

Agenda – Y Pwyllgor Biliau Diwygio

Lleoliad: I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 1, Y Senedd Helen Finlayson
Dyddiad: Dydd Iau, 9 Tachwedd 2023 Clerc y Pwyllgor
Amser: 09.30 0300 200 6565
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Rhag-gyfarfod preifat (09.15–09.30)

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau
(09.30)

**2 Bil Senedd Cymru (Aelodau ac Etholiadau): Sesiwn dystiolaeth
gydag academyddion ym maes systemau etholiadol**
(09.30–10.30) (Tudalennau 1 – 43)

Yr Athro Alistair Clark, Athro Gwyddor Gwleidyddiaeth, Prifysgol Newcastle
Dr Jac Larner, Darlithydd Gwleidyddiaeth, Prifysgol Caerdydd

Dogfennau ategol

Papur 1 Tystiolaeth ysgrifenedig: Yr Athro Alistair Clark [Saesneg yn unig]

Papur 2 Tystiolaeth ysgrifenedig: Dr Jac Larner [Saesneg yn unig]

Briff Ymchwil

Egwyl (10.30–10.45)

**3 Bil Senedd Cymru (Aelodau ac Etholiadau): Sesiwn dystiolaeth
gyda sefydliadau diwygio etholiadol**
(10.45–11.45) (Tudalennau 44 – 50)

Jess Blair, Cymdeithas Diwygio Etholiadol Cymru

Alberto Smith, Make Votes Matter



Dogfen ategol

Papur 3 Tystiolaeth ysgrifenedig: Cymdeithas Diwygio Etholiadol Cymru

[Saesneg yn unig]

Cinio (11.45 – 12.45)

4 Bil Senedd Cymru (Aelodau ac Etholiadau): Sesiwn dystiolaeth ar brofiad yr Alban o ddiwygio etholiadol a diwygio ffiniau

(12.45–13.45)

(Tudalennau 51 – 61)

Yr Athro Ailsa Henderson, Cadeirydd, Boundaries Scotland

Malcolm Burr, Cynullydd, Bwrdd Rheoli Etholiadol yr Alban

Dogfennau ategol

Papur 4 Tystiolaeth ysgrifenedig: Boundaries Scotland [Saesneg yn unig]

Papur 5 Tystiolaeth ysgrifenedig: Bwrdd Rheoli Etholiadol yr Alban [Saesneg yn unig]

Egwyl (13.45 – 14.00)

5 Bil Senedd Cymru (Aelodau ac Etholiadau): Sesiwn dystiolaeth gan Gomisiynydd y Gymraeg

(14.00–14.30)

(Tudalennau 62 – 82)

Efa Gruffudd Jones, Comisiynydd y Gymraeg

Lowri Williams, Cyfarwyddwr Strategol, Swyddfa Comisiynydd y Gymraeg

Dogfennau ategol

Papur 6 Tystiolaeth ysgrifenedig: Comisiynydd y Gymraeg

Briff Ymchwil

6 Papurau i'w nodi

(14.30)

6.1 Ymateb gan y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad ynghylch y Bil cwotâu rhywedd disgwylidig – 20 Hydref 2023

(Tudalen 83)

6.2 Llythyr at y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad ynghylch y Bil cwotâu rhywedd disgwylidig – 25 Hydref 2023

(Tudalennau 84 – 85)

6.3 Ymateb gan gyn–Gadeirydd y Pwyllgor Diben Arbennig ar Ddiwygio'r Senedd – 1 Tachwedd 2023

(Tudalennau 86 – 88)

6.4 Llythyr gan y Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad at y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad ynghylch Bil Senedd Cymru (Aelodau ac Etholiadau) – 31 Hydref 2023

(Tudalennau 89 – 91)

6.5 Ymateb gan gyn–Gadeirydd y Pwyllgor Diben Arbennig ar Ddiwygio'r Senedd – 1 Tachwedd 2023 [Saesneg yn unig]

(Tudalennau 92 – 98)

7 Cynnig o dan Reol Sefydlog 17.42 (ix) i benderfynu gwahardd y cyhoedd o weddill y cyfarfod

(14.30)

8 Bil Senedd Cymru (Aelodau ac Etholiadau): Trafod y dystiolaeth

(14.30–14.45)

Prof. Alistair Clark,
Professor of Political Science,
Newcastle University,
[REDACTED]

24 October 2023

**Written Evidence to the Senedd Reform Bill Committee Stage 1 Inquiry into the Senedd Cymru
(Members and Elections) Bill 2023**

Introduction

1. My expertise is in electoral systems, integrity and administration, with numerous published research articles and reports on these themes. I write in a personal capacity (<http://www.ncl.ac.uk/gps/staff/profile/alistairclark.html#background>).

Summary

2. The Bill represents an important set of proposals to improve the capacity of the Senedd by expanding its size from 60 to 96. This overall change and intent is welcome and necessary. Most of the Bill's contents are reasonable, and the intention to carry over or develop existing structures (i.e. the combining of constituencies to create the initial 16 constituencies; the use of D'Hondt carried over from the existing regional lists etc) would seem to ensure practice evolves along pre-existing lines where possible. For the most part, this seems a sensible approach.

3. There are however some issues with the Bill that need further scrutiny, discussion or clarity from the Welsh government. This written evidence expands on those points under four headings: electoral system; institutional consequences; candidacy and residency; and Boundary Reviews.

Electoral System

4. Electoral systems can be judged by a number of indicators. There are inevitable, often political, trade-offs between them inherent in any system chosen. One account from the Electoral Reform Society highlights six indicators that might be considered to arrive at an overall assessment.¹ These are:

- Proportionality;
- Stable government;
- Voter choice;
- Link between MPs and geographical constituencies;
- Diversity beyond party affiliation;
- Encourages participation.

5. A big question about the introduction of the new proportional representation system would be how more proportional outcomes would impact the type of government formed post-election. A majority would seem to require 49 seats. On a very rough assessment of how current results might play out, this would seem difficult to achieve under the new system for a single party. The major parties –

¹ Electoral Reform Society (2007) *Britain's Experience of Electoral Systems*, London: ERS.

Labour, Conservatives and Plaid Cymru – would still dominate the party system. Smaller parties would find it difficult to be elected at their current level of performance given how the electoral system’s informal thresholds are likely to work. If this were the case with smaller parties in future elections, the larger parties may pick up a handful of additional seats.

6. Such an outcome would likely mean either some form of coalition, or the largest party governing as a minority administration. Neither are necessarily unstable forms of government and Wales has experience with both. Stability would depend on a variety of factors, such as cross-party consensus, internal party divisions within government and so on.

7. Electoral systems can be thought of by the extent to which they empower either voters or political parties. On the one hand, voter choice means voters being able to choose between candidates even within political parties where they offer lists or teams of candidates. A system such as the single transferable vote (STV), for example, allows voters to have such choice between candidates and parties where parties offer more than one person for election. While it may represent a more limited choice, a system like the additional member system (AMS) currently used to elect the Senedd, still allows voters the opportunity to exercise choice beyond one party by choosing to vote for different parties between the constituency and regional list system. Such voter choice potentially limits parties’ influence.

8. By contrast, parties’ powers are enhanced where voters do not have the ability to choose between the candidates that parties offer to the electorate. This is typically the case where political parties offer closed lists to voters. Under closed list PR, electors cannot choose between party candidates; they must accept the list ranking that parties offer them. Voters which might prefer a different candidate or ranking therefore cannot exercise their choice as they wish. This potentially also impacts on issues around diversity, and unless parties prioritise and rank candidates highly in relation to characteristics such as sex and ethnicity, such candidates are unlikely to be elected. I discuss this further below.

9. The choice of closed list proportional representation as the new electoral system for the Senedd, would seem to place the power over which candidates are eventually elected firmly in the hands of political parties. At a time where there is widespread scepticism about the role of political parties, this seems unfortunate.

10. The Expert Committee on Electoral Reform recommended the Single Transferable Vote (STV) to ensure that there was a geographical link between constituencies and members, while still producing more proportional results.² My research into STV in Scottish local elections has confirmed these ideas are applicable to the use of the STV on the British mainland, while also demonstrating that voters have little problem in adapting to STV as an electoral system.³ While I appreciate that this might be unlikely, and there has already been lengthy consideration of electoral systems, *I would nevertheless recommend reconsideration of STV.*

11. *If a proportional list system is deemed necessary, I would recommend that some level of voter choice be incorporated into it and an open list proportional representation (OLPR) system be developed instead.* This would allow political parties to present the lists they have selected, but voters to choose

² <https://business.senedd.wales/documents/s104463/Committee%20report%20-%20Summary%20of%20recommendations.pdf> [23/10/23].

³ Clark, A. (2021) ‘The Effects of Electoral Reform on Party Campