred to the expense and bureaucracy being outweighed by operating “very clearly defined roles” within a single body.<sup>396</sup>

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<sup>393</sup> RoP [para 168], 15 November 2023

<sup>394</sup> RoP [paras 160 and 162], 15 November 2023

<sup>395</sup> RoP [para 153], 22 November 2023

<sup>396</sup> RoP [para 70], 13 December 2023

## Name of the DBCC

**328.** Professor Clark suggested renaming the LDBCW to ‘Boundary Commission Cymru’ as he felt ‘Democracy and Boundary Commission Cymru’ risked “a degree of confusion with the Electoral Commission”.<sup>397</sup>

**329.** However, Bev Smith told us the name proposed in the Bill captures the wider role of the organisation:

*“[...] I think it adequately reflects perhaps a shifting role in terms of that oversight of democratic health—so, looking in particular at how community electoral boundaries and Senedd boundaries contribute to it, but also picking up that remuneration element in terms of whether that's a barrier or an opportunity to help additional standing of councillors. And then, the third element, really, around that electoral management board, I think it provides that wider scope to look at democratic health across all of those strands and perhaps provide trends and analysis back to Ministers to be able to look at whether we need to shift or change any policy”.<sup>398</sup>*

## Our view

**330.** We are content with the functions for Senedd constituency boundary reviews being conferred on the repurposed LDBCW, and support it being renamed to reflect its broader role.

**331.** We recognise that the proposed increase in the maximum number of commissioners takes into account the functions conferred on the DBCC by the EEB(W) Bill, in addition to the functions for reviewing Senedd constituency boundaries. Nevertheless, we have received conflicting evidence on the number of commissioners that will be required to support the new functions. While the Member in charge suggested that the limit was not a target, and indicated that the initial pairing review could potentially be undertaken within the existing complement of commissioners, it is clear to us that the LDBCW plans to recruit the maximum number of commissioners from the outset. This contrasts with the evidence we have heard that Boundaries Scotland has managed within its existing limit of six members since gaining responsibility for reviewing Scottish Parliament boundaries, placing the emphasis instead on a well-resourced

<sup>397</sup> RoP [para 109], 9 November 2023

<sup>398</sup> RoP [para 143], 22 November 2023

secretariat. We consider the proposed membership limit of nine to be high. It is vital that decisions taken to recruit additional commissioners must be evidence-based and supported by sufficient investment in the secretariat.

**Recommendation 20.** The Member in charge should bring forward amendments at Stage 2 to new section 4(1)(c) to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by section 13 of the Bill to reduce the number of members (other than the chair and deputy chair) of the Democracy and Boundary Commission Cymru to no more than five.

**Recommendation 21.** The Member in charge should undertake further work with the Local Democracy and Boundary Commission for Wales to:

- Establish the number of additional commissioners to be recruited (including the specific skills, responsibilities and timing of such appointments).
- Ensure that consideration is given to the geographical diversity of commissioners.
- Identify any requirements for additional secretariat support.

**332.** We note that in line with the provisions of the LG(D)(W) Act 2013 and the Public Appointments Order in Council 2023, the DBCC chair, deputy chair, commissioners and chief executive will be appointed through the public appointments process, as has been the case for previous LDBCW appointments. We consider it to be vital that this continues, and believe the Bill should be amended to this effect.

**Recommendation 22.** The Member in charge should bring forward amendments at Stage 2 to provide on the face of the Bill that appointments to the Democracy and Boundary Commission Cymru roles of chair, deputy chair, commissioners and chief executive must be conducted through the public appointments process.

**333.** We are content for DBCC commissioners to be appointed for a four-year term that can be renewed once, as is currently the case for appointments to the LDBCW and Boundaries Scotland. This will facilitate the staggering of appointments to guard against the loss of significant expertise at the same time, particularly as reviews will only take place once in each eight-year period.

**334.** We believe that it is important that there is no politicisation, or perception of politicisation, of appointments to key roles within the DBCC, including chair, deputy chair, commissioner, assistant commissioner and chief executive. For example, we do not believe it would be appropriate for someone employed by the Welsh Government as a civil servant or a special adviser or by a political party in any context to hold one of these roles. In addition, it is important that safeguards against political interference and activity continue while the individuals are in post.

**Recommendation 23.** The Member in charge should bring forward amendments at Stage 2 to extend the list of persons disqualified from appointment to the Democracy and Boundary Commission Cymru to other persons employed in Welsh Government or party political roles, and to ensure there are similarly robust safeguards in place to prohibit party political activity while in post.

**335.** In relation to the additional persons disqualified from appointment to the DBCC, we note the concerns expressed by the Senedd Commission and the PCS Union regarding the ambiguity of the term “a member of the staff of Senedd Cymru” in sections 14(1)(b), 14(2) and 16(1)(b)(ii) of the Bill. The same terminology is also proposed in relation to disqualification from the EMBW, inserted by section 1(2) of the EEB(W) Bill. We agree that the wording could benefit from greater clarity, particularly as the DBCC etc Act 2013 does not include definitions of either this term, or the term “a person appointed to assist a Member of the Senedd with the carrying out of the Member’s functions”.

**Recommendation 24.** The Member in charge should consider whether the terms “a member of the staff of Senedd Cymru” and “a person appointed to assist a Member of the Senedd with the carrying out of the Member’s functions” to be inserted into the renamed Democracy and Boundary Commission Cymru etc. Act 2013 by sections 14(1)(b), 14(2) and 16(1)(b)(ii) of the Bill are sufficiently clear and consistent with the terminology used in other legislation.

**336.** We recognise that the DBCC’s annual report will provide one method by which the Senedd and its committees can, if they wish, hold the DBCC to account. The Senedd will need to consider whether this mechanism, which currently consists only of a requirement for the report to be published and laid, provides sufficient and appropriate accountability arrangements that balance:

- Respect for the DBCC’s independence.



- Assurance that its ongoing governance and operation are effective.
- Transparency in the appointment process.

**337.** It is not our role to determine the design of such arrangements. However, the accountability of the Electoral Commission to the Llywydd's Committee is a model that should be considered. We also firmly believe that a pre-appointment hearing for the positions of chair and chief executive would provide enhanced transparency and credibility to the appointment process. This should be reflected in updates to the existing protocol on pre-appointment hearings agreed between the Llywydd and the First Minister.

**Recommendation 25.** The Business Committee should, as part of its procedural review prior to the 2026 election, consider appropriate models of accountability for the Democracy and Boundary Commission Cymru in respect of its functions in relation to Senedd constituency boundaries, including the potential use of the Llywydd's Committee. The accountability model put in place should include the option for a relevant Senedd committee, if it wishes to do so, to hold pre-appointment hearings as part of the processes for appointing the chair and chief executive of the Democracy and Boundary Commission Cymru.

**338.** As the SC(ME) Bill and the EEB(W) Bill both include provision regarding the repurposing and reconfiguration of the DBCC, it is inevitable that our scrutiny has touched on the proposal in the EEB(W) Bill to establish an EMBW. Contributors to our work were divided on the appropriateness of the EMBW sitting within the DBCC, rather than being established as a standalone body. We have therefore drawn the evidence we have gathered on this matter to the attention of the Local Government and Housing Committee, which is currently considering the general principles of the EEB(W) Bill.<sup>399</sup>

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<sup>399</sup> [Letter to the Local Government and Housing Committee](#), 16 November 2023

## 9. Senedd Cymru constituencies and boundary reviews

### Background

#### Current arrangements

**339.** As noted above, since 2011 there have been no mechanisms for reviewing the Senedd's constituency or regional boundaries. In 2012, the UK Government consulted on potential changes to the Senedd's boundaries and boundary review arrangements.<sup>400</sup> However, it later announced that the abandonment of the 2013 UK Parliament boundary review meant that there was "no longer an immediate need to re-establish the link between the two sets of constituencies" and that it did not intend to proceed with any legislative proposals.<sup>401</sup>

#### Provision in the Bill

**340.** Section 2 of the Bill replaces section 2 of the GOWA 2006 (which relates to Senedd constituencies and electoral regions) with a new section 2 to provide that:

- Senedd constituencies are the constituencies specified in regulations made under section 49J of the DBCC etc. Act 2013 (inserted by Schedule 2 to the Bill).<sup>402</sup>
- Until such time as regulations under section 49J are in force, references in the new section 2 of the GOWA 2006 to be inserted by section 2 of the Bill are to be read as references to regulations made under paragraph 9 of Schedule 1 to the Bill.

**341.** Part 4 of the Bill introduces Schedules 1 and 2. Schedule 1 makes provision about Senedd constituencies for the purposes of the first general election to be held after 6 April 2026, in particular the role of the DBCC in determining what the constituencies are to be (and what they are to be called). Schedule 2 makes

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<sup>400</sup> UK Government, [Green Paper on future electoral arrangements for the National Assembly for Wales](#), May 2012

<sup>401</sup> Wales Office, [Future electoral arrangements for the National Assembly for Wales](#), March 2013

<sup>402</sup> This Act is currently known as the LG(D)(W) Act 2013. Section 11 of the Bill will rename it to the Democracy and Boundary Commission Cymru etc. Act 2013. See chapter 8 of this report for further discussion of section 11.

similar provision about Senedd constituencies for the purposes of general elections to be held after 1 April 2030.<sup>403</sup>

## Constituency boundary model

### Rationale for the boundary model

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**342.** In its 2017 report, the Expert Panel explored the potential to use existing or anticipated electoral or administrative areas as the basis for Senedd boundaries. It recommended models based on either the existing 40 Senedd constituencies or the 22 local authority areas in Wales. At the time, the 2018 UK Parliament boundary review (which was later abandoned) had published proposals for 29 potential UK Parliament constituencies. The Panel concluded that basing Senedd constituencies on UK Parliament constituencies would reduce flexibility and leave Senedd constituencies vulnerable to change as a result of “demographic or other changes elsewhere in the UK, rather than factors directly relevant to Wales”.<sup>404</sup>

**343.** In their May 2022 position statement, the First Minister and the then leader of Plaid Cymru said:

- Constituencies for the 2026 Senedd election should be formed by pairing the 32 UK Parliament constituencies proposed by the 2023 Parliament Review.
- A full boundary review should then be undertaken, with its recommendations taking effect from the first election after 2026.<sup>405</sup>

**344.** These proposals were reflected in the recommendations agreed by majority<sup>406</sup> by the SPCSR.<sup>407</sup> The Bill gives effect to them.

**345.** We heard some calls for alternative constituency boundary models (see Box 9), but the majority of the organisations and professionals who contributed to our work broadly supported the proposals in the Bill.

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<sup>403</sup> The expression of the dates of the anticipated Senedd elections in this way, rather than by calculation of the specific expected date according to section 3(1) of the GOWA 2006 as amended by section 3 of the Bill, is to take account of the powers held by the Llywydd and the Welsh Ministers to vary the date of the election in certain circumstances.

<sup>404</sup> Expert Panel on Assembly Electoral Reform, [A parliament that works for Wales: the report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paras 14.06-14.07

<sup>405</sup> Welsh Government, [Press release: A way forward for Senedd reform](#), 10 May 2022

<sup>406</sup> The report states in paragraph 169 that Jane Dodds MS “favoured using the 22 local authority areas to create 17 multimember constituencies”.

<sup>407</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, recommendations 18 and 22

**Box 9 Alternative constituency boundary models****32 constituencies, each returning two or three Members of the Senedd**

- It was suggested this model would avoid creating large geographical areas, and strengthen the connection between Members and local areas.<sup>408</sup>
- Flintshire County Council suggested 32 constituencies with a district magnitude of two could provide a modest increase in Senedd capacity without “the dilution of accountability attendant upon large geographical areas being represented by many members”.<sup>409</sup> In contrast, contributors who supported the proposed 16 six-Member constituencies said that larger district magnitudes increased proportionality, reduced the effective threshold for winning a seat, and could facilitate greater descriptive and linguistic diversity and/or diversity of perspective.<sup>410</sup>

**Constituency boundaries based on local authority areas**

- Jess Blair suggested using local authority boundaries would “map communities in Wales a little bit more effectively than new Westminster boundaries”, but said she accepted changes to that extent may not be possible in the Bill.<sup>411</sup>

**A fixed boundary model accompanied by reviews of district magnitudes**

- It was suggested that the approach used in many proportional list systems of fixing geographic boundaries, while varying the district magnitude to reflect demographic changes, maintain broad equality of representation and reflect natural boundaries and communities, could be less disruptive than reviewing geographic boundaries while fixing district magnitudes.<sup>412</sup>

**Impact on electoral administration**

**346.** The WECB described the constituency model proposed in the Bill as “workable and capable of safe and efficient implementation by electoral administrators and political parties”.<sup>413</sup> The AEA said the model was the “most

<sup>408</sup> SCME(P)17 Mike Hedges

<sup>409</sup> SCME(P)24 Flintshire County Council

<sup>410</sup> RoP [paras 487 and 494], 9 November 2023; SCME(P)21 Thomas Glyn Watkin

<sup>411</sup> RoP [para 187], 9 November 2023

<sup>412</sup> SCME(P)5 Electoral Reform Society Cymru; SCME(P)8 Boundaries Scotland; RoP [paras 151 and 180], 9 November 2023;

<sup>413</sup> SCME(P)12 Wales Electoral Coordination Board

logical thing to do”, but would not be “without challenges”.<sup>414</sup> Both organisations called for the pairing exercise to be completed as early as possible to give the maximum time to plan and prepare.<sup>415</sup>

**347.** The main risk highlighted by electoral administrators was complexity arising from boundaries cutting across multiple local authority areas. Some constituency returning officers will need to coordinate with electoral administrators from up to five other local authorities, and electoral administrators in some local authorities will be working with up to four returning officers. Clare Sim explained there would also be local factors affecting different constituencies, for example in relation to the issuing (and reissuing) of postal votes. She described the situation as “manageable”, provided there was central coordination to facilitate consistency.<sup>416</sup>

**348.** Scottish Parliament and UK Parliament constituencies in Scotland have not been co-terminous since 2005. Malcolm Burr recognised the risks outlined by electoral administrators in Wales, and echoed their calls for careful planning, good preparation, and adequate timescales.<sup>417</sup>

**349.** The WECB was confident that planning, combined with cooperative working and effective public information campaigns could mitigate the risks, but added that the support and resource available to constituency returning officers must reflect “their more expansive roles for this election”.<sup>418</sup> Colin Everett emphasised that returning officers and electoral administrators habitually work cooperatively, providing a good basis from which to implement the new constituency model. He said the WECB would probably advise that election counts took place the day after the election rather than overnight.<sup>419</sup>

### **Impact of a two-stage boundary review approach**

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**350.** Some contributors highlighted the extent of changes likely to result from the two-stage boundary review approach in the Bill. To mitigate against voter confusion, the IWA called for clear and effective communication supported by a “substantial budget”.<sup>420</sup>

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<sup>414</sup> SCME(P)3 Association of Electoral Administrators

<sup>415</sup> RoP [paras 114-115, 118-119 and 120-122], 15 November 2023. We explore issues relating to the timescales for the 2026 pairing review further below.

<sup>416</sup> RoP [paras 120-122], 15 November 2023

<sup>417</sup> RoP [para 320], 9 November 2023

<sup>418</sup> SCME(P)12 Wales Electoral Coordination Board

<sup>419</sup> RoP [paras 114-115 and 118-119], 15 November 2023

<sup>420</sup> SCME(P)23 Institute of Welsh Affairs

**351.** The Electoral Commission similarly warned of potential voter confusion, increased complexity for electoral administrators, and difficulties for political parties and campaigners in managing communication with voters. It recognised that this would be mitigated to some extent by the requirement on the DBCC in new section 49C of the DBCC etc. Act 2013 to minimise the amount of change to Senedd constituencies and have regard to the inconveniences caused by any changes.<sup>421</sup> Tom Davies, Senior Policy Adviser at the Electoral Commission Wales, suggested that it would be helpful if there were to be broad consistency between the names given to constituencies during the pairing review, and the names given to constituencies during the first full review.<sup>422</sup>

**352.** Electoral administrators were less concerned about the potential for voter confusion. They told us that voters and electoral stakeholders are used to different boundaries for local elections, Senedd elections, UK Parliament elections and Police and Crime Commissioner elections. They suggested that while stakeholders such as local authorities and third sector organisations would need to adapt and take the differing boundaries into account when engaging with Members between elections, differing boundaries were unlikely to cause significant voter confusion.<sup>423</sup>

### **Boundary review methodology**

**353.** The Bill sets out processes and rules for an initial pairing review to provide for Senedd constituencies for the first general election after 6 April 2026 (Schedule 1), and to provide for subsequent Senedd constituency boundary reviews (Schedule 2). The processes, including the indicative dates provided to us by the LDBCW in respect of the pairing review, are summarised in Annex 3. There are some key differences between the two Schedules, which we explore further below, but we also heard about issues common to both.

### **Local ties that would be broken by proposed pairings or changes to constituency boundaries**

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**354.** During both the pairing review and full reviews the DBCC may take into account “any local ties that would be broken” as a result of its decisions.

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<sup>421</sup> SCME(P)9 Electoral Commission

<sup>422</sup> RoP [para 107], 22 November 2023

<sup>423</sup> RoP [paras 8, 131 and 133], 15 November 2023

**355.** Neither Schedule seeks to define what the DBCC may consider to be “a local tie”. However, the summary of the Welsh Language Impact Assessment in the EM states:

*“In previous local government boundary reviews, the LDBCW has considered Welsh Language as an aspect of local ties that should be considered. It is expected that this will also be the case for Senedd boundary reviews, so that proposals are put forward that do not undermine the use of Welsh language”.<sup>424</sup> [emphasis added]*

**356.** The Member in charge told us that this was intended as an example and “not intended to indicate that the DBCC would necessarily adopt the same approach in respect of a Senedd boundary review.” He added that it would be for the DBCC, as an independent body, to “determine the meaning and application of the rules which apply to the Senedd reviews”.<sup>425</sup>

**357.** The LDBCW explained that prior to conducting the 2026 pairing review, the DBCC would publish a guidance document that would include, among other matters, the factors it would take into account during the pairing exercise. Before publishing the guide, it plans to meet with “key stakeholders which include qualifying political parties and existing Members of the Senedd”.<sup>426</sup>

**358.** Lowri Williams, Strategic Director in the Office of the Welsh Language Commissioner, told us that the Boundary Commission for Wales (“the BCW”) had identified the Welsh language as a local tie in guidance for its reviews of UK Parliament constituencies. She noted, however, that the Welsh language had been “one consideration among many”. She said it would be “all the better if that were included on the face of the Bill as something that should be considered fully”.<sup>427</sup>

## **Automaticity**

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**359.** The provision in the Bill for the DBCC’s recommendations to be implemented automatically, without powers for either the Welsh Ministers or the Senedd to make any amendments, was welcomed. Professor Renwick explained that this model, which also applies for UK Parliament boundary reviews, would

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<sup>424</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023

<sup>425</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>426</sup> SCME(P)20 Local Democracy and Boundary Commission for Wales

<sup>427</sup> RoP [para 488], 9 November 2023



help to preserve the independence and impartiality of the process. He noted, however, that automaticity must be accompanied by robust DBCC governance arrangements and appointment processes.<sup>428</sup>

**360.** In Scotland, the Scottish Government and Parliament have roles in approving and implementing Boundaries Scotland's recommendations.<sup>429</sup> Professor Henderson said this had resulted in challenges and risked "calling into question our autonomy and our independence".<sup>430</sup> She described automaticity as "the way to go".<sup>431</sup>

### **Publication of reports and representations**

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**361.** Both Schedules include requirements for the DBCC to publish representations received during the second representation period. The LDBCW<sup>432</sup> suggested that minor amendments could help remove any ambiguity about whether this requirement applies to all representations received during both the first and second period for representations, or just the second period.

**362.** The LDBCW called for amendments to provide that the records of public hearings and details of the representations received during the second period should be published separately to, but alongside, the DBCC's second report. It said this would avoid the second report becoming too large to be accessible, and would also mirror section 5(4B) and (5) of the Parliamentary Constituencies Act 1986 (as amended).

**363.** Similarly, the LDBCW proposed that Schedule 1 be amended to clarify that the obligation on the DBCC to publish a final report follows the end of the second period for representations **and** the process of taking into account representations received during that second period. It suggested that this could be addressed by moving the text in paragraph 7(5) to the start of paragraph 8 in order to create "a more obvious linkage between the end of the second period for representations and the preparation and publication of the final report", and mirror the approach taken in paragraph 7(1) regarding the linkage between the end of the first period for representations and the publication of the second report. It also suggested

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<sup>428</sup> SCME(P)1 Alan Renwick

<sup>429</sup> Similarly, the UK Government and Parliament used to have a role in approving and implementing Boundary Commission recommendations for UK Parliamentary constituencies.

<sup>430</sup> RoP [paras 376-377], 9 November 2023

<sup>431</sup> RoP [para 379], 9 November 2023

<sup>432</sup> SCME(P)20 Local Democracy and Boundary Commission for Wales

equivalent amendments to Schedule 2, in particular moving the text in 49H(5) to section 49I.

## **Schedule 1 Senedd constituencies for the first general election after 6 April 2026**

### **Timescales**

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**364.** Schedule 1 to the Bill is introduced by section 17. It provides for the DBCC to carry out a review to establish new constituencies to be used for the first general election to be held after 6 April 2026. This includes provision for the rules and processes that the DBCC must follow to determine those constituencies. The Member in charge confirmed that, as an independent body, it will be for the DBCC to determine the “meaning and application of the rules which apply to the 2026 review”. He also indicated that initial discussions with the LDBCW secretariat had assured him that the DBCC “could potentially undertake the review with the existing complement of commissioners”.<sup>433</sup> This was confirmed by Bev Smith.<sup>434</sup>

**365.** Contributors to our work generally felt that the timescales were tight but achievable. Professor Henderson noted that the DBCC’s role was to combine a relatively small number of “building blocks”, adding “the number of possible permutations is also quite limited in some areas”.<sup>435</sup> While agreeing that the timescales were achievable, Tom Davies cautioned that any slippage would “start to create some quite significant concerns for both electoral administrators [and] political parties”.<sup>436</sup> In written evidence, the Electoral Commission said that, for example, delaying the regulations to implement the review’s recommendations into the summer of 2025:

*“[...] would risk leaving electoral administrators and political parties with insufficient time to plan and prepare for the election. It could also cause issues for Electoral Registration Officers in publishing their electoral registers in December 2025”.<sup>437</sup>*

**366.** Emphasising the administrative complexity of the constituency model, the AEA called for the deadline for the pairing review to be brought forward:

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<sup>433</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>434</sup> RoP [para 167], 22 November 2023

<sup>435</sup> RoP [para 310], 9 November 2023

<sup>436</sup> RoP [paras 105-106], 22 November 2023

<sup>437</sup> SCME(P)9 Electoral Commission

*“We understand the need for sufficient time for consultation, but the potential for Senedd constituency boundaries to come into force as late as July 2025 offers little time for designated constituency ROs to plan and co-ordinate to the scale required of them”.<sup>438</sup>*

**367.** Colin Everett similarly suggested that the DBCC could be asked to complete its work earlier<sup>439</sup>, although Malcolm Burr noted that the initial and second reports to be published for consultation in September 2024 and January 2025 would “give everyone a good warning of what might be happening”.<sup>440</sup>

**368.** The LDBCW acknowledged “the challenges of the compressed timescale”, but added that “if the appropriate level of financial resource is provided” it was confident that it could complete the review by 1 April 2025.<sup>441</sup> Shereen Williams told us that planning would begin in early 2024 to enable initial briefings with stakeholders to start “within weeks of getting Royal Assent”.<sup>442</sup> She confirmed that work could not formally begin before the Bill received Royal Assent, but said if this happened earlier than anticipated, the DBCC would begin its work earlier.<sup>443</sup>

**369.** The Member in charge said he was confident the timescales were achievable. He acknowledged there was “very little room for slippage”, partly because he was “absolutely determined that we are fully compliant with the Gould Principle, which requires everything to be in place six months prior to the elections themselves”.<sup>444</sup> Will Whiteley added that while the regulations would not be in place until summer 2025, the definitive pairings would be known from 1 April 2025 when the DBCC published its final report.<sup>445</sup>

## Public engagement and involvement in the pairing review process

**370.** The pairing review includes two four-week periods for the public and stakeholders to make representations on the proposals, but no provision for public hearings. Boundaries Scotland queried whether the four-week periods would be challenging for some stakeholders, saying that in its experience stakeholders with

<sup>438</sup> SCME(P)3 Association of Electoral Administrators

<sup>439</sup> RoP [para 125], 15 November 2023

<sup>440</sup> RoP [para 322], 9 November 2023

<sup>441</sup> SCME(P)20 Local Democracy and Boundary Commission for Wales

<sup>442</sup> RoP [para 217], 22 November 2023

<sup>443</sup> RoP [para 238], 22 November 2023

<sup>444</sup> RoP [paras 15-16], 13 December 2023

<sup>445</sup> RoP [para 20], 13 December 2023

fixed meeting schedules such as principal or community councils might struggle to respond in time.<sup>446</sup>

**371.** When asked whether the process will provide sufficient opportunities for the public and interested stakeholders to engage, the Member in charge acknowledged that there would be less scope for public consultation during the pairing review than during full reviews. He said the provision in Schedule 1 was sufficient because of the “comparatively limited scope of the review in advance of the 2026 election”.<sup>447</sup>

**372.** Reflecting on the timescales and scope of the pairing review, Shereen Williams explained that the 32 UK Parliament constituencies had themselves been subject to “a quite extensive consultation process”. She told us the DBCC intended to use specific and closed questions to keep responses focused on relevant issues. She said that the EM identified “just under £120,000” for the purposes of communication, advertising and engagement to facilitate public awareness of the review, the proposals and how to make representations.<sup>448</sup>

### **Equality of representation**

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**373.** The UK Parliament constituencies that will form the basis for the Senedd constituencies were drawn up on the basis of the UK Parliament franchise<sup>449</sup> and a  $\pm 5$  per cent electoral quota. Ynys Môn has ‘protected constituency’ status, exempting it from the quota. Shereen Williams outlined an illustrative example pairing of Ynys Môn with Dwyfor Meirionnydd using the December 2021 Senedd electoral register:

*“The electoral quota is 146,787. The minimum constituency would have to be 132,000, which the Ynys Môn-Dwyfor Meirionnydd combination is approximately 10,000 electors short of”.*<sup>450</sup>

**374.** The ERS Cymru said voters in such a constituency would be “effectively overrepresented”.<sup>451</sup> We asked Professor McAllister whether any consideration should be given to varying the district magnitude of the constituency pair that

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<sup>446</sup> SCME(P)8 Boundaries Scotland

<sup>447</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>448</sup> RoP [paras 218 and 220], 22 November 2023

<sup>449</sup> The local government and Senedd electoral franchise includes a number of groups who are not eligible to vote in UK Parliamentary elections, including 16- and 17-year-olds and qualifying foreign nationals.

<sup>450</sup> RoP [para 245], 22 November 2023

<sup>451</sup> SCME(P)5 Electoral Reform Society Cymru

included Ynys Môn for the duration of the Seventh Senedd. She warned that doing so could “open up a whole set of other problems”.<sup>452</sup>

**375.** The Member in charge acknowledged there would be divergence between the Ynys Môn pairing and other pairings for the 2026 election, and potentially some divergence between other constituencies as a result of the differing franchises for Senedd and UK Parliament elections. He added:

*“However, even if there are some divergencies in the sizes of the resulting Senedd constituencies for 2026—as a result of the different franchises for the Senedd and UK Parliament—they are likely to be significantly less divergent than those of the existing 40 Senedd constituencies, because these boundaries have effectively been ossified”.*<sup>453</sup>

## Schedule 2 Senedd constituency boundary reviews (2030 onwards)

### Timescales

**376.** The AEA noted that the proposed timing of 1 December for the publication of the final boundary review reports coincides with the last date by which electoral registration officers are required to publish the revised register of electors following the annual canvass. It suggested that an earlier publication date for final boundary review reports would allow electoral registration officers to take any changes to the boundaries into account when publishing the revised register. This would avoid registers having to be republished and redistributed at a later date, which it said could result in “an additional burden on [electoral registration officers] and [risk] confusion for register recipients, including political parties”.<sup>454</sup>

### Electoral quota

#### Quota level and requirement to minimise change

**377.** New section 49C(1) of the DBCC etc. Act 2013 (as inserted by Schedule 2 to the Bill), provides that the electorate for each Senedd constituency must be within  $\pm 10$  per cent of the electoral quota. New section 49C(2) provides that the

<sup>452</sup> RoP [para 126], 26 October 2023

<sup>453</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>454</sup> SCME(P)3 Association of Electoral Administrators

electoral quota is the total number of local government electors in Wales divided by the number of Senedd constituencies.

**378.** In contrast, Rule 2 for reviews of the Scottish Parliament constituencies<sup>455</sup> provides that the electorate of a constituency must be “as near the electoral quota as practicable, having regard to Rule 1 [a requirement that regard must be had to local authority boundaries]”. In addition, Rule 2 also provides that Boundaries Scotland may depart from the strict application of Rule 1 if it considers it is appropriate to do so “to avoid an excessive disparity between the electorate of a constituency and the electoral quota or between the electorate of a constituency and that of neighbouring constituencies”.<sup>456</sup> Professor Henderson told us this provided greater flexibility to take account of local circumstances.<sup>457</sup> Boundaries Scotland said that in its reviews of local electoral boundaries (which have similar provision for flexibility rather than a requirement for exact numeric parity), flexibility helped maintain local ties and minimise changes. It added:

*“By specifying a percentage target the Commission’s ability to balance the parity rule with other rules could be constrained and may give rise to otherwise avoidable situations for example very large geographical constituencies or wards where population is sparse or breaking of community ties in order to meet the target”.*<sup>458</sup>

**379.** Professor Renwick explained the level for an electoral quota is a trade-off between equality of representation and flexibility to respond to circumstances such as geography, local ties and community relations.<sup>459</sup> The Parliamentary Constituencies Act 2020, which sets out rules for reviewing UK Parliament constituencies, prescribes a  $\pm 5$  per cent electoral quota.

**380.** We asked the Member in charge to provide further information about the rationale for the  $\pm 10$  per cent electoral quota. He said:

*“A 10% variance is considered appropriate as it allows for balance and flexibility for the DBCC to consider factors other than the quota,*

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<sup>455</sup> See paragraph 12 of Schedule 1 to the Scotland Act 1998 (as amended).

<sup>456</sup> Rule 3 provides that it may also depart from the strict applications of Rules 1 and 2 if it believes that special geographical considerations make it desirable to do so. As far as it reasonably can when giving effect to Rules 1 to 3, it must take into account the inconveniences of making changes other than for the purposes of Rule 1, and any local ties that would be broken.

<sup>457</sup> RoP [paras 293], 9 November 2023

<sup>458</sup> SCME(P)8 Boundaries Scotland

<sup>459</sup> RoP [paras 101-102], 26 October 2023

*whilst also maintaining a level of parity of representation between electors in different constituencies”.*<sup>460</sup>

**381.** He explained that his intention is not to create constituencies that vary significantly in size. Rather, the quota is intended to enable flexibility to respond to “potential change, demographic change, franchise change and so on”. He added that it:

*“[...] gives the boundary commission the flexibility to ensure that there is, I think, as fair a capacity to embrace change, movements in population, growth of population and so on, across the board”.*<sup>461</sup>

**382.** We also asked whether there would be any tension between the requirements in new section 49C(1) of the DBCC etc. Act 2013 (as inserted by Schedule 2 to the Bill) to equalise the size of Senedd constituencies, and the requirements in new section 49C(2)(b) (similarly inserted by Schedule 2) to minimise the amount of change to Senedd constituencies and have regard to the inconvenience of making changes. He told us that the requirement for constituencies to comply with the quota was “an absolute”, and that when minimising change or having regard to the inconveniences, the DBCC would have to comply with the allowable variance.<sup>462</sup>

**383.** Shereen Williams confirmed the DBCC would apply whatever quota and rules the legislation required.<sup>463</sup> However, in written evidence the LDBCW said that the obligation to minimise the extent of change would “lead to a narrow focus on electorate numbers in its future reviews and thereby to bring about inferior outcomes in its determination of Senedd constituency boundaries”. It gave the example of a proposed constituency which had 110.5 per cent of the electoral quota. Noting that its preferred approach in such circumstances would be to adjust the boundaries on the basis of an existing local government ward or community, it said that approach might not be lawful if it resulted in a change of more than 0.5 per cent of the electoral quota i.e. the minimal change required on a numeric basis. It added that privileging compliance with the quota could increase the need to split existing electoral units in ways that might not respect

<sup>460</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>461</sup> RoP [para 37], 13 December 2023

<sup>462</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>463</sup> RoP [para 245], 22 November 2023



local ties and could increase the divergence between local, Senedd and UK Parliament boundaries. It suggested two alternative approaches:

- Removal of the provision in new 49C(2)(b)(i) to minimise change on the basis that the obligation in 49C(2)(b)(ii) to have regard to the inconveniences caused by making changes would be a sufficient safeguard without creating the same undesirable consequences.
- Amending the provision in 49C(2)(b) to require the DBCC to have regard to the **desirability** of minimising change when reviewing constituencies, rather than it being a requirement to **seek** to minimise change. It suggested that this would enable the factor to be taken into account without requiring the splitting of local government electoral units in order to meet the electoral quota.<sup>464</sup>

### **Definition of ‘electorate’**

**384.** The Bill provides that the definition of ‘electorate’ for the purposes of Senedd boundary reviews is the total number of local government electors in Wales divided by the number of Senedd constituencies. The ERS Cymru noted that this is the same approach as UK Parliament boundary reviews. It cautioned, however, that electoral registers may not necessarily be complete and said its preference would be to base the electoral quota on population.<sup>465</sup>

**385.** The definition of the electoral quota for Scottish Parliament constituencies is based on the number of persons whose names appear on the relevant electoral register. Professor Henderson explained that this meant that Boundaries Scotland could take into account:

- Electors (aged 16 or over).
- Attainers (who will be eligible to vote within two years, and who are therefore aged 14 or over).

**386.** She noted this required careful handling of young people’s personal data, but said it enabled Boundaries Scotland to take account of anticipated trends in the electorate and how it could affect constituencies:

*“So, it allows us to identify trends, so we have not just the electorate, but also what the electorate will likely be. So, sometimes, there are*

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<sup>464</sup> SCME(P)20 Local Democracy and Boundary Commission for Wales

<sup>465</sup> SCME(P)5 Electoral Reform Society Cymru

*areas, particularly if there's been a lot of building work, where we might expect that there would be more families moving in and therefore more younger people. Therefore, we have a particularly large number of attainers. It allows us to get a sense of where things will go in the future. But it is something to be mindful of in terms of whether you want names on the register or you want electors".<sup>466</sup>*

## Public engagement and involvement in full boundary reviews

**387.** The Bill makes provision for between two and five public hearings to be held during the second period for representations. Boundaries Scotland told us that this limit had “been unhelpful” during its reviews of UK Parliament constituencies as it had required “restrictive choices to be made about where hearings should be held”. It suggested that there should be flexibility for boundary review bodies to decide the number and location of hearings required to ensure accessibility across the country.<sup>467</sup> Unlike the proposals in the Bill, Boundaries Scotland is unable to conduct hybrid and virtual hearings. Professor Henderson said that Scotland’s geography meant that:

*“[...] five is not a lot. It's really difficult to identify where can we put them where it makes sense, because we want to hear from people in those local areas, but also where can we put them so that we don't place them so far away from people that they're not able to engage”.<sup>468</sup>*

**388.** Shereen Williams told us that public hearings involved significant resource and costs, and were not always well-attended. She said that BCW’s review of UK Parliament constituencies suggested two to five should be sufficient. She added that by the time the public hearings took place during the second period for representations the DBCC would have a good idea about where any controversial issues would arise and could plan accordingly. She also noted that public hearings were not the only way in which the public or stakeholders could feed into the process as they could also provide written submissions.<sup>469</sup>

**389.** In written evidence, the LDBCW suggested that amendments be made to clarify the arrangements for public hearings, in particular giving more prominence

<sup>466</sup> RoP [paras 343-344 and 346], 9 November 2023

<sup>467</sup> SCME(P)8 Boundaries Scotland

<sup>468</sup> RoP [paras 313-315], 9 November 2023

<sup>469</sup> RoP [paras 290 and 292], 22 November 2023

to the provision in 49G(9)(c)—which enables the chair of a public hearing to limit who may make representations at a public hearing on the basis of the time available—by including a cross-reference in 49G(8)(b). It added that this approach would mirror the provision in the Parliamentary Constituencies Act 1986 (as amended) upon which the provisions in the Bill have largely been based.<sup>470</sup>

### **Regulations under section 49J**

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**390.** The LDBCW explained in written evidence that section 49I provides that the final report published by the DBCC following a review of the Senedd’s constituencies must either:

- Set out the details of any changes that are required to the Senedd’s constituencies (including the boundaries that are to be changed, the constituency names that are to be changed, and whether each constituency that is to be changed is to be designated as a county constituency or a borough constituency), or
- State that no alteration to the Senedd’s constituencies are required.

**391.** Section 49J(1) provides that if the final report sets out changes, the Welsh Ministers must make regulations to give effect to the determination in the final report. The LDBCW said that if the final report makes changes to some, but not all, Senedd constituencies, this means that the regulations made under section 49J(1) will only amend the existing arrangements rather than restating all Senedd constituencies. It argued that this has implications for other elements of the Bill:

*“For example, clause 2 of the Bill would amend the Government of Wales Act 2006 in such manner as to define Senedd constituencies as ‘the constituencies specified in regulations under section 49J’, once a first set of regulations is made under that provision (with regulations made following the 2026 boundary review having effect for this purpose only until the first set of regulations is made under section 49J). This mechanism perhaps neglects the fact that the first set of regulations under section 49J will not necessarily define a complete set of Senedd constituencies for Wales (but rather are likely simply to amend arrangements made following the 2026 boundary review)—so that the first set of regulations under section 49J cannot be used as the sole reference point for Senedd constituencies.*”

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<sup>470</sup> SCME(P)20 Local Democracy and Boundary Commission for Wales

3.45 A similar concern affects paragraph 1(b) of Schedule 1 to the Bill, as well as the definition of ‘Senedd constituency’ in the new proposed section 49L(1) of the 2013 Act (inserted by section 1 of Schedule 2 to the Bill) and the transitional provision in paragraph 3 of Schedule 2 to the Bill”.<sup>471</sup>

**392.** The LDBCW suggests that this could be addressed by requiring the DBCC, when it publishes its final report on a review, to set out the full set of Senedd constituencies. This would then require the Welsh Ministers, when making regulations under section 49J(1) to make a new set of regulations that specifies the full set of Senedd constituencies. There would then be no need for any cross-reference between different sets of regulations, providing greater simplicity and accessibility. The LDBCW added that this would also reflect the wording of the Parliamentary Constituencies Act 1986, which governs the content of reports prepared by the BCW following its reviews of UK Parliament constituencies.<sup>472</sup>

**393.** Professor Renwick noted that the UK Government has a period of four months in which to make regulations to give effect to the recommendations of UK Parliament boundary reviews, whereas new section 49J(3) gives the Welsh Ministers up to six months. He said that it was “unclear why such a long period is deemed necessary”.<sup>473</sup>

**394.** Will Whiteley told us the Bill provided for a six-month period because the outcome of the first full review after 2026 would be “likely to be more significant than [...] the pairing exercise for 2026” and, in addition, regulations made by the Welsh Ministers would need to be bilingual.<sup>474</sup> When pressed, the Member in charge told us that the six-month period was to ensure there was “adequate time to deal with all the issues that arise from [the review]”, but that “if we can do it more quickly, that we will happily do so”.<sup>475</sup>

## Constituency names

### Determining the name of a constituency

**395.** Both Schedules provide that each Senedd constituency must have a name for the purposes of identifying it in communication through the medium of Welsh

<sup>471</sup> SCME(P)20 Local Democracy and Boundary Commission for Wales

<sup>472</sup> SCME(P)20 Local Democracy and Boundary Commission for Wales

<sup>473</sup> SCME(P)1 Alan Renwick

<sup>474</sup> RoP [para 22], 13 December 2023

<sup>475</sup> RoP [para 26], 13 December 2023

and a name for the purposes of identifying it in communication through the medium of English, unless the DBCC considers that one name is acceptable for communication in either language. In practice, this means that a constituency will either have bilingual names, or a single monolingual name (which could be either monolingual Welsh or monolingual English).

**396.** Responsibility for determining constituency names, including deciding whether a single monolingual name is acceptable, lies with the DBCC, although both Schedules also provide that constituency names must be one of the matters on which the DBCC invites representations during the representation periods. The LDBCW said that the guidance it would produce before the 2026 pairing review will address how it will approach naming constituencies.<sup>476</sup> There is a requirement for consultation with the Welsh Language Commissioner on the orthography of proposed names for communication through the medium of Welsh (which we explore further below), but there is no specific role for the Welsh Language Commissioner in the determination of the names themselves.

**397.** Anna Hind, Senior Lawyer in the Welsh Government, told us that the reason naming constituencies rests with the DBCC is to preserve the DBCC's independence.<sup>477</sup>

**398.** Lowri Williams emphasised the complexity of identifying appropriate names, but agreed the process could provide opportunities to reflect historical names of significance to the relevant areas.<sup>478</sup> We asked the Welsh Language Commissioner about the approach that should be taken to identifying names that are appropriate for the new constituencies, rather than simply combining existing UK Parliament constituency names. She said that discussions had not yet begun, but that it would be helpful to have conventions in place to ensure consistency and protect against unreasonably long names.<sup>479</sup> She added that it would be:

*"[...] highly desirable if agreed conventions were developed by a committee of experts and kept under consideration in undertaking such a task and for that to be a statutory requirement as part of the Commission's work in conjunction with the Commissioner".<sup>480</sup>*

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<sup>476</sup> SCME(P)20 Local Democracy and Boundary Commission for Wales

<sup>477</sup> RoP [para 89], 13 December 2023

<sup>478</sup> RoP [para 496], 9 November 2023

<sup>479</sup> RoP [para 472], 9 November 2023

<sup>480</sup> SCME(P)6 Welsh Language Commissioner

## Monolingual names

**399.** The Welsh Language Commissioner acknowledged that decisions on whether a monolingual name is appropriate can be complex, and suggested it would be helpful for guidance to provide criteria. She welcomed the acceptance in the Bill that monolingual names may be appropriate. However, she would prefer to see a presumption that constituencies should have a monolingual Welsh name unless there is a good reason for this not to be the case.<sup>481</sup> She suggested this would help avoid “unnecessary dual names”.<sup>482</sup>

**400.** Cymdeithas yr Iaith outlined a similar position:

*“In keeping with our belief in Welsh as the language proper of Wales, we support the need to give constituencies monolingual Welsh names and want this to be the default approach when naming constituencies, with Welsh names always regarded as the norm”.*<sup>483</sup>

**401.** The Welsh Language Commissioner also called for the Bill to be amended so that if a constituency is to have a single monolingual name, that name may only be in the Welsh language:

*“A robust policy in favour of monolingual names—which are Welsh names—would be a means of avoiding lengthy discussions about names and a means of promoting and popularising the use of Welsh-only names as has recently become a popular practice among our national parks. Adopting a Welsh-only name would be a powerful indicator of the status of the Welsh language in Wales”.*<sup>484</sup>

**402.** The Member in charge did not support this position. He said that the constituency names were a matter for the DBCC, and that provision that limited the flexibility available to the DBCC could be “counterproductive”:

*“Where there is a common objective of, ‘I think we would like to see more monolingual Welsh names’, there may be good reasons why that wouldn’t be appropriate or that now is not the right time to do it, or whatever. The answer is that I don’t really know on that, other than*

<sup>481</sup> RoP [para 478], 9 November 2023

<sup>482</sup> SCME(P)6 Welsh Language Commissioner

<sup>483</sup> SCME(P)26 Cymdeithas yr Iaith

<sup>484</sup> SCME(P)6 Welsh Language Commissioner

*I think that the way the statute is set out in terms of that engagement process enables that to happen, but to happen in a way that is co-operative. And that seems to me to be the way forward”.<sup>485</sup>*

### Orthography of constituency names

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**403.** Both Schedules require the DBCC, when determining constituency names, to consult the Welsh Language Commissioner on the orthography of the proposed names for communication through the medium of Welsh i.e. the accepted way of spelling and writing words. The DBCC is required to have regard to any representations the Welsh Language Commissioner makes. This requirement was welcomed by Cymdeithas yr Iaith.<sup>486</sup> It was also welcomed by the Welsh Language Commissioner, although she said she may need additional resource to reflect the additional statutory responsibility.<sup>487</sup>

**404.** The Welsh Language Commissioner noted that the consultation duty relates only to the orthography of “the proposed name for communication through the medium of Welsh”, not the proposed name in English or any proposed monolingual name in either language. She queried why the Bill was drafted in this way, when her responsibility extends to standardising the names of places in Wales, not just names that originate in the Welsh language. She explained that her work on the standardisation of place names is informed by a panel of experts and national guidelines, and said that the current provision could prevent the DBCC from accessing advice on the orthography of names in English or monolingual names in either Welsh or English.<sup>488</sup>

**405.** The Welsh Language Commissioner and her Strategic Director provided examples of the technical issues that can arise when naming constituencies:

- Cases where there is only a small variation between the Welsh and English names for a place, such as the Alun a Glannau Dyfrdwy/Alyn and Deeside constituency where there is only a single letter difference between ‘Alun’ and ‘Alyn’.<sup>489</sup>
- Questions over whether ‘and’ or ‘a/ac’ is used to combine the names of UK Parliament constituencies. This may especially be the case where the

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<sup>485</sup> RoP [para 95], 13 December 2023

<sup>486</sup> SCME(P)26 Cymdeithas yr Iaith

<sup>487</sup> SCME(P)6 Welsh Language Commissioner

<sup>488</sup> SCME(P)6 Welsh Language Commissioner

<sup>489</sup> RoP [para 445], 9 November 2023



names of the constituencies to be paired are monolingual Welsh names. For example, if Dwyfor Meirionnydd and Ynys Môn were paired:

*“[...] would it have to be ‘Dwyfor Meirionnydd ac Ynys Môn’ in Welsh as well as ‘Dwyfor Meirionnydd and Ynys Môn’ in English or could it be ‘Dwyfor Meirionnydd Ynys Môn’ which would work in both languages, but would possibly not be acceptable to constituents as it is a made-up name that piles up elements and is strange at first sight”.<sup>490</sup>*

**406.** Shereen Williams told us that once the DBCC had reached initial conclusions on proposed pairings it would consult the Welsh Language Commissioner to:

*“[...] get input on the name combinations, also, obviously, making sure we check our spellings, accents, things like that, to ensure that it's as accurate as possible”.<sup>491</sup>*

**407.** She explained that “as a matter of practice, at the initial proposal stage, we take the position of the Welsh Language Commissioner’s recommendations for place names”, but that, as constituency names would form part of the public consultation, DBCC commissioners would have regard to any views received from the public or stakeholders, as well as the Welsh Language Commissioner.<sup>492</sup>

**408.** The Welsh Language Commissioner said that when her recommendations on orthography are not adopted, it can result in inconsistency in the orthography of place names used in different contexts.<sup>493</sup> She would welcome amendments to require her representations on orthography to be acted upon:

*“My assessment is that we are frustrated with the current situation, where we advise, but people don't have to listen to us. So, who do they listen to, then—someone who has no background? Who else? The information and expertise that we've built has been done so over a period of time, so why not listen to us after we've done all the work? That would be my response to that. So, I'd welcome the ability to be the person who makes that decision”.<sup>494</sup>*

<sup>490</sup> SCME(P)6 Welsh Language Commissioner

<sup>491</sup> RoP [para 223], 22 November 2023

<sup>492</sup> RoP [paras 223 and 225], 22 November 2023

<sup>493</sup> SCME(P)6 Welsh Language Commissioner

<sup>494</sup> RoP [para 458], 9 November 2023

**409.** The Member in charge did not support this position, saying that he would be “disinclined to want to see something that basically takes away part of the independence and responsibility of the [DBCC]”. Suggesting that this could be considered further in any review of the Act, he added:

*“Well, I think that the danger is that when you give the functions and the responsibilities to the commission in terms of the boundaries and so on, when it's their specific function, but then say to them, 'Well, it doesn't matter what your function is, because if, say, the commissioner says, "I think you should do this", you have to follow it'. I think these things are double-edged swords—if you try to impose one set of responsibilities on a body that has similar responsibilities. I think that these are things that work out by means of goodwill and proper engagement. And I think that there is a logic and a common purpose. You've obviously taken evidence on this, and my understanding of the evidence is that it is a recognised constructive collaboration”.*<sup>495</sup>

**410.** Shereen Williams noted that if any change was made to the Bill regarding either the Welsh Language Commissioner’s role in respect of the orthography of constituency names, or in relation to constituency names more broadly, then the automaticity provisions mean that the final constituency names would need to be incorporated into the final DBCC report before its publication.<sup>496</sup>

## **Our view**

**411.** By majority, we are content that the 16 six-Member constituency model proposed in the Bill is appropriate. While we understand the concerns raised by some that multimember constituencies and larger geographic areas may weaken the link between constituents and individual Members, or present logistical challenges for the relevant Members, these are experiences already familiar to regional Members. The proportionality that could result from district magnitudes of six is likely to increase the potential for electors to be represented by at least one Member who shares their political perspectives. It also increases the potential for the cohort of Members representing an area to be from different backgrounds or communities, although the extent to which this is realised in practice will depend on parties selecting more diverse candidates, particularly if closed lists are implemented.

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<sup>495</sup> RoP [paras 91-93], 13 December 2023

<sup>496</sup> RoP [para 236], 22 November 2023

**412.** We are assured that while there will be complexity for electoral administrators arising from the cross-cutting boundaries, the constituency model is capable of being implemented for the 2026 election. It is clear, however, that there is no room for any slippage in the timetable for the pairing review or the implementation of its proposals. The Welsh Ministers must ensure that the regulations to give effect to the review under paragraph 9 of Schedule 1 are brought forward without delay following the final DBCC report, and certainly well before the end of the 14-week period. The Welsh Government must also ensure that electoral administrators receive the financial and other support required to ensure the smooth implementation of the boundary model.

**413.** We are aware of the potential for confusion for voters, and complexity for administrators, political parties and campaigners, that could arise from the two-stage boundary review process. It is not ideal that there may be significant changes within a short space of time, but it does represent a proportionate approach to ensuring that the reforms can be implemented at the next Senedd election without unduly delaying a full review of the Senedd's boundaries based on the Senedd franchise.

**414.** Boundary reviews can be contentious, and fraught with perceptions of political interference. To this end, we welcome the provisions in Schedules 1 and 2 of the Bill that provide for the automatic implementation of the DBCC's proposals without any scope for modification by either the Welsh Government<sup>497</sup> or the Senedd. Automaticity will help preserve the integrity of the boundary review process, and public trust in its impartiality. But, it also makes it imperative that the framework the Bill provides for the conduct of boundary reviews reflects the issues, values and criteria that the Senedd agrees by supermajority should be given effect. It is precisely because the DBCC will operate with independence and impartiality that the rules themselves must be clear, robust and appropriate.

**415.** The LDBCW has confirmed to us that its role is to implement the rules as set out in legislation, not comment on the merits of the proposals. Nevertheless, it has recommended consideration be given to a series of technical changes to provide greater clarity and improve the accessibility of the regulations to be made by the Welsh Ministers to give effect to successive boundary reviews. These include, for example, matters such as the potential unintended consequences that could arise from the interaction between the electoral quota and the requirement in new section 49C(2)(b)(i) to be inserted into the DBCC etc. Act 2013 to require the

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<sup>497</sup> Other than the Welsh Government's power to make modifications at the express request of the DBCC in order to correct errors.

DBCC to seek to minimise change when reviewing constituencies. We understand that the LDBCW has also provided these recommendations to the Welsh Government. If the Bill passes Stage 1, it would be helpful in informing the Senedd's ongoing scrutiny to understand the Member in charge's views on these technical matters.

**Recommendation 26.** If the Bill passes Stage 1, the Member in charge should write to us no later than five working days after the general principles motion has been agreed setting out his views on each of the recommendations for technical changes to Schedules 1 and 2 made by the Local Democracy and Boundary Commission for Wales in its written evidence to us. This letter should include an indication for each recommendation made by the LDBCW of whether or not he agrees with the LDBCW that the change is needed, the reasons for his view, and confirmation of whether or not he intends to bring forward amendments to give effect to the recommendation.

**416.** We recognise that the EM highlights the Welsh language as an example of a local tie that the DBCC could take into account when determining pairings or reviewing the Senedd's boundaries in future. We welcome this, but note also that this is not required by the Bill. We would like to see the Bill amended to provide that account should be taken of the impact of any proposed changes on the Welsh language.

**Recommendation 27.** The Member in charge should bring forward amendments at Stage 2 to new section 49C to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by paragraph 1 of Schedule 2 to the Bill to provide that the impact on the Welsh language is one of the local ties that should be taken into account by the DBCC when determining the Senedd's constituency boundaries.

**417.** A majority of the Committee is not persuaded by the justification provided by the Member in charge that the breadth of permissible variance from the electoral quota is required to provide flexibility. With the paired constituency model, this permissible variance could result in some constituencies having up to 30,000 voters fewer than others. Three Members believe this is too broad and should be reduced.<sup>498</sup> Two Members are content with the provision as drafted.

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<sup>498</sup> One of these Members believes the variance should be reduced to  $\pm 5$  per cent; two believe it should be reduced to a number between  $\pm 5$  and  $\pm 10$  per cent.

**Recommendation 28.** By majority, we recommend that the Member in charge should bring forward amendments at Stage 2 to new section 49C(1) to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by paragraph 1 of Schedule 2 to the Bill to reduce the permissible variance from  $\pm 10$  per cent.

**418.** We are also not clear what the rationale is for basing the calculation of the electoral quota on the number of electors in a constituency rather than the number of electors and attainers as is the case in Scotland. Including attainers within the electoral quota would provide greater scope to futureproof boundaries to take account of potential demographic shifts during the eight-year period for which they will be in effect. As part of implementing our recommendation, the DBCC will need to put in place suitable arrangements (as their counterparts in Scotland have done) for the handling of data relating to children aged 14 and over.

**Recommendation 29.** The Member in charge should bring forward amendments at Stage 2 to new section 49C(3) to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by paragraph 1 of Schedule 2 to the Bill to provide that the calculation of the electoral quota should include electors and attainers.

**419.** We agree with the AEA that it is not helpful that the proposed deadline of 1 December specified in new section 49I(1) for the DBCC to produce its final report coincides with the 1 December deadline already in place for electoral registration officers to publish the revised register of electors following the annual canvass. This coincidence of dates risks duplication and confusion for administrators and those who receive and use electoral registers. An earlier publication date for the final boundary review reports would allow electoral registration officers to take any changes to the boundaries into account when publishing registers. There is discretion about the precise timing of the boundary review processes within the three-year period between 1 April 2025 and 30 November 2028, and even more so within the eight-year periods within which subsequent boundary reviews will take place. We see no reason why the deadline for the DBCC's final report could not be earlier.

**Recommendation 30.** The Member in charge should bring forward amendments at Stage 2 to new section 49I(1) to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by paragraph 1 of Schedule 2 to the Bill to provide an earlier date by which the final reports of the DBCC must be published and sent to the Welsh Ministers in order to avoid a coincidence with

the 1 December deadline that already applies for the publication by electoral registration officers of the revised register of electors following the annual canvass.

**420.** We are not persuaded that it is necessary or proportionate for the Welsh Ministers to have six months within which to make regulations to give effect to the outcomes of full boundary reviews. We understand that the regulations under new section 49J of the DBCC etc. Act 2013 will be made bilingually, unlike those made by UK Ministers under the Parliamentary Constituencies Act 2020. However, the additional two months over and above the four months in the 2020 Act is disproportionate, especially as new section 49J also includes safeguards to enable more time to be available should exceptional circumstances prevent the Welsh Ministers making the regulations in a timely manner.

**Recommendation 31.** The Member in charge should bring forward amendments at Stage 2 to new section 49J(1)(b) and (3) to be inserted into the Democracy and Boundary Commission Cymru etc. Act 2013 by paragraph 1 of Schedule 2 to the Bill to reduce the period within which Welsh Ministers must bring forward regulations to give effect to the DBCC's recommendations from six months to four months.

**421.** During our scrutiny we have focused in particular on provisions regarding constituency names. We have reflected on the responsibilities and expertise the Welsh Language Commissioner has in respect of standardising place names in Wales in the Welsh and English languages, and on the provisions in the Bill that provide that the DBCC must consult the Commissioner only on the orthography of the proposed names for communication through the medium of Welsh.

**422.** We understand the Member in charge's view that collaborative and cooperative working between the DBCC and the Welsh Language Commissioner has an important part to play. However, we are not persuaded that the provisions in the Bill currently reflect the balance in where responsibilities and expertise lie. We would like to see the Bill amended to provide that the DBCC must consult, and have regard to representations made by, the Welsh Language Commissioner on the proposed names themselves, not just on their orthography.

**Recommendation 32.** The Member in charge should bring forward amendments at Stage 2 to Schedules 1 and 2 to the Bill to provide that the DBCC must consult the Welsh Language Commissioner on the proposed name or names of Senedd constituencies (and on any changes to the proposed name or names), and have regard to any representations made.



**423.** We welcome the provision in the Bill that a constituency may be given a monolingual name if it is considered appropriate for communication through either Welsh or English. Our view is that there should be a presumption in favour of a monolingual name unless there is a specific reason why bilingual names are appropriate. However, we would be concerned if the provision in the Bill were to be used to give constituencies monolingual English language names. Our view is that the Bill should be amended to provide that if a constituency is to be given a monolingual name, that name may only be in the Welsh language.

**Recommendation 33.** The Member in charge should bring forward amendments at Stage 2 to Schedules 1 and 2 to the Bill to provide that each Senedd constituency should be given a monolingual name (unless the DBCC considers that there are specific reasons why bilingual names are appropriate).

**Recommendation 34.** The Member in charge should bring forward amendments at Stage 2 to Schedules 1 and 2 to the Bill to provide that if a constituency is to be given a single monolingual name, that name may only be in the Welsh language.

**424.** We share the Welsh Language Commissioner's concern that the Bill fails to recognise her role in the orthographical standardisation of place names in Wales in the English language. It is also not clear whether the consultation requirement applies to monolingual Welsh language names intended for communication in both languages.

**Recommendation 35.** The Member in charge should bring forward amendments at Stage 2 to Schedules 1 and 2 to the Bill to provide that the Welsh Language Commissioner's role in respect of the orthography of proposed constituency names applies to all proposed constituency names (or changes to those names) whether the proposals are for the purposes of identifying the constituency through the medium of Welsh, the medium of English, or a monolingual name for communication through either language.

**425.** We understand that boundary commissions, when undertaking reviews, must balance evidence and representations from a range of sources, including the public, stakeholders and technical experts. Nevertheless, we share the Welsh Language Commissioner's concerns that the requirement in relation to the orthography of constituency names is only one of consultation and 'having regard to any representations made'. Orthography is a technical matter in which the Welsh Language Commissioner, informed by an expert panel, has considerable expertise. The Bill should be amended to require that the DBCC must implement



any recommendations the Welsh Language Commissioner makes for changes to the orthography of the proposed constituency names.

**Recommendation 36.** The Member in charge should bring forward amendments at Stage 2 to Schedules 1 and 2 to the Bill to provide that the Democracy and Boundary Commission Cymru must implement any recommendations made by the Welsh Language Commissioner in respect of the orthography of proposed constituency names. In line with our Recommendation 35, this should include the orthography of names for communication through the medium of Welsh and the medium of English, and any monolingual names for communication through either language.

## 10. Disqualification on the grounds of residency

### Background

#### Current arrangements

**426.** To qualify to stand as a constituency or regional candidate a person must, on the day they are nominated and on polling day, be:

- At least 18 years old.
- A British citizen, a qualifying Commonwealth citizen, a qualifying foreign citizen, a citizen of the Republic of Ireland or a citizen of the European Union who is resident in the United Kingdom.

**427.** Certain officeholders are disqualified from standing for, or being elected to, the Senedd.<sup>499</sup>

#### Provision in the Bill

**428.** Section 6 introduces a new requirement for candidates seeking election to the Senedd and sitting Members of the Senedd. Specifically, it disqualifies a person who is not registered in the register of local government electors at an address within a Senedd constituency from standing for election or from remaining as a Member.

**429.** The EM sets out the Welsh Government's rationale:

*"In particular, it is considered appropriate that candidates standing for election to be a Member of the Senedd should be subject to the same residency requirements as an individual who wishes to vote at that election".<sup>500</sup>*

**430.** The Welsh Government seeks to justify the requirement by highlighting that the introduction of closed lists means voters who wish to support a particular

<sup>499</sup> See Schedule 1A to the GOWA 2006 and the [Senedd Cymru \(Disqualification\) Order 2020](#).

<sup>500</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 182

political party will not be able to choose not to vote for a particular candidate because they are not resident in Wales.<sup>501</sup>

**431.** Any candidate on a party's list who seeks to fill a vacancy arising between elections "must be resident in Wales at the point they fill the vacancy and for as long as they remain a Member of the Senedd".<sup>502</sup>

### **Principle of a 'residency' requirement**

**432.** A number of contributors to our work commented on the merits of introducing a requirement for candidates seeking election and Members to be resident in Wales.

**433.** Professor Stirbu agreed with the principle that when a person is standing for election to the Senedd to make laws for Wales, they should also be resident in Wales and be subject to those laws.<sup>503</sup> Similarly, Professor McAllister told us it would be "completely anomalous to have representatives in this Senedd who don't live within the national boundaries of Wales".<sup>504</sup> The proposal was also supported by Cymdeithas yr Iaith, who believed that it is contrary to democratic principles for someone who is not resident in Wales to be elected to the Senedd.<sup>505</sup>

**434.** While Professor Renwick emphasised the principle of voter choice, he felt there was greater justification for placing limits on parties' candidate selection in the absence of flexible lists.<sup>506</sup>

**435.** In contrast, in his written evidence, Professor Clark noted that "recent history of electoral law in Wales has been towards opening and more permissive ballot access" and suggested that the proposal "to restrict candidacy and membership to those registered to vote in Wales could potentially be presented as restricting access to the ballot". He went on to say:

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<sup>501</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, paras 183-184

<sup>502</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 326

<sup>503</sup> RoP [para 380], 26 October 2023

<sup>504</sup> RoP [para 113], 26 October 2023

<sup>505</sup> SCME(P)26 Cymdeithas yr Iaith

<sup>506</sup> RoP [para 115], 26 October 2023

*“Whether this restriction would apply to a large number of candidates is probably unlikely, since political and campaign discourse highlighting their registration status would almost inevitably provide a deterrent to most candidates except the most determined or high profile. Such candidates would also, presumably, be unable to vote for themselves”.<sup>507</sup>*

**436.** WYPMs participating in an online focus group were in favour of requiring Members and candidates to be registered to vote in Wales and said it should go further by requiring them to live or work in the constituency they represent or in which they are standing for election.<sup>508</sup>

**437.** Written responses from people who shared their views through our children and young people consultation also supported the requirement to be registered to vote in Wales “to understand the issues and problems facing the people living here” and suggested that it “would lead to the Senedd becoming more representative”. Some respondents felt that a narrower requirement to be resident in the area they are standing for election would “give the individual in question a better understanding of the needs and issues of that area as well as help the community feel more connected to the person representing them”.<sup>509</sup>

**438.** The majority of individuals who addressed this proposal were in favour of the requirement to be registered to vote in Wales, with one individual suggesting that Members should be required to live in the constituency they represent. One individual did not support the proposal as it “could mean that Wales loses out on highly qualified candidates with greater strategic experience than ‘home grown’ politicians”.<sup>510</sup>

## Mandate to legislate

**439.** We asked the Member in charge why he had included the provision in the Bill when the issue had not been considered or recommended by the Expert Panel, the CSER or the SPCSR. He told us:

<sup>507</sup> SCME(P)4 Alistair Clark

<sup>508</sup> Reform Bill Committee, *Senedd Cymru (Members and Elections) Bill: Welsh Youth Parliament Focus Group*, November 2023, para 8

<sup>509</sup> Senedd Cymru (Members and Elections) Bill: [children and young people's views](#)

<sup>510</sup> Responses may be found in full on the [consultation webpage](#).

*"[...] once you start putting this legislation together in this particular way, the issue arises of who should be entitled to vote. We do already have some divergence on that in terms of UK Government reserved elections, but that was one where it naturally needed to be addressed, and it basically seemed a logical issue to say, 'Well, residency should be those who live in Wales, that make the laws for Wales, are affected by the laws for Wales.' If that is something the Senedd doesn't want, then it can take that out or change it".<sup>511</sup>*

**440.** When asked whether the Welsh Government had consulted on the provision prior to its inclusion in the Bill, Will Whiteley said "time simply wasn't available".<sup>512</sup>

**441.** We sought clarification from the Member in charge on whether the provision's inclusion in the Bill was therefore a "political decision". He said:

*"Well, it was a practical, operational decision made as to what are the criteria for people to be able to stand for candidacy within legislation like this, and clarity, simplicity and operationability and proportionality were the ones that were really the factors around that. And, again, that's forward here and, of course, the residency issue again is a matter for Senedd consideration".<sup>513</sup>*

## **Definition of the 'residency requirement'**

**442.** For the purpose of standing as a candidate for election to the Senedd or remaining as a sitting Member, residency is defined in the Bill as being registered in the register of local government electors at an address within any Senedd constituency. Candidates and Members are not required to be registered in the constituency in which they intend to stand or already represent.<sup>514</sup>

**443.** This differs from the requirements on voters, who must be registered to vote at an address in a specific constituency in order to vote in it. It also differs from the requirements on those seeking to be elected as a member of a local authority in Wales (who may, for example, for a specified period have owned or occupied land

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<sup>511</sup> RoP [para 45], 5 October 2023

<sup>512</sup> RoP [para 100], 5 October 2023

<sup>513</sup> RoP [para 102], 5 October 2023

<sup>514</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 325

or premises in the relevant area, had their principal or only place of work in the relevant area, or resided in the relevant area).<sup>515</sup>

**444.** The EM notes that consideration was given to developing a “bespoke” definition of residency. However, the Welsh Government deemed it appropriate to use the existing definition of residency for electoral registration purposes (set out in the Representation of the People Act 1983) which “whilst subject to significant latitude in terms of interpretation—is well established in electoral law”.<sup>516</sup>

**445.** The EM also notes that consideration was given to defining the residency criteria as “being eligible to register to vote on residency grounds” but the Welsh Government decided that being registered, rather than just being eligible to register, “provides an element of clarity to potential candidates, political parties, electoral administrators, and—ultimately—a court considering such an issue”.<sup>517</sup>

**446.** Colin Everett told us that to make it clear and workable, the requirement to be registered on the local government register of electors is a “really safe way to go about it” as it can be checked by anyone who chose to challenge it.<sup>518</sup>

**447.** Professor McAllister suggested that going further by requiring a local connection to the relevant constituency may be difficult to achieve through legislation. She suggested it could more easily be considered by political parties during candidate selection.<sup>519</sup>

**448.** We asked whether the Member in charge had considered the application of the residency requirement in a cross-border context, for example whether it would be appropriate to disqualify an individual living in close proximity to the Welsh border. He told us the Welsh Government had opted for the clearest, simplest and most understandable principle. He suggested that it would be “very difficult” to be too prescriptive in terms of tying the requirement to a constituency in Wales or converting the cross-border issue into legislation.<sup>520</sup>

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<sup>515</sup> [Local Government Act 1972](#)

<sup>516</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 182

<sup>517</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 191

<sup>518</sup> RoP [para 21], 15 November 2023

<sup>519</sup> RoP [paras 113-114], 26 October 2023

<sup>520</sup> RoP [para 87], 5 October 2023

**449.** When pressed on whether a criteria based on proximity to a constituency might be a viable alternative approach to avoid “odd” outcomes, the Member in charge said:

*“No, I don't think it's odd at all. I think if you live in Wales, you're accountable to Wales. If you don't live in Wales, you're accountable to the laws that apply in England, and vice versa. So, I don't really see that as being a difficulty. If you wanted to try and actually look at the issue of proximity and how you actually start defining it, I think you basically go down a road that makes it almost impossible to legislate, or you end up with something that is so complex and challengeable”.<sup>521</sup>*

**450.** In subsequent correspondence, the Member in charge indicated that consideration had been given to a range of options for giving effect to the residency requirement, including the qualification provisions that exist for local government elections. However, he considered it appropriate that candidates seeking election “have a substantial and tangible stake in Welsh democracy” and the requirement that “they be registered to vote—and therefore resident—in Wales would help to achieve such a link”. While accepting that a substantial and tangible stake can be demonstrated in other ways, such as employment, he considered it appropriate that a person standing as a candidate should be eligible to participate in that election as a voter.<sup>522</sup>

### **Disqualification at the point of candidature or election**

**451.** We explored with Professor McAllister whether it would be more appropriate for the disqualification to apply at the point of becoming a Member rather than at the point of nomination as a candidate:

*“I can see the benefits, actually, of each side of that, because, clearly, if we want to create a more diverse Senedd, people are taking a risk in terms of standing for election. There's never any guarantee that one will be elected, despite maybe even being towards the top of a closed list. So, it might be prohibitive to candidates who want to put*

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<sup>521</sup> RoP [para 89], 5 October 2023

<sup>522</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023



*themselves forward if you stop it being at the point of candidature, rather than acceptance of the position”.*<sup>523</sup>

**452.** Addressing his decision to apply the disqualification to candidates and Members, the Member in charge said:

*“I think we’ve looked at a whole range of different ways of trying to achieve that, to achieve the residency, and I think, again, coming within the simplicity, the clarity and something that made operational sense is basically that to be a candidate, you need to be on the register. To be elected, once you’re elected, you need to be on the register, and those were the criteria—so, I think the ones that actually work”.*<sup>524</sup>

## Compliance

### Candidates

**453.** Electoral administrators questioned whether there would be any requirement for enforcement of the residency requirement for candidates. The AEA, the WECB and the Electoral Commission each emphasised the importance of maintaining the principle that electoral administrators take information provided by candidates at ‘face value’ and said that this should continue to be the case for the residency requirement. The WECB’s written evidence noted that electoral registration officers will continue to give informal advice to candidates and agents on request but that their role is only to ensure that nomination papers are complete and compliant.<sup>525</sup> The AEA<sup>526</sup> and the Electoral Commission<sup>527</sup> were clear that responsibility should always rest with the candidate.

**454.** Will Whiteley said the Welsh Government intends to build a residency declaration into the existing nomination system:

*“There are processes, as part of the nomination window, where certain people are able to check what people have made, but, again, I think the returning officer would take that information, as they do other*

<sup>523</sup> RoP [para 117], 26 October 2023

<sup>524</sup> RoP [para 97], 5 October 2023

<sup>525</sup> SCME(P)12 Wales Electoral Coordination Board

<sup>526</sup> SCME(P)3 Association of Electoral Administrators

<sup>527</sup> RoP [para 89], 22 November 2023

*information within the nomination papers, at face value, and then, obviously, there are ways in which that can be challenged as well, either for candidates or for Members, as required”.<sup>528</sup>*

**455.** The WECB suggested that a practical solution would be to require a candidate to include their unique electoral register reference on their nomination form, which would allow others to easily check and challenge the candidate’s qualification.<sup>529</sup>

## **Members**

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**456.** There was a clear preference from the AEA<sup>530</sup>, the WECB<sup>531</sup> and the Electoral Commission<sup>532</sup> that any compliance checks for sitting Members should be a matter for the Senedd itself, rather than for electoral administrators.

**457.** The AEA noted that if the Senedd were to undertake checks, legislation would need to provide for electoral registration officers to supply the register of electors and notice of alteration to the Senedd. However, it did not believe any checks were necessary as no other proactive check for qualification is carried out anywhere in Great Britain.<sup>533</sup>

**458.** Dame Elan Closs Stephens suggested that if any ongoing check were thought necessary, there could be some form of declaration made by a Member, in a similar manner to how declarations of interest are made, either on a regular basis or if their personal circumstances change.<sup>534</sup>

## **Unintended consequences**

### **Administrative errors**

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**459.** As drafted, if a Member were removed from the register they would be disqualified and their seat would be immediately vacated. However, removal could happen without the Member’s knowledge, for example, if their registration was deleted in error.

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<sup>528</sup> RoP [para 141], 13 December 2023

<sup>529</sup> SCME(P)12 Wales Electoral Coordination Board

<sup>530</sup> SCME(P)3 Association of Electoral Administrators

<sup>531</sup> RoP [para 30], 15 November 2023

<sup>532</sup> SCME(P)9 The Electoral Commission

<sup>533</sup> SCME(P)3 Association of Electoral Administrators

<sup>534</sup> RoP [para 92], 22 November 2023

**460.** The Llywydd’s written evidence raised practical points about the effect of a sitting Member’s disqualification being triggered by their deletion from the electoral register, especially as there is a process for a person’s deletion to be appealed to the County Court. She highlighted the current provision that is made in relation to Members of the House of Lords, who have a period of eight days after being elected to the Senedd to apply for leave of absence to avoid being disqualified as a Member of the Senedd.<sup>535</sup> The Llywydd told us that this was a matter that needed “a bit more thinking” by the Welsh Government and others about how the right to appeal could be enabled before any disqualification took effect.<sup>536</sup>

**461.** We asked the Member in charge whether there should be a ‘grace period’ while a Member appealed a removal from the electoral register. He said the risk of an elector’s removal from the register without their knowledge was low, as removal firstly requires the electoral registration officer to undertake a review. He also suggested any ‘grace period’ would introduce uncertainty and could still trigger a vacancy if a Member was unable to secure residency within that period.<sup>537</sup>

**462.** In his closing evidence session, the Member in charge told us that he was not aware of any evidence of people being accidentally removed from the register. However, he went on to say:

*“I think where there is a mistake that has occurred and it’s a governmental mistake or an administrative mistake, then that is something that shouldn’t disqualify someone; that’s surely something that needs to be considered in terms of how the system will actually operate. It would not be right for—you know, an official has made an error and someone has been accidentally taken off it et cetera. So, there needs to be checks and balances on that, but that’s not something that should happen”.*<sup>538</sup>

### Impact on ‘reserve’ candidates

**463.** We have considered the impact of the residency requirement on ‘reserve’ candidates (i.e. candidates lower down on parties’ lists who may be returned as

<sup>535</sup> SCME(P)2 Llywydd

<sup>536</sup> RoP [para 250], 26 October 2023

<sup>537</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>538</sup> RoP [paras 143 and 146], 13 December 2023

Members if vacancies arise between elections) who would not be able to fill a vacancy unless they were registered to vote at an address in Wales at the point the vacancy occurred. During oral evidence on 5 October 2023, the Member in charge said:

*“I think people take decisions in terms of their experiences, if they're not elected first through the general election, et cetera. People will inevitably make decisions and there will be circumstances that impact on their life, et cetera, and they take those within that knowledge. I think that is just part of the system, but it means that if someone does come into a vacancy, they are on the register, they are resident, they are living in and accountable to, et cetera”.*<sup>539</sup>

**464.** We subsequently wrote to the Member in charge to seek his views on whether people would be dissuaded from putting their names forward for selection, or from agreeing to be nominated if selected lower down on parties' lists, in the absence of any mechanism enabling a candidate on a party's list to re-establish their residency within a reasonable period should a vacancy arise between ordinary general elections. He did not believe the requirement would dissuade a person from seeking nomination unless they were already planning on moving away from Wales at the time of their candidacy.<sup>540</sup>

**465.** During our closing evidence session with the Member in charge, we pursued the need for a mechanism to give reserve candidates who are otherwise eligible to take up a seat that becomes vacant between elections a period of time to re-establish residency in Wales if they have relocated elsewhere in the meantime. He said:

*“Listen, that's something I'm more than happy to take away and look at, if you make that recommendation, and I think it's something we will look at, in any event, to see how something like that might happen. I understand the point that you're making on that. None of these things we want to do are to be exclusive. We want to be as inclusive as possible, but we also want to be fair to the totality of*

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<sup>539</sup> RoP [para 175], 5 October 2023

<sup>540</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

*people that are on the register and a system that actually works with simplicity and clarity”.<sup>541</sup>*

## Secondary addresses

**466.** We explored concerns about the use of the register of local government electors to define residency and the potential loophole for those registered to vote at second homes in Wales.

**467.** Colin Everett acknowledged that a person could meet the requirement by virtue of a second home in Wales and suggested that it was more “about how parties think about how they advise their candidates about public confidence in them”.<sup>542</sup>

**468.** Clare Sim recognised the concerns but referred to the established principle in the wider registration context that you can register at two addresses if you have a degree of permanence at them.<sup>543</sup> Rhydian Thomas explained that electoral registration officers look at applications to register to vote from a secondary address on a case-by-case basis:

*“You must be deemed resident, as it states in the guidance, at an address in order to register to vote there.*

*We do provide guidance to electoral registration officers on this. So, for example, property ownership on its own isn't sufficient to establish if someone is resident at an address, and it will depend on the amount of time that an individual spends there”.<sup>544</sup>*

**469.** The Member in charge acknowledged the potential loophole and accepted that “no system is absolutely perfect”. He added:

*“I think the objective of the use of the register is that it creates as few loopholes as possible. It has the clarity and simplicity. There may be issues that arise that are not perfect et cetera, but it seems to me to be the best way forward, at a time when you want to keep an*

<sup>541</sup> RoP [para 167], 13 December 2023

<sup>542</sup> RoP [para 39], 15 November 2023

<sup>543</sup> RoP [para 45], 15 November 2023

<sup>544</sup> RoP [paras 100-101], 22 November 2023

*understanding of what are quite major changes as simple as possible”.<sup>545</sup>*

## **Our view**

**470.** Disqualifying candidates and Members who are not registered to vote at an address in a Senedd constituency is an aspect of the Bill that has not originated from any of the previous work undertaken in relation to Senedd reform. It has been developed by the Welsh Government without any public consultation or engagement. Like the majority of contributors to our work, we agree with the principle of a residency requirement which is applicable to both candidates and Members. We are also content with the residency requirement being determined on the basis of registration on the electoral register at an address in Wales. Nevertheless, it is clear from the evidence that the proposal raises a number of practical and policy considerations that would have benefited from proper pre-legislative consultation, engagement and scrutiny.

**471.** We agree with the AEA, the WECB and the Electoral Commission, that electoral administrators should accept the residency information provided by candidates at face value. This is consistent with the existing practice for candidate nomination papers. We also support the WECB’s suggestion that a candidate’s electoral register reference should be required on the nomination form to assist others in the verification of a candidate’s qualification, although before implementing this proposal the Member in charge should conduct a data protection impact assessment.

**Recommendation 37.** The Member in charge should commit to including a requirement for candidates to provide their electoral register reference on the nomination papers prescribed in the order made under section 13 of the Government of Wales Act 2006. As part of the review and consultation to inform the making of the order, the Member in charge should undertake a data protection impact assessment to ensure that any appropriate steps may be taken in respect of those who are eligible for anonymous registration.

**472.** Ultimately, responsibility for ensuring that the residency qualification is satisfied must rest with the individual candidate. Equally, the onus is on Members to ensure that they remain compliant throughout a Senedd term. This principle is true of all categories of persons and offices disqualified by Schedule 1A to the GOWA 2006 and we see no need to set apart disqualification on the grounds of

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<sup>545</sup> RoP [para 133], 13 December 2023

residency. As such, we do not consider it necessary to establish ongoing compliance checks for sitting Members.

**473.** However, we have identified some issues that will need to be addressed if the Bill progresses. First, as the Bill is currently drafted a sitting Member would be instantly disqualified as a consequence of no longer being on the register, for example, if they were removed as a result of an administrative error. No account could be taken of any appeal the Member might make against their deletion. However unlikely this is to occur in practice, accidental removal would trigger disastrous and unjust consequences for the individual concerned and, if it happened to a Member elected as an individual or a Member elected on a party's list that contained no further eligible or willing candidates, could result in the Senedd carrying an unfillable vacancy. Although the Member in charge agreed with us that a person should not be disqualified in this scenario, it is not clear what steps he will take to address this concern. We note the Llywydd's evidence that Members of the House of Lords have a period of eight days once elected to the Senedd to apply for leave of absence to avoid being disqualified as a Member of the Senedd. We believe that Members of the Senedd should similarly be afforded an appropriate grace period to safeguard against disqualification as a result of accidental removal from the register of electors at an address in Wales.

**Recommendation 38.** The Member in charge should bring forward amendments at Stage 2 to section 6 of the Bill to provide an appropriate grace period for a Member to appeal their removal from the register of electors at an address in Wales to prevent them being unseated as a result of their accidental removal from the register.

**474.** Second, the residency provision would result in a reserve candidate who is called upon to fill a vacancy arising during a Senedd term being immediately disqualified if they have since relocated outside Wales (and are therefore no longer on the electoral register at an address in Wales). It is unreasonable to expect a reserve candidate who has satisfied the residency requirement when they stood for election, and has legitimately been elected on a party's list, to reside in Wales throughout a Senedd term just in case a vacancy occurs. In this circumstance, we believe the Bill should be amended to include a grace period or a model of relief to enable a reserve candidate to move back to Wales, register to vote at a qualifying address and take up the vacancy, if they so wish.

**Recommendation 39.** The Member in charge should bring forward amendments at Stage 2 to provide a mechanism for a reserve candidate who would otherwise be eligible to take up a vacancy arising during a Senedd term to



become registered in the register of local government electors at an address within a Senedd constituency. The mechanism should include provision for a reasonable time period within which the prospective Member would be required to meet the qualification.

**475.** Finally, we note that the residency provision provides a potential loophole whereby a person who primarily resides outside Wales could satisfy the residency requirement in section 6 of the Bill if they are on the electoral register at an address in Wales by means of a second home. While we acknowledge that applications to register to vote from a secondary address are looked at by electoral registration officers on a case-by-case basis to determine residency, the potential loophole undermines the policy intentions of the residency provision.

**Recommendation 40.** The Member in charge should bring forward amendments at Stage 2 to prevent a person whose main residence is outside Wales from satisfying the residency requirement in section 6 of the Bill if they are on the electoral register at an address in Wales by means of a second home.

## 11. Review mechanisms

### Provision in the Bill

**476.** The Bill includes two provisions which require the PO elected by the Senedd after the 2026 election to table motions as soon as practicable after the first meeting of the Senedd following the election (and no more than six months after that meeting) to propose the establishment of Senedd committees to undertake specified tasks:

- Section 7(1) and (2) require a motion to be tabled to propose the establishment of a Senedd committee for the purpose of reviewing and reporting on “the extent to which (i) persons should be able to jointly hold any relevant office; (ii) a person should be able to temporarily hold a relevant office while the person appointed or elected to that office is unavailable”. Section 7(3) defines which offices are a “relevant office” for the purposes of the review. Section 7(5) provides that if the committee lays a report before the Senedd, the Welsh Ministers must lay a statement setting out their response to the report and any steps they plan to take in respect of any recommendations.
- Section 19 requires a motion to be tabled to propose the establishment of a Senedd committee for the purpose of reviewing “the operation and effect of the provisions of the 2006 Act that are amended, or inserted into that Act, by Parts 1 and 2” of the Bill, and “the extent to which the elements of a healthy democracy are present in Wales”. The motion must also propose that the committee must be required to complete a report on its review no later than twelve months after the first general election held after 6 April 2026 (regardless of the date on which the motion was tabled or considered).

### Review mechanism

**477.** Sections 7 and 19 share a similar design and structure. Each requires the PO to table a motion within a set period to propose the establishment of a Senedd committee to carry out specific work. This mechanism has been described as “quirky”<sup>546</sup> and “quite an unusual and strange type of provision”.<sup>547</sup> Professor Stirbu said she was “surprised” by the provisions, adding that it was “problematic when a

<sup>546</sup> RoP [para 259], 9 November 2023

<sup>547</sup> RoP [para 348], 26 October 2023

government of the day is trying to impose something or place a duty on a future Senedd”.<sup>548</sup>

**478.** Focusing in particular on section 7, Professor McAllister and Dr Vale Gomes said:

*“Seeking to commit a future Senedd to an action such as this is unusual, as is placing a statutory duty on a future Llywydd. We concur with the evidence submitted by the current Llywydd questioning the appropriateness of this. We regard this requirement as overly prescriptive. It also poses risks as to the surety of progress for such a review, as well as representing an anomaly in parliamentary practice”.*<sup>549</sup>

**479.** In written evidence, the Llywydd similarly described the provisions as “unusual”. She highlighted a range of matters:

- *“whether this is the most appropriate means of achieving the Welsh Government’s policy objective underpinning these provisions;*
- *whether it is appropriate for the Executive to propose the placing of a duty on any office holder of a future Senedd in relation to the establishment of Senedd committees, in particular when they relate to the consideration of policy matters or post-legislative scrutiny of Welsh Government legislation;*
- *the effect of the potential establishment of two Senedd committees on the Business Committee’s function in deciding the Seventh Senedd committee structure and timetables and how, if agreed, it would impact the aim of increasing the Seventh Senedd’s committee scrutiny capacity;*
- *the prescriptive nature of the provision in relation to its task, the timing of the proposed review under section 19, and the timescale within which it must be completed”.*<sup>550</sup>

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<sup>548</sup> RoP [para 355], 26 October 2023

<sup>549</sup> [Additional information provided by Professor Laura McAllister and Dr Vale Gomes following the evidence session on 26 October 2023](#)

<sup>550</sup> SCME(P)2 Llywydd

**480.** The Expert Panel cautioned that the Senedd should “exercise restraint in the way it makes use of any increase in the size of the institution [...] 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”.<sup>551</sup> It identified the number and size of committees as two of the factors to which particular consideration should be given.

**481.** The Llywydd noted that while the primary aim of Senedd reform was to increase scrutiny capacity, the Bill would require a future PO to propose the establishment of two specific committees for defined purposes in the first six months of the Seventh Senedd. She explained that any Senedd can establish any committee when it chooses, without the need for legislation. She said the Seventh Senedd should have flexibility to decide whether (and, if so, when) it wanted to establish committees to undertake the work proposed in sections 7 and 19. She added that she would be concerned by any requirement that compelled the Senedd to establish either committee.<sup>552</sup>

## **Section 7 Review of possible job-sharing of offices relating to the Senedd**

**482.** Professor Stirbu outlined the findings of work she had undertaken for the Remuneration Board in 2017 that job-sharing could make people more likely to stand for election, especially women, people with disabilities, people with childcare or caring responsibilities, and people wanting to maintain their existing professional careers.<sup>553</sup> Work undertaken by the ERS Cymru had similarly found that job-sharing could reduce barriers to standing for election.<sup>554</sup> The PCS Union described job-sharing as “a key equality matter”, especially in the context of providing cover for a Member taking maternity leave or shared parental leave, or as a reasonable adjustment for people with disabilities.<sup>555</sup> The Welsh Language Commissioner suggested that greater flexibility could attract more Welsh speakers to stand for election, as the census showed that the age groups that were more likely to report being able to speak Welsh were also those more likely to be raising families and developing their careers.<sup>556</sup> Professor McAllister and Dr

<sup>551</sup> Expert Panel on Assembly Electoral Reform, [A parliament that works for Wales: the report of the Expert Panel on Assembly Electoral Reform](#), November 2017, recommendation 3

<sup>552</sup> RoP [paras 203-204, 212 and 214], 26 October 2023

<sup>553</sup> RoP [paras 366-367], 26 October 2023

<sup>554</sup> RoP [para 258], 9 November 2023

<sup>555</sup> SCME(P)13 PCS Union

<sup>556</sup> SCME(P)6 Welsh Language Commissioner

Vale Gomes argued it could also be an attractive option for people working in the private sector or in business.<sup>557</sup>

**483.** The SPCSR made two recommendations regarding job-sharing:

*“Recommendation 13. We recommend that further consideration should be given, on a cross-party basis, to exploring the feasibility and legislative challenges associated with enabling election on the basis of job-sharing.*

*Recommendation 14. We recommend that the Senedd’s Business Committee considers the practical and procedural issues associated with the two Members job-sharing a particular role (such as that of a Committee Chair)”.<sup>558</sup>*

**484.** The Llywydd told us that, in line with recommendation 14, the Business Committee would begin work “in early 2024” to consider whether changes to Standing Orders should be made to facilitate job-sharing for certain non-statutory roles, such as committee chairs.<sup>559</sup>

**485.** In respect of election on the basis of job-sharing (recommendation 13), the EM notes that several organisations and reports in recent years have proposed job-sharing as a “practical measure which could help level the playing field in terms of access to elected office”, especially for groups including women, older people, disabled people, and carers.<sup>560</sup> However, rather than introducing job-sharing, section 7 of the Bill places a requirement on the PO in the Seventh Senedd to table a motion to propose the establishment of a committee to review and report on the extent to which:

- Persons should be able to jointly hold particular offices (Member of the Senedd, PO, DPO, Senedd Commissioner, First Minister, Welsh Minister, Deputy Welsh Minister, or Counsel General).

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<sup>557</sup> [Additional information provided by Professor Laura McAllister and Dr Vale Gomes following the evidence session on 26 October 2023](#)

<sup>558</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, recommendations 13 and 14

<sup>559</sup> SCME(P)2 Llywydd

<sup>560</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 202

- A person should be able to temporarily hold one of these offices while the person appointed or elected to it is unavailable. The EM gives the example of “a locum MS’ covering for an MS if they were unable to act for an extended period of time (e.g. because they were taking parental leave) or an MS temporarily holding an executive or Senedd role if the person appointed is unable to act for an extended period of time”.<sup>561</sup>

**486.** Many contributors were disappointed by this provision.<sup>562</sup> Jess Blair understood further policy development work was needed, but worried that section 7 amounted to “kicking the can down the road”.<sup>563</sup> She suggested that if a committee were the appropriate mechanism, it should be established in the Sixth Senedd:

*“[...] we don't know the make-up of a future Senedd. There's no guarantee this would actually be passed as a motion in a future Senedd. If we want work on job-sharing to happen, it should happen in this Senedd, where there is the interest and the support”.<sup>564</sup>*

**487.** Professor McAllister and Dr Vale Gomes were similarly concerned, stating that:

*“[...] job share for elected politicians has been on the political radar in Wales for quite some time. Postponing any serious further investigation until after elections to a reformed and enlarged Senedd seems to us anomalous”.<sup>565</sup>*

**488.** The PCS Union noted that, unlike section 19, section 7 includes no timescale within which any committee established should be required to report. It suggested the Bill should be amended to require publication by December 2027 in order to:

<sup>561</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 203

<sup>562</sup> For example, SCME(P)5 Electoral Reform Society Cymru; SCME(P)10 Women's Equality Network Wales; SCME(P)13 PCS Union; SCME(P)23 Institute of Welsh Affairs

<sup>563</sup> RoP [para 258], 9 November 2023

<sup>564</sup> RoP [para 263], 9 November 2023

<sup>565</sup> [Additional information provided by Professor Laura McAllister and Dr Vale Gomes following the evidence session on 26 October 2023](#)

*"[...] strike a balance between a comprehensive study of the options and ensuring that any resultant legislation or other rules changes have the time to be drafted and implemented in time for candidates in the following election to consider a job-share as a viable option".<sup>566</sup>*

**489.** The provisions in the Bill focus solely on job-sharing of potential Senedd and Welsh Government offices. However, the EM goes further, stating:

*"As part of its work, the Committee (if established) may potentially also reflect on the job-sharing arrangements provided for in the Local Government Act 2021, and the use of job-sharing in local government in Wales".<sup>567</sup>*

**490.** The Member in charge explained that the approach taken in the Bill was because there had been inadequate time to properly explore the range of complex constitutional and practical issues.<sup>568</sup> He said, however, in his view section 7 gave effect to the SPCSR's recommendation as:

*"[...] what it does is ensure that the desire for this to be considered is actually going to happen. Now, you could say that the Senedd, of course, has the ability to consider all of these things without it being in the legislation. What I think the legislation does is make sure that it actually will happen—so, within six months".<sup>569</sup>*

**491.** He went on to say:

*"It is an incredibly complex area, because job sharing means different things to different people at different levels and so on. So, firstly, the analysis of what it means is extremely complex. It really does need to be [thought] out. It also has not just the practical aspects to it, it has the constitutional aspects to it in a system where you are electing representatives and at what level. So, for example, there are things that could happen—committees themselves could, actually,*

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<sup>566</sup> SCME(P)13 PCS Union

<sup>567</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 205

<sup>568</sup> RoP [paras 107 and 112], 5 October 2023

<sup>569</sup> RoP [para 106], 5 October 2023



*potentially, decide, the Senedd itself could decide, for example, job sharing in terms of Chairs of committees and things like that.*

*Where it gets far more complicated, I think, is when you start saying, 'Job sharing in terms of elected representatives.' How would that actually work? How would it work within a proportional system? Who has the major responsibility? What happens if there are conflicts? There are so many criteria, and at what level? There are very specific statutory functions, for example First Minister, Counsel General—are those things that should be considered for job sharing and so on? So, I actually think that the consideration of that is something that is appropriately included within the legislation as something that will be discussed by the next Senedd. So, the next Senedd will definitely have a motion tabled to consider the issue of job sharing, but I think it's something that is of such complexity in practical and constitutional matters that it really requires a lot more thought".<sup>570</sup>*

**492.** He added that if the Senedd wanted to establish a committee during the Sixth Senedd to undertake some of this work, that was a matter for the Senedd and not the Welsh Government.<sup>571</sup>

**493.** Some contributors, including Professor McAllister and Dr Vale Gomes<sup>572</sup> highlighted issues that would need to be considered as part of any job-sharing review. Professor Clark noted that the closed list system would mean voters could not exercise specific choices regarding any job-sharing partners on parties' lists.<sup>573</sup> Reflecting this, the WEN Wales explained that part of its disappointment that further work on job-sharing would not take place until the Seventh Senedd was that it prevented:

*"[...] the exploration of job-sharing to integrate with and inform scrutiny of other aspects of Senedd reform legislation, including Senedd expansion, the voting system and gender quotas".<sup>574</sup>*

**494.** Professor Clark also cautioned that introducing job-sharing could give rise to controversies if any job-sharing Members also held second jobs outside the

<sup>570</sup> RoP [paras 269-270], 13 December 2023

<sup>571</sup> RoP [para 275], 13 December 2023

<sup>572</sup> [Additional information provided by Professor Laura McAllister and Dr Vale Gomes following the evidence session on 26 October 2023](#)

<sup>573</sup> SCME(P)4 Alistair Clark

<sup>574</sup> SCME(P)10 Women's Equality Network Wales

Senedd.<sup>575</sup> The Electoral Commission noted that technical and legislative changes would be required for nomination papers and ballot papers, and that provision would need to be in place should one job-sharing partner stand down, become disqualified or change parties.<sup>576</sup>

**495.** When asked whether it would be feasible for any recommendations made by a section 7 committee to be implemented for the 2030 election, the Member in charge said:

*“Well, it is feasible. It's up to the Senedd how quickly it completes that work and develops a policy that can be converted into legislation”.<sup>577</sup>*

## **Section 19 Review of the operation of Act etc. after 2026 election**

### **Responsibility for reviews**

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**496.** The Bill is not unique among electoral reform legislation in including statutory review provision. However, the specific mechanism is unusual. Other examples of electoral law statutory review provisions include:

- Section 38 of the Senedd and Elections (Wales) Act 2020 requires the Welsh Ministers to report within a specified period on the provisions in that Act that relate to the extension of the right to vote and changes to Member disqualification.
- Section 62 of the Elections Act 2022 requires the Secretary of State to prepare, publish and lay a report on the operation of that Act within a specified period.
- Section 6ZA of the Political Parties Elections and Referendums Act 2000 requires the Electoral Commission to keep a number of matters relating to devolved elections in Wales under review, and to publish and submit reports on those matters “from time to time” to the Welsh Ministers. It also provides the Welsh Ministers with a power to request the Electoral Commission to report on “any matter or matters for which provision is or could be made in an Act of Senedd Cymru”.

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<sup>575</sup> SCME(P)4 Alistair Clark

<sup>576</sup> SCME(P)9 The Electoral Commission

<sup>577</sup> RoP [para 117], 5 October 2023

**497.** When asked about section 19, the Member in charge said:

*“Whilst this is a Welsh Government Bill, its core purpose is to give legislative effect to the recommendations of the Special Purpose Committee on Senedd Reform, whose recommendations were endorsed by the Senedd.*

*Therefore, whilst consideration was given to placing a reporting duty on Welsh Ministers, the government determined that it is more appropriate that any review of the operation and effect of the Act is undertaken by the Senedd”.*<sup>578</sup>

**498.** In written evidence, the Llywydd highlighted the “prescriptive nature of the provision in relation to [the section 19 committee’s] task, the timing of the proposed review under section 19, and the timescale within which it must be completed”.<sup>579</sup> In oral evidence she described the timescales as her “main concern”. She explained that if it took up to six months to establish the committee (including agreeing chairing and membership arrangements), it may have only six months to complete its work and report. She added:

*“I’m not sure why that is in the legislation in that way”.*<sup>580</sup>

**499.** The Member in charge told us the reason was:

*“I want to make sure that those things happen and they happen very early on”.*<sup>581</sup>

**500.** The Member in charge said that within the context of four-year terms, the review must take place at an early date if any changes were to be made for 2030. He added that it would be up to any committee how it conducted its work within the available timescales. He suggested it could continue its work after the 12-month period within which it was required to report<sup>582</sup> (although section 19 makes no provision for this to be included within the motion the PO is required to table).

<sup>578</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>579</sup> SCME(P)2 Llywydd

<sup>580</sup> RoP [paras 227-228 and 230], 26 October 2023

<sup>581</sup> RoP [para 251], 13 December 2023

<sup>582</sup> RoP [para 251], 13 December 2023

**501.** Anna Hind acknowledged that the Bill requires the motion to propose the committee reports within twelve months, but said “that motion is capable of amendment by Members, so there is scope to move it”.<sup>583</sup>

**502.** Contributors who commented on this matter generally thought it was appropriate for a body other than the Welsh Government to carry out the review. Dr Larner said that the review could be conducted by an independent body, or by a Senedd committee.<sup>584</sup> Jess Blair emphasised that any review must include engagement with voters.<sup>585</sup> Professor Stirbu agreed, describing public involvement as “critical”.<sup>586</sup> She noted that Senedd committees have a positive track record of engaging with the public and people with lived experience, but suggested that consideration be given to incorporating participatory and deliberative democracy initiatives.<sup>587</sup>

**503.** The Llywydd did not offer a view on who should undertake any review, although she noted that other electoral legislation generally places the duty on the executive rather than the legislature.<sup>588</sup> She added that if the work were required to be undertaken by a Senedd committee, the Welsh Government would still need to be ready to provide evidence and analysis of how it considered the Act had operated and the extent to which elements of a healthy democracy were present in Wales. She said any committee could also consider commissioning independent research to inform its work, but cautioned:

*“We know that all of that analysis on election results, for example, usually takes a good six months for a university to turn out after an election, so I am concerned about the timetabling in this Bill”.<sup>589</sup>*

**504.** Colin Everett highlighted the practical and administrative evaluations conducted by electoral administrators, and the Electoral Commission’s statutory role in evaluating and reporting on the conduct of Senedd elections. He said:

*“So, there are all sorts of ways of going about reviewing elections. And it'd be interesting to see how the Senedd might propose pulling all that together. Because we wouldn't want an Electoral Commission*

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<sup>583</sup> RoP [para 257], 13 December 2023

<sup>584</sup> RoP [para 113], 9 November 2023

<sup>585</sup> RoP [paras 246-252], 9 November 2023

<sup>586</sup> RoP [para 353], 26 October 2023

<sup>587</sup> RoP [para 356], 26 October 2023

<sup>588</sup> SCME(P)2 Llywydd

<sup>589</sup> RoP [para 308], 26 October 2023

*review over here, and a Senedd review over there. But, clearly, I think, for 2026, quite a lot of surveying of voter experience, understanding of the lists and the new system, will be as important as how well we've done in pulling it off with yourselves as parties".<sup>590</sup>*

**505.** The Electoral Commission similarly highlighted its statutory duty to report on the administration of Senedd elections, and confirmed that it would publish a "post-poll report" in 2026. It said:

*"This report will include evidence and analysis of the experiences of voters, campaigners and electoral administrators at the election. We will use this evidence, as well as any other insights we have on the implementation of Senedd reform, to support the work that will be taken forward under these provisions".<sup>591</sup>*

**506.** In oral evidence, Rhydian Thomas said that the Electoral Commission would consider requests from the Senedd about what it would like to see included in, or published as supplementary to, the Electoral Commission's report on the 2026 election.<sup>592</sup> Dame Elan Closs Stephens confirmed this, adding that "it would be in order for us to be asked to do more work of that kind without it necessarily being in the Bill".<sup>593</sup>

### Scope of reviews

**507.** Section 19 requires a motion proposing the establishment of a Senedd committee to specify two issues that should be reviewed:

- The operation and effect of the provisions of the GOWA 2006 that are amended, or inserted into that Act, by Parts 1 and 2 of the Bill i.e. the provisions relating to the Senedd and its Members, the number of Welsh Ministers and the voting system in general elections.
- The extent to which the elements of a healthy democracy are present in Wales.

**508.** There was consensus among contributors that the first element (the operation of Parts 1 and 2) was welcome. However, we heard mixed views about

<sup>590</sup> RoP [para 165], 15 November 2023

<sup>591</sup> SCME(P)9 Electoral Commission

<sup>592</sup> RoP [para 120], 22 November 2023

<sup>593</sup> RoP [para 135], 22 November 2023

the second part (the extent to which the elements of a healthy democracy are present in Wales).

**509.** The Member in charge told us that he wanted to see “continuous debate” about democratic health, including matters such as electoral turnout, policy development, and public participation and engagement.<sup>594</sup> The EN to the Bill included in the EM reflect this, stating that:

*“41. The provision allows the [section 19] Committee to include, within its report, an assessment of any other Senedd Reform issues that it considers relevant, such as:*

*(i). The awareness and understanding of devolved Welsh government and elections;*

*(ii). An assessment of turnout levels and an exploration of proposals for how this may be increased;*

*(iii). Support for members and parties to undertake their Senedd roles;*

*(iv). The infrastructure in place to support a strong Welsh democracy”.*<sup>595</sup>

**510.** The Member in charge said this list was intended to be “illustrative and in no way bind the committee to consider those specific matters”.<sup>596</sup>

**511.** The ERS Cymru welcomed provision regarding review of the extent to which elements of a healthy democracy are present in Wales and the issues listed in the EN. It suggested that any review should be “as wide in scope as possible”.<sup>597</sup> Jess Blair proposed consideration be given in particular to how the health of democracy can be measured, including what data is available in respect of turnout on the basis of different demographic groups.<sup>598</sup>

**512.** While welcoming the term “healthy democracy”, some, including Professor McAllister, cautioned that the term was not sufficiently clear:

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<sup>594</sup> RoP [para 143], 5 October 2023

<sup>595</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, Explanatory Notes para 41

<sup>596</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>597</sup> SCME(P)5 Electoral Reform Society Cymru

<sup>598</sup> RoP [para 156], 9 November 2023

*"[...] is that about turnout, or is it about citizens' understanding and the intelligibility of the system and maybe different demographics and how that's played out?".<sup>599</sup>*

**513.** Other contributors were less convinced about the merits of the provision. Professor Clark welcomed the principle of a "wider democracy review or audit", but said that including a term that could be so widely interpreted risked diverting post-legislative work away from the Act's operation. He called for the Bill to be amended to remove section 19(2)(a)(ii) "to stop any review being diverted into matters that are not relevant to the operation of the Bill".<sup>600</sup>

**514.** Professor McAllister said that any broader work on democratic health must look beyond Senedd elections, and instead consider the "internal democracy of Wales" in the round, including local government.<sup>601</sup> Professor Stirbu agreed, saying:

*"[...] I would like to see is a more kind of wholesome review around a healthy democracy in Wales. [...] We have a very complex situation here, where you have three different electoral systems and three different types of political representation in Wales. Just focusing on reviewing how these arrangements work at the level of the Senedd elections, I don't think that it will take us too far along the aim of having a healthy democracy in Wales as a whole".<sup>602</sup>*

## Our view

**515.** The review provisions in sections 7 and 19 differ in purpose, but are broadly the same in design. Section 7 proposes that policy and legislative development is undertaken by a Senedd committee, rather than the Welsh Government. Section 19 proposes that post-legislative review of the Act and exploration of the health of democracy in Wales is undertaken by a Senedd committee rather than the Welsh Government.

**516.** We set out our views on each provision below. However, we note that regardless of whether or not the Bill is passed with these provisions as drafted, there are no legal or procedural barriers that would prevent:

<sup>599</sup> RoP [para 97], 26 October 2023

<sup>600</sup> RoP [paras 117 and 121], 9 November 2023, SCME(P) Alistair Clark

<sup>601</sup> RoP [para 98], 26 October 2023

<sup>602</sup> RoP [paras 349-350], 26 October 2023



- The Sixth Senedd establishing a committee or asking an existing committee to carry out the work described in section 7 (job-sharing) or section 19(2)(a)(ii) (review of the extent to which elements of a healthy democracy are present in Wales) prior to the 2026 election (or any subsequent Senedd from doing this at a later date).
- The Seventh Senedd (or any subsequent Senedd) establishing a committee to conduct a review of the operation of the Act (or any other Act), or asking a relevant committee to do so.
- Any Senedd committee to whose remit these issues would be relevant proactively conducting such work at a time and in a way of its choosing.
- The Welsh Government from undertaking policy development or reviews.

**517.** We agree with the Llywydd that:

*"[...] as a point of principle I think it's important that we allow the next Senedd and then, ultimately, any committee that's formed to decide on how it wants to do its work. I find binding the hands of a committee in a future Senedd to be not an issue that I would consider that a piece of legislation should involve itself in".<sup>603</sup>*

**518.** We note the evidence from the Member in charge and his officials that the Welsh Government does not intend to bind a future Senedd. However, the prescriptive nature of the provisions would, if passed, impose the will of this Senedd on the Seventh Senedd in respect of the nature of the work to be proposed and, in section 19, the timescales for its completion. For this reason, we find sections 7 and 19 to be constitutionally problematic, as well as legally unnecessary. Our preference would be for both provisions to be removed from the Bill. As we discuss below, this does not mean that we do not want to see further work done in respect of job-sharing, robust post-legislative review of the Act, or consideration of the health of democracy in Wales. It is only that we disagree with the Member in charge about the mechanisms for achieving these ends.

**Recommendation 41.** The Member in charge should bring forward amendments at Stage 2 to remove sections 7 (review of possible job-sharing of offices relating to the Senedd) and 19 (review of operation of Act etc. after 2026 general election)

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<sup>603</sup> RoP [para 232], 26 October 2023

from the Bill on the basis that the provisions are constitutionally problematic and legally unnecessary.

**519.** We do not see why further work on job-sharing should be delayed until after 2026, even if it is not possible to implement any recommendations legislatively before the 2026 election. We therefore endorse the SPCSR’s recommendation that “further consideration should be given, on a cross-party basis, to exploring the feasibility and legislative challenges associated with enabling election on the basis of job-sharing”.<sup>604</sup>

**520.** We note in particular that the SPCSR recommended that further consideration be given to job-sharing on a cross-party basis. Section 7 of the Bill seeks to give effect to the Member in charge’s interpretation that this work should be done by a Senedd committee. While Senedd committees may choose to undertake policy and legislative development, it is unusual for this to be done at the behest of the Welsh Government or to be required by legislation. A more usual approach would be for policy and legislation to be developed by the Welsh Government, working with other partners where appropriate, for example through the Co-operation Agreement, or co-production or engagement with stakeholders. We are not persuaded that the Member in charge’s interpretation of the SPCSR’s recommendation necessarily overrules either the principle that the Welsh Government is responsible for conducting its own policy and legislative development, or that it is a matter for the Senedd itself to determine its own structures and how its backbench capacity is deployed in carrying out its functions of holding the Welsh Government to account, scrutinising its policies, legislation, spending and taxation, and representing the people of Wales. However, on this occasion, we acknowledge that a Senedd committee may be well-placed to conduct this work.

**Recommendation 42.** The Business Committee should consider either proposing the establishment of a new committee in the Sixth Senedd to explore the extent to which persons should be able to jointly hold the offices listed in section 7(3) of the Bill, including the extent to which a person should be able to temporarily hold such an office while the person elected or appointed to that office is unavailable, or asking an existing Senedd committee with a relevant remit to undertake such work. If such work is undertaken by a Senedd committee, the Business Committee should schedule time in Plenary for debate of the outcomes by the Senedd.

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<sup>604</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, recommendation 13

**521.** In respect of section 19, we strongly support the principle of legislation being subject to post-legislative review and scrutiny to ensure that it is operating as intended. We recognise the views of contributors that such work must involve the public and should not be left wholly to government. We note that the Member in charge considers it more appropriate for a Senedd committee to conduct a review of the operation of the Act under section 19. However, he has given no compelling reasons for this, nor has he explained why the Welsh Government has not followed the examples in previous Welsh and UK electoral legislation of placing a statutory review duty on the executive. Such an approach would not prevent a Senedd committee from undertaking work to scrutinise, explore and build on any Welsh Government review, informed by independent advice, expertise and citizen engagement activity. It would simply ensure that the scope and timing of such work would be at the discretion of the Senedd and its committees rather than the Welsh Government's legislation. It would also be in line with the existing flexibility that Senedd committees have, and make use of, to undertake post-legislative scrutiny of any Act (or specific provisions within any Act) passed by the Senedd when they consider it appropriate and timely to do so.

**Recommendation 43.** The Member in charge should bring forward amendments at Stage 2 to require the Welsh Ministers to review and report on the operation of the Senedd Cymru (Members and Elections) Act 2024. The outcomes of this review will inform decisions to be taken by future Seneddau and their committees whether, and if so, when and how, they consider it appropriate to conduct post-legislative scrutiny.

**522.** We also note that the examples of duties placed on Welsh and UK Ministers in the Senedd and Elections (Wales) Act 2020 and the Elections Act 2022 provide for far longer for the provisions to be in effect before a review must be conducted. We share the Llywydd's concerns about the tight timescale for the section 19 review. A committee established to review the operation of the Act under section 19(2)(a)(i) would be required to report within 12 months of the first meeting of the Seventh Senedd. As the Llywydd told us, it can take up to six months after an election for independent research and analysis by academics and the Electoral Commission to be conducted. We also have concerns that the timescales would constrain the extent to which any review could incorporate significant public involvement such as deliberative and participatory methods.

**523.** The Bill as drafted offers no flexibility for the PO in terms of the motion they must propose, and no flexibility for any committee that is established in terms of what it must do or by when. The Member in charge's officials told us that the form

of the motion to be tabled by the PO in the Seventh Senedd is prescribed in legislation, but that any other Member could propose amendments to the motion to adjust matters such as the scope of the work or the reporting timescales. This is procedurally correct, but that does not necessarily mean it is an appropriate approach for ensuring the effective conduct of Senedd business. For example, if discussions between the PO and the Business Committee in the Seventh Senedd were to conclude that alternative timescales or scope would be preferable, the only way to achieve that would be for another Member to table amendments to the PO's motion. As set out above, our strong preference is for sections 7 and 19 to be removed from the Bill. However, if the Member in charge does not accept our Recommendation 41, then, as a minimum, those sections should be amended to provide greater flexibility, for example by removing section 19(2)(b) which requires a specific deadline for the completion of the work, or at least amending it to provide that the motion may specify timescales within which the proposed committee must report. Our Recommendation 44 and Recommendation 45 offer two alternative means of achieving this; of the two, Recommendation 44 would be preferable.

**Recommendation 44.** If the Member in charge does not accept our Recommendation 41, he should bring forward amendments at Stage 2 to remove section 19(2)(b) (which requires the motion tabled by the Presiding Officer to propose that the committee established to review matters relating to the review of the Act and the extent to which elements of a healthy democracy are present in Wales must complete a report on the review no later than twelve months after the first meeting of the Senedd after the 2026 election).

**Recommendation 45.** If the Member in charge does not accept our Recommendation 41 or Recommendation 44, he should bring forward amendments at Stage 2 to section 19(2)(b) to replace the current requirement that the motion tabled by the Presiding Officer must specify that the committee's work is to be completed within twelve months of the first meeting after the 2026 election with provision that the motion may include a proposed deadline by which the committee's report is to be completed.

**524.** In respect of the requirement in section 19(2)(a)(ii) regarding a review into the extent to which elements of a healthy democracy are present in Wales, the evidence we have heard has been mixed. While some have welcomed the provision and called for such a review to be as wide as possible, others have suggested that the term is ambiguous, could fail to take account of wider democracy in Wales if it focuses solely on the Senedd and/or that the breadth of

such work could divert focus away from an effective review of the operation of the Act. While we support the principle of examining the health of democracy in Wales, a majority of Committee members share the reservations expressed by contributors about whether this is the appropriate mechanism for such work. Including it alongside a review of the operation of the Act could mean it fails to take account of the breadth of Wales' democracy and democratic structures. Subjecting it to the timescales specified in section 19(2)(b) could limit its scope and the methods by which it was undertaken. As noted above, our preference is for section 19 to be removed from the Bill in its entirety. However, if the Member in charge does not accept our Recommendation 41, then a majority of Committee members believe that, as a minimum, section 19(2)(a)(ii) should be removed. If section 19 remains in the Bill, Llyr Gruffydd MS is content that section 19(2)(a)(ii) should also remain.

**Recommendation 46.** By majority, we recommend that, if the Member in charge does not accept our Recommendation 41, he should bring forward amendments at Stage 2 to remove section 19(2)(a)(ii) (which requires the motion tabled by the Presiding Officer to propose that a committee carries out a review of the extent to which elements of a healthy democracy are present in Wales).

**525.** We note that section 7(5) includes a requirement for the Welsh Ministers to respond to the report and recommendations of a section 7 committee. The laying before the Senedd of such responses is, of course, the Welsh Ministers' usual practice in respect of reports laid by Senedd committees. However, if the Welsh Ministers consider it to be necessary to place a legislative requirement on their successors to respond to the report of a committee established pursuant to a motion under section 7(1), it is not clear to us why they would not consider it equally necessary to include equivalent provision in respect of the report of a committee established pursuant to a motion under section 19(1). As noted above, our preference is for section 19 to be removed from the Bill in its entirety. However, if the Member in charge does not accept our Recommendation 41, then, as a minimum, it should be amended to include provision equivalent to section 7(5).

**Recommendation 47.** If the Member in charge does not accept our Recommendation 41, he should bring forward amendments at Stage 2 to insert into section 19 provision equivalent to section 7(5) requiring the Welsh Ministers to respond to the report and recommendations made by a committee established pursuant to a motion under section 19(1).

## 12. Other issues

### Background

**526.** Our role has been to consider and report on the general principles of the Bill. However, two other significant issues have emerged:

- The resources available to political parties to inform policy development, including developing alternative policy platforms.
- Mechanisms such as recall to strengthen individual Members' accountability.

### Policy development resource for political parties

#### Arrangements elsewhere

**527.** In 1975, Short Money was introduced in the House of Commons to support opposition parties.<sup>605</sup> Eligibility is based on the number of seats parties won at the last election and the number of votes they received. The scheme was amended in 1999 and 2016 to introduce a specific sum for the Leader of the Opposition, adjust the formula for calculating allocations, introduce annual indexation, improve transparency, and apply minimum and maximum funding thresholds for parties with up to five MPs.

**528.** In 1996, a broadly similar scheme (Cranborne Money) was introduced in the House of Lords to provide financial assistance to the two largest opposition parties. In 1999, a separate resolution was agreed for financial support to the Convenor of Crossbench Peers. The schemes were consolidated in 2002.

**529.** In the Scottish Parliament, the Scottish Parliament Corporate Body administers a scheme known as Short Money. It was established under section 97 of the Scotland Act 1998 which provides for financial assistance to be provided to registered political parties in accordance with arrangements specified by Order in Council. In 2021, the Scottish Parliament passed an Act to amend section 97 to provide that rules on financial assistance to political parties can be made via Scottish Parliament resolution.

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<sup>605</sup> A separate scheme, Representative Money, was introduced in 2006 to support parties whose MPs have not taken the oath.

**530.** In Northern Ireland, financial assistance is provided to all political parties in the Northern Ireland Assembly through the Financial Assistance to Political Parties Scheme. The Scheme is made by the Northern Ireland Assembly Commission exercising the power granted by the Financial Assistance for Political Parties Act (Northern Ireland) 2000.

### **Support for parties represented in the Senedd**

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**531.** We asked the Member in charge whether, on the basis that closed lists increase political parties' roles, he had considered including provision in the Bill to address policy development funding. He acknowledged closed lists would “create a much clearer focus and accountability in respect of manifestos”, but said policy development is “normally a matter that goes within the parties themselves”.<sup>606</sup>

**532.** Will Whiteley confirmed the Bill makes no provision for political parties' policy development, but said there were already “mechanisms within the Senedd and Senedd Commission in relation to funding for party groups”.<sup>607</sup> Box 10 summarises these.

#### **Box 10 Financial support for political parties represented in the Senedd**

##### **Support for Political Parties Allowance**

- This allowance is payable through the Remuneration Board's Determination in respect of costs incurred by Members wholly, exclusively and necessarily for the purposes of performing their duties as Members. It may be used to employ political party group staff or for policy and research costs, as well as matters such as office equipment and stationery, travel, redundancy and facility hire.
- The 2023-24 Determination sets the allowance at £1,089,640. Political parties represented in the Welsh Government receive a core administration allowance of £11,980 per Member up to a maximum of £179,520. Political parties not represented in the Welsh Government, and which have three or more Members, receive a core administration allowance of £59,260. The remaining funding is allocated on a per Member basis among political parties not represented in the Welsh Government.

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<sup>606</sup> RoP [para 140], 5 October 2023

<sup>607</sup> RoP [para 141], 5 October 2023



### Office and Constituency Liaison Fund

- This allowance is payable through the Determination, and may be used by any Member to access external expertise to advise or assist them for a fixed period to deliver a specific piece of policy, research or communication work. This may include, for example, policy development, exploration of issues of significance to constituents, or scrutiny of policy, legislation or finance.
- Members may commission work jointly with other Members, or vire funds to their political party for the purposes of commissioning research.

### Policy development grant

- This grant is administered by the Electoral Commission, which is provided with £2 million annually from the UK Parliament. The grant is available to any parties with two sitting House of Commons MPs who have taken the oath.
- £1 million is distributed equally amongst the parties and £1 million is allocated based on the proportion of the registered electorate where the party contests elections (England, Wales, Scotland, Northern Ireland), and the share of the vote the party received in each part of the UK.

**533.** In correspondence, the Member in charge added:

*“The Welsh Government has given limited consideration to this issue. The Explanatory Notes to the Bill note that a Committee reviewing the operation and effect of Parts 1 and 2 of the Bill could consider a range of Senedd Reform matters that it considers relevant, such as ‘Support for members and parties to undertake their Senedd roles’.*

*It may also be noted that the legislative framework is only one component in a wider consideration of supporting policy development by political parties in opposition in Wales”.*<sup>608</sup>

**534.** We asked the Llywydd whether she, or the Senedd Commission, had considered this issue or had any discussions with the Electoral Commission about it. She told us that, as part of implementing the Bill, consideration could be given to the resourcing of “different aspects of political life”.<sup>609</sup> Siwan Davies explained that discussions were beginning between the Senedd Commission and the

<sup>608</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>609</sup> RoP [para 186], 26 October 2023

Remuneration Board about how a 96-Member Senedd might operate and be supported. She added that this would include, for example, review by the Remuneration Board of the Political Parties Support Allowance, informed by engagement with Members, political groups and Members' support staff.<sup>610</sup>

**535.** Dr Haywood told us that the Remuneration Board's review would:

*"[...] look back at first principles. What is that political party support allowance for? What should it cover? What does it cover? And [we're] looking internationally at the various different models and then we'll test that out and see whether that works in terms of the Senedd and whether there are other ideas, and then come up with recommendations".<sup>611</sup>*

**536.** The Electoral Commission told us that the creation of any Welsh fund equivalent to the UK policy development grant would "depend on funding by Welsh Government and what [it] would be required to do". Rhydian Thomas added that the Electoral Commission would be open to discussions with the Welsh Government as "the need for political parties in Wales to look at policies and at getting the message out and how to communicate with voters is a valid one".<sup>612</sup> Dame Elan Closs Stephens acknowledged that there could be "anomalies within the system, as devolution evolves", but said that she could make no commitments before further discussions had taken place.<sup>613</sup>

## **Legislative competence**

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**537.** Under the reserved powers model, the Senedd has competence to legislate on all matters which are not expressly reserved to the UK Parliament. Under paragraph 6 of Schedule 7A to the GOWA 2006, the funding of political parties and their Members and officers is a reserved matter. The reservation in paragraph 6 is subject to an exception which permits the "making of payments to any political party for the purpose of assisting members of the Senedd who are connected with the party to perform their Senedd duties". If a provision in a Senedd Bill relates to a reserved matter, it will be outside the Senedd's legislative competence. Whether a provision relates to a reserved matter is determined by

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<sup>610</sup> RoP [para 187], 26 October 2023

<sup>611</sup> RoP [para 58], 30 November 2023

<sup>612</sup> RoP [para 131], 22 November 2023

<sup>613</sup> RoP [para 132], 22 November 2023

reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.

## Our view

**538.** While outside the scope of the Bill, we believe the effective operation of parliamentary democracy also relies on the ability of political parties to develop robust, evidence-led policy. This is recognised at a UK-level through the provision of Short Money, Cranborne Money and the policy development grant administered by the Electoral Commission. While arrangements for these funding mechanisms vary, the consistent factor in determining eligibility and allocation is the level of representation within the UK Parliament.

**539.** In Wales, the Remuneration Board provides support for political groups in the Senedd for the purposes of supporting Members' work. This funding is important in ensuring the effective functioning of Senedd political groups, but it is not an adequate equivalent to the broader funding for political parties' policy development work available at a UK level.

**Recommendation 48.** The Welsh Government should work with the Independent Remuneration Board of the Senedd, the Senedd Commission, the Electoral Commission, registered political parties, and such other stakeholders as it considers appropriate, to review the public resources and funding available to registered political parties in Wales for the purposes of policy development, and the extent to which the eligibility and allocation of such resources and funding reflect devolved responsibilities, parties' electoral support in Wales and their representation in the Senedd. In conducting this review, which should be completed and published in sufficient time to enable the outcomes to be implemented with effect from the start of the Seventh Senedd in 2026, consideration should be given to funding levels, governance arrangements, and any issues relating to the Senedd's legislative competence.

**Recommendation 49.** As it prepares for the implementation of the reforms in the Bill, the Independent Remuneration Board of the Senedd should review the Political Parties Support Allowance and consider any other relevant provision that could be provided through its Determinations. During this process, it should consider in particular the extent to which the support available is equivalent to the level and types of support available elsewhere, including Short Money and Cranborne Money in the UK Parliament. The outcomes of this work should be implemented with effect from the start of the Seventh Senedd in 2026.

## Member accountability

**540.** When it closed on 31 December 2023, a petition calling for the Senedd to adopt a recall procedure similar to the process that applies in Westminster, but with a trigger mechanism of a 100 signature online petition, had 2,013 signatures.<sup>614</sup> Similarly, contributors have raised recall mechanisms with us. The IWA said it was “concerned” that the Bill did not make provision for recall, adding “the lack of information on how standards will be upheld is a significant gap”. It suggested:

*“A modern democracy requires a clear recall mechanism to improve scrutiny, transparency and accountability on behalf of the electorate. Without this, the Senedd will fall further behind its Westminster equivalent in this area which, however flawed, has clear processes around recall mechanisms for parliamentarians.”<sup>615</sup>*

**541.** Colin Everett supported the principle of recall on the basis of minimising divergence between UK and Welsh electoral arrangements:

*“[...] it's become quite a significant feature of democracy, where it's not a disqualification, but [...] where there is still some cause for doubt about the suitability of a candidate to remain in office. I think it's something that should be considered on the principle of consistency between UK and Wales if we want the rigour of Senedd elections to have the same level of public confidence. How we would make it work would be something we'd need to return to.”<sup>616</sup>*

**542.** He added that under the Recall of MPs Act 2015 (“the 2015 Act”), recall processes are “very complex logistical processes to run”, especially in respect of the recall petition.<sup>617</sup> The reasons for this include ensuring sufficient petition signing access across potentially large geographic areas over extended periods of time.<sup>618</sup> Clare Sim agreed, suggesting that if any Senedd recall system were introduced,

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<sup>614</sup> [Petition: 'Introduce a way for constituents to vote out their MS before the end of their term'](#) [accessed 2 January 2024]

<sup>615</sup> SCME(P)23 Institute of Welsh Affairs

<sup>616</sup> RoP [para 101], 15 November 2023

<sup>617</sup> RoP [para 104], 15 November 2023

<sup>618</sup> RoP [para 107], 15 November 2023

account should be taken of the Electoral Commission’s reports on recall petitions held under the 2015 Act.<sup>619</sup>

**543.** The Electoral Commission provided us with a summary of these reports.<sup>620</sup> Rhydian Thomas said the 2015 Act had worked “reasonably well”, although issues had arisen regarding the length of the signing period and the location and number of signing stations. He highlighted the difficulties of operating equivalent recall arrangements in an electoral system that does not fill vacancies through by-elections.<sup>621</sup>

**544.** On 5 October 2023, the Member in charge described recall as “a very topical [issue] in terms of accountability of individual Members”. He told us that it was not included in the Bill because it had not been recommended by the SPCSR. He added that incorporating recall within closed lists would be “quite complex”, but agreed there was no reason it should not be given further consideration.<sup>622</sup> In correspondence he said that he would be open to considering the evidence we gathered, but:

*“There are significant challenges in implementing a recall petition process in a proportional list electoral system. Some of these challenges were identified in a consultation undertaken on a Private Members Bill proposal in Scotland for implementing a recall petition system in respect of the Scottish Parliament’s regional list seats, which could not establish ‘how the member, and other candidates seeking election to their seat could compete in any form of by-election’”.*<sup>623</sup>

**545.** While agreeing with the principle that it was appropriate to consider what could be done to increase Members’ accountability through a recall process, the Llywydd suggested that reducing the length of Senedd terms from five years to four could reduce (but not remove) the potential desire to recall individual Members.<sup>624</sup>

<sup>619</sup> RoP [para 103], 15 November 2023

<sup>620</sup> [Additional information provided by the Electoral Commission following the evidence session on 22 November 2023](#)

<sup>621</sup> RoP [para 68], 22 November 2023

<sup>622</sup> RoP [para 182], 5 October 2023

<sup>623</sup> [Letter from the Counsel General and Minister for the Constitution](#), 8 November 2023

<sup>624</sup> RoP [para 266], 26 October 2023

**546.** Professor Clark noted that consideration must be given not only to how any vacancies resulting from recall would be filled, but also to what would trigger any recall process.<sup>625</sup>

**547.** In correspondence, the Standards Commissioner said he welcomed “any measure that would increase the accountability of Members”, but that he had “serious concerns about the inclusion in the Bill of a recall mechanism similar to the one in [the] Recall of MPs Act 2015”. His reasons included the lack of provision for by-elections in a closed list system:

*“That would mean that 10% of the eligible electorate would be able to remove a Member from office. And where the Member was an independent, it would mean that the electorate would be represented by one fewer Member than previously until the next election which could be several years away”.*<sup>626</sup>

**548.** In his view, the main weakness in the current accountability arrangements is:

*[...] the absence of any way to remove from office a Member—*

- 1. who has been convicted of a serious offence but sentenced to imprisonment for a period of one year or less; or*
- 2. who has simply stopped carrying out the duties of a Member for a prescribed period”.*<sup>627</sup>

**549.** His preferred remedies were:

- Amending paragraph 6(1) of Schedule 1A to the GOWA 2006 to “provide that a lesser, or perhaps any, sentence of imprisonment would result in automatic disqualification”.
- Increasing the sanctions available to the Standards of Conduct Committee when it is satisfied that a Member has breached the Code of Conduct. It may already recommend the withdrawal of rights and privileges and exclusion for specified periods for Members against whom complaints have been upheld. The Standards Commissioner noted that a Member remains in office during such an exclusion, but

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<sup>625</sup> RoP [para 99], 9 November 2023

<sup>626</sup> [Letter from the Standards Commissioner](#), 4 December 2023

<sup>627</sup> [Letter from the Standards Commissioner](#), 4 December 2023

their constituents are “deprived of at least part of the representation that should be available to them”. He said legislation could introduce a new sanction of removal from office, adding that it would need to be accompanied by safeguards such as two-thirds majority or supermajority requirements to avoid abuse of the mechanism by majority parties.<sup>628</sup>

## Our view

**550.** We firmly believe that individual Members should be accountable to their constituents. Some mechanisms are already in place through the Senedd’s standards and dignity and respect arrangements, but we consider there is scope to strengthen them.

**551.** We have heard different suggestions for achieving this. Many contributors proposed the introduction of a recall mechanism modelled on the 2015 Act, whether as an exact replica, or with adjustments to the length of the petition period or to introduce a single-stage process in which constituents are asked to indicate whether or not they want the individual to continue to represent them or for their seat to be vacated and filled by the next person on the party’s list. We have also heard, however, about the challenges of implementing such a mechanism within closed lists. And, the Standards Commissioner told us he did not support a recall mechanism, but would prefer consideration be given to strengthening the disqualifications that apply to Members and the range of sanctions available to the Standards of Conduct Committee when a complaint against a Member has been upheld.

**552.** The evidence has reaffirmed our belief that strengthened accountability mechanisms should be developed. It has also demonstrated the complexity of developing proposals that will work robustly, transparently, fairly, and effectively within the Senedd’s electoral arrangements. This complexity is not, and must not, be a barrier to action. But, in our view it is a barrier to legislative action being taken in this Bill as there is insufficient time for the detailed policy and legislative work and associated consultation within the timescales that must be maintained if the package of reforms is to take effect at the 2026 election.

**553.** However, ‘not now’ must not mean ‘never’. Further work to develop proposals to strengthen individual Members’ accountability for upholding the standards of conduct rightly expected of them must be undertaken before the end of this

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<sup>628</sup> [Letter from the Standards Commissioner](#), 4 December 2023



Senedd. We believe this work should be led by the Standards of Conduct Committee, but should be informed by engagement with a range of partners including (but not limited to) the Standards Commissioner and registered political parties. The Welsh Government will also have a key role in this process, in respect of policy and legislative capacity and expertise. Once potential options have been developed, they should be subject to public consultation before any final decisions are taken on the way forward.

**Recommendation 50.** The Standards of Conduct Committee should work with the Standards Commissioner, registered political parties, and such other stakeholders as it considers appropriate, to develop options for strengthening individual Members' accountability. This should include consideration of issues including recall of Members, disqualification arrangements and the sanctions available to the Standards of Conduct Committee when a complaint about a Member is upheld. Public consultation on potential options should be completed before the end of the Sixth Senedd in 2026.

## Annex 1: Overview of Senedd reform

### 2004

- The Richard Commission on the Powers and Electoral Arrangements of the National Assembly for Wales recommended there should be 80 Members, elected by STV.<sup>629</sup>

### 2006

- The GOWA 2006 provided the Assembly with primary legislative powers within the framework of Legislative Competence Orders. No changes were made to the number of Members or how they were elected. The maximum size of the Welsh Government was increased from nine to 14.

### 2011

- Following a referendum, Part 4 of the GOWA 2006 came into effect, extending full primary law-making powers to the Assembly.

### 2014

- The Silk Commission highlighted a “capacity gap”, and concluded that “the National Assembly requires more backbench members who will be able to scrutinise Welsh Government legislation and policy more thoroughly”.<sup>630</sup>
- The Wales Act 2014 provided the Assembly with new financial powers, including taxation and borrowing.

### 2015

- The Assembly Commission concluded in a report on the capacity of the Assembly that “With only 60 Members, the National Assembly is under powered and over stretched”.<sup>631</sup>

<sup>629</sup> Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, [Report of the Richard Commission](#), 2004

<sup>630</sup> Commission on Devolution in Wales, [Empowerment and responsibility: legislative powers to strengthen Wales](#), 2014

<sup>631</sup> National Assembly for Wales Commission, [The future of the Assembly and its capacity to deliver for Wales](#), January 2015

## 2017

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- The WA 2017 introduced a reserve powers model of devolution, and gave the Assembly powers over its name, size and electoral arrangements.
- The Expert Panel recommended there should be 80-90 Members, elected by either STV or Flexible List Proportional Representation on the basis of constituencies based on current Assembly constituencies or local authority areas. It also made recommendations in respect of measures to increase diversity, including candidate gender quotas, job-sharing and the publication of diversity information about candidates. In addition, the Panel recommended reducing the minimum voting age to 16.<sup>632</sup>

## 2018

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- The Assembly Commission consulted on the Expert Panel's recommendations, and reported that of the 1,830 responses to questions on the number of Members, 56 per cent were in favour of more Members, 39 per cent were opposed, and 5 per cent were unsure or expressed no preference. Of 1,330 responses to questions about the electoral systems recommended by the Expert Panel, 54 per cent preferred STV, 17 per cent Flexible List Proportional Representation, 16 per cent the Mixed Member Proportional System, and 13 per cent favoured none of the three options.<sup>633</sup>

## 2019

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- The Assembly Commission concluded that it was “confident that the case in favour of increasing the number of Assembly Members has been made”, but there was not yet political consensus on the electoral system.<sup>634</sup>
- The Assembly agreed that further cross-party work should be conducted to examine the Expert Panel's recommendations.<sup>635</sup>

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<sup>632</sup> Expert Panel on Assembly Electoral Reform, [A parliament that works for Wales: the report of the Expert Panel on Assembly Electoral Reform](#), November 2017

<sup>633</sup> Senedd Commission, [Creating a Parliament for Wales: consultation report](#), October 2018

<sup>634</sup> [Letter from the Llywydd to Members of the Senedd](#), 10 June 2019

<sup>635</sup> Plenary RoP [para 442], 18 September 2019

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## 2020

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- In accordance with the Senedd and Elections (Wales) Act 2020, the name of the Assembly changed to Senedd Cymru or Welsh Parliament.
- The CSER recommended legislation be introduced early in the Sixth Senedd to increase the size of the Senedd to 80-90 Members elected by STV with effect from the 2026 election.<sup>636</sup>

## 2021

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- In accordance with the Senedd and Elections (Wales) Act 2020, 16- and 17-year-olds and qualifying foreign nationals were able to vote in Senedd elections for the first time.

## 2022

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- The First Minister and the then leader of Plaid Cymru published a joint position statement suggesting the Senedd should have 96 Members, elected by closed list proportional representation (using the D'Hondt formula to allocate seats, and incorporating statutory candidate gender quotas) on the basis of 16 multimember constituencies each returning six Members.<sup>637</sup>
- The SPCSR's recommendations broadly reflected these proposals.<sup>638</sup>
- The Senedd voted by majority to approve a motion to note the SPCSR's report and endorse the recommendations for policy instructions for legislation to be implemented in time for the 2026 election.<sup>639</sup>
- The Business Committee responded to the SPCSR's report and reached conclusions on matters including the size of the Welsh Government and the number of DPOs.<sup>640</sup>

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<sup>636</sup> Committee on Senedd Electoral Reform, [Senedd reform: the next steps](#), September 2020

<sup>637</sup> Welsh Government, [Press release: A way forward for Senedd reform](#), 10 May 2022

<sup>638</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022

<sup>639</sup> Plenary RoP [para 537], 8 June 2022

<sup>640</sup> Business Committee, [Response to the Special Purpose Committee on Senedd Reform's report - Reforming our Senedd: A stronger voice for the people of Wales](#), December 2022

## 2023

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- The Welsh Government introduced the Senedd Cymru (Members and Elections) Bill, and indicated its intention to “make provision for gender quotas and the publication of diversity information in respect of Senedd candidates in forthcoming legislation”.<sup>641</sup>
- The Welsh Government confirmed that the introduction of the Senedd Cymru (Electoral Candidate Lists) Bill, to provide for candidate-level gender quotas for Senedd elections, would be delayed.

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<sup>641</sup> Welsh Government, [Senedd Cymru \(Members and Elections\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), September 2023, para 209

## Annex 2: Evidence

### Oral evidence sessions

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the [Bill's website](#).

Date	Name and organisation
<b>5 October 2023</b>	<p><b>Mick Antoniw MS, Counsel General and Minister for the Constitution,</b> Welsh Government</p> <p><b>Will Whiteley,</b> Welsh Government</p> <p><b>Anna Hind,</b> Welsh Government</p> <p><b>Tom Jackson,</b> Welsh Government</p>
<b>26 October 2023 Panel 1</b>	<p><b>Professor Laura McAllister,</b> Expert Panel on Assembly Electoral Reform</p> <p><b>Professor Alan Renwick,</b> Expert Panel on Assembly Electoral Reform</p>
<b>26 October 2023 Panel 2</b>	<p><b>Elin Jones MS,</b> Llywydd</p> <p><b>Manon Antoniazzi,</b> Senedd Commission</p> <p><b>Siwan Davies,</b> Senedd Commission</p> <p><b>Alun Davidson,</b> Senedd Commission</p>
<b>26 October 2023 Panel 3</b>	<p><b>Professor Diana Stirbu,</b> London Metropolitan University</p>
<b>9 November 2023 Panel 1</b>	<p><b>Professor Alistair Clark,</b> Newcastle University</p> <p><b>Dr Jac Larnar,</b> Cardiff University</p>
<b>9 November 2023 Panel 2</b>	<p><b>Jess Blair,</b> Electoral Reform Society Cymru</p>

Date	Name and organisation
	<p><b>Alberto Smith,</b> Make Votes Matter</p>
<p><b>9 November 2023</b> <b>Panel 3</b></p>	<p><b>Professor Ailsa Henderson,</b> Boundaries Scotland</p> <p><b>Malcolm Burr,</b> Electoral Management Board for Scotland</p>
<p><b>9 November 2023</b> <b>Panel 4</b></p>	<p><b>Efa Gruffudd Jones,</b> Welsh Language Commissioner</p> <p><b>Lowri Williams,</b> Office of the Welsh Language Commissioner</p>
<p><b>15 November 2023</b></p>	<p><b>Clare Sim,</b> Association of Electoral Administrators</p> <p><b>Colin Everett,</b> Wales Electoral Coordination Board</p>
<p><b>22 November 2023</b> <b>Panel 1</b></p>	<p><b>Dame Elan Closs Stephens,</b> Electoral Commissioner</p> <p><b>Rhydian Thomas,</b> Electoral Commission, Wales</p> <p><b>Tom Davies,</b> Electoral Commission, Wales</p>
<p><b>22 November 2023</b> <b>Panel 2</b></p>	<p><b>Bev Smith,</b> Local Democracy and Boundary Commission for Wales</p> <p><b>Shereen Williams,</b> Local Democracy and Boundary Commission for Wales</p>
<p><b>30 November 2023</b></p>	<p><b>Dr Elizabeth Haywood,</b> Independent Remuneration Board of the Senedd</p> <p><b>Daniel Hurford,</b> Independent Remuneration Board of the Senedd</p>
<p><b>13 December 2023</b></p>	<p><b>Mick Antoniw MS, Counsel General and Minister for the Constitution,</b> Welsh Government</p> <p><b>Will Whiteley,</b> Welsh Government</p> <p><b>Anna Hind,</b> Welsh Government</p> <p><b>Tom Jackson,</b> Welsh Government</p>



## Written evidence

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All consultation responses, correspondence and additional written information can be viewed on the [Bill's website](#).

## Annex 3: Overview of boundary review processes and timescales

### Pairing review for 2026

Stage	Requirements
<p><b>Notice of commencement of review and preparation of proposals</b> (August/September 2024)<sup>642</sup></p>	<p>DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Publish<sup>643</sup> a notice as soon as reasonably practicable after commencing the review to state that the review has begun and the date on which it began.</li> <li>▪ Prepare proposals for 16 Senedd constituencies, each consisting of the combined areas of two contiguous<sup>644</sup> UK Parliament constituencies.</li> <li>▪ Consult the Welsh Language Commissioner on the orthography<sup>645</sup> of the Welsh names of constituencies, and give regard to any representations made by the Commissioner.</li> </ul>
<p><b>Initial report on the 2026 boundary review and four-week period for representations</b> (publication of initial report: w/c 16 September 2024; publication of</p>	<p>DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Publish an initial report setting out the proposed 16 Senedd constituencies and the proposed names for each, and invite representations on the proposals.</li> <li>▪ Inform any person it considers appropriate how to access the report, and notify any person it considers appropriate of the first period for representations.</li> </ul> <p>At the end of the four-week period, DBCC must:</p>

<sup>642</sup> All dates provided by the Local Democracy and Boundary Commission for Wales in written evidence.

<sup>643</sup> Reports and documents the DBCC is required to publish must be published on its website and in such other manner as it considers appropriate.

<sup>644</sup> Neither the Bill nor the Explanatory Memorandum define ‘contiguous’. Paragraph 4 of Schedule 1 provides that when considering the possible combinations of UK Parliamentary constituencies, the DBCC may take into account: local government boundaries; special geographical considerations such as the size, shape and accessibility of proposed constituencies; and any local ties that could be broken by proposed pairings.

<sup>645</sup> Orthography means the accepted way of spelling and writing words.

Stage	Requirements
representations received: early December 2024)	<ul style="list-style-type: none"> <li>▪ Publish any representations received.</li> <li>▪ Consider its proposals, having regard to any representations received. If it considers any changes to its proposals regarding the Welsh names of any constituency or constituencies, consult the Welsh Language Commissioner, and give regard to any representations made by the Commissioner.</li> </ul>
<p><b>Second report and four-week period for representations</b></p> <p>(publication of second report: w/c 6 January 2025; publication of representations received: early March 2025)</p>	<p>DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Publish a second report setting out the proposed 16 Senedd constituencies and the proposed names for each, and invite representations on the proposals. The report must include details of any changes to the initial proposals, and the reasons for any changes.</li> <li>▪ Inform any person it considers appropriate how to access the report, and notify any person it considers appropriate of the first period for representations.</li> </ul> <p>At the end of the four-week period, DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Publish any representations received.</li> <li>▪ Consider its proposals, having regard to any representations received. If it considers any changes to its proposals regarding the Welsh names of any constituency or constituencies, consult the Welsh Language Commissioner, and give regard to any representations made by the Commissioner.</li> </ul>
<p><b>Final report</b></p> <p>(publication of final report: w/c 31 March 2025)</p>	<p>Before 1 April 2025, the DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Publish a final report setting out the 16 Senedd constituencies. The report must set out the name of each constituency and whether each is designated as a county or borough constituency.<sup>646</sup> The report must include details of any</li> </ul>

<sup>646</sup> The Bill does not include any criteria upon which this designation should be based. The [Boundary Commission for Wales](#) specifies that constituencies that contain more than a small rural element are normally designated as county constituencies. In all other cases, the constituency would be designated as a borough constituency. For UK Parliament elections, this designation determines who shall act as returning officer and the limit on candidate expenditure. The limit is slightly lower in borough constituencies to reflect the lower costs of running a campaign in an urban area.

<b>Stage</b>	<b>Requirements</b>
	<p>changes to the proposals set out in the second report, and the reasons for any changes.</p> <ul style="list-style-type: none"> <li>▪ Send the report to the Welsh Ministers.</li> </ul> <p>The Welsh Ministers must:</p> <ul style="list-style-type: none"> <li>▪ Lay the report before the Senedd.</li> </ul>
<b>Modifications</b>	<p>If, after the final report has been laid, but before regulations have been made, the DBCC identifies any errors in the final report that require modification, the DBCC may:</p> <ul style="list-style-type: none"> <li>▪ Send a statement to the Welsh Ministers to specify the modifications and the reasons for them (any such statement must also be published).</li> </ul> <p>Welsh Ministers must:</p> <ul style="list-style-type: none"> <li>▪ Lay any statement received before the Senedd, and ensure the regulations to give effect to the final report also give effect to the modifications specified in the statement.</li> </ul>
<b>Regulations</b>	<p>The Welsh Ministers must:</p> <ul style="list-style-type: none"> <li>▪ Make regulations to give effect to the final report (and any modifications if specified in a statement by the DBCC).</li> <li>▪ Lay the regulations as soon as reasonably practicable, and, unless there are exceptional circumstances, within 14 weeks, after the final report has been laid.</li> <li>▪ If exceptional circumstances apply and the regulations are not laid within 14 weeks of the final report's publication, lay a statement before the Senedd explaining the exceptional circumstances, and subsequent statements every four weeks until the regulations are laid.</li> </ul>

## Full reviews for 2030 and beyond

A boundary review in accordance with the following process must be completed once in every review period. A review period is defined as: 1 April 2025 to 30 November 2028; the period of eight years beginning with 1 December 2028; and each subsequent period of eight years.

Stage	Requirements
<p><b>Notice of commencement of review and preparation of proposals</b></p>	<p>DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Publish a notice as soon as reasonably practicable after commencing the review to state that the review has begun and the date on which it began.</li> <li>▪ Prepare proposals for any changes to the 16 Senedd constituencies then in place. In preparing proposals, the DBCC must ensure the electorate for each constituency is <math>\pm 10</math> per cent of the electoral quota. It may have regard to local government boundaries (including prospective boundaries), special geographical considerations, and any local ties that may be broken. It must seek to minimise change and have regard to the inconveniences of any changes.</li> <li>▪ Consult the Welsh Language Commissioner on the orthography of the Welsh names of constituencies, and give regard to any representations made by the Commissioner.</li> </ul>
<p><b>Initial report and first (eight-week) period for representations</b></p>	<p>DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Publish an initial report setting out the proposals for changes to the Senedd constituencies and the proposed names for each, and invite representations on the proposals. If it does not consider any changes are required, it must publish a statement to that effect.</li> <li>▪ Inform any person it considers appropriate how to access the report, and notify any person it considers appropriate of the first period for representations.</li> </ul>

Stage	Requirements
<p><b>Second (six-week) period for representations</b></p>	<p>At the end of the first period for representations, the DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Publish a document setting out any representations received, and invite representations in respect of the representations set out in the document.</li> <li>▪ Inform any person it considers appropriate how to access the document, and notify any person it considers appropriate of the second period for representations.</li> <li>▪ Publish information about the times and places at which public hearings are to be held (including how to participate remotely if hybrid hearings are to be held).</li> </ul> <p>During the second period for representations, the DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Hold two to five public hearings to enable representations to be made about its proposals, which between them must cover the whole of Wales.</li> </ul>
<p><b>Final (four-week) period for representations</b></p>	<p>At the end of the second period for representations, the DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Consider its proposals, having regard to any representations received during the first and second periods. If it considers any changes to its proposals regarding the Welsh names of any constituency or constituencies, consult the Welsh Language Commissioner, and give regard to any representations made by the Commissioner.</li> <li>▪ Publish a second report that sets out any representations received, the records of the public hearings held, the DBCC’s proposals for changes to the boundaries or names (or, if the DBCC does not consider any change appropriate, a statement to that effect), and details of any changes made to the proposals in the initial report and an explanation of why those changes have been made.</li> <li>▪ Invite representations on the second report. It must also inform any person it considers appropriate how to access the report, and notify any person it considers appropriate of the final period for representations.</li> </ul>

<b>Stage</b>	<b>Requirements</b>
	<p>At the end of the final period for representations, the DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Publish any representations received.</li> <li>▪ Consider its proposals, having regard to any representations received. If it considers any changes to its proposals regarding the Welsh names of any constituency or constituencies, consult the Welsh Language Commissioner, and give regard to any representations made by the Commissioner.</li> </ul>
<b>Final report</b>	<p>Before 1 December in the final year of each review period, the DBCC must:</p> <ul style="list-style-type: none"> <li>▪ Publish a final report setting out the details of any changes to be made to the Senedd constituencies, or stating that no alteration is to be made. The report must include details of any changes to the proposals set out in the second report, and the reasons for any changes.</li> <li>▪ If any changes are to be made to the Senedd constituencies, the report must set out the name of each constituency and whether each is designated as a county or borough constituency.</li> <li>▪ Send the report to the Welsh Ministers.</li> </ul> <p>The Welsh Ministers must:</p> <ul style="list-style-type: none"> <li>▪ Lay the report before the Senedd.</li> </ul>
<b>Modifications</b>	<p>If, after the final report has been laid, but before regulations have been made, the DBCC identifies any errors in the final report that require modification, the DBCC may:</p> <ul style="list-style-type: none"> <li>▪ Send a statement to the Welsh Ministers to specify the modifications and the reasons for them (any such statement must also be published).</li> </ul> <p>Welsh Ministers must:</p> <ul style="list-style-type: none"> <li>▪ Lay any statement received before the Senedd, and ensure the regulations to give effect to the final report also give effect to the modifications specified in the statement.</li> </ul>



**Regulations**

The Welsh Ministers must:

- Make regulations to give effect to the final report (and any modifications if specified in a statement by the DBCC).
- Lay the regulations as soon as reasonably practicable, and, unless there are exceptional circumstances, within six months, after the final report has been laid.
- If exceptional circumstances apply and the regulations are not laid within six months of the final report's publication, lay a statement before the Senedd explaining the exceptional circumstances, and subsequent statements every four weeks until the regulations are laid.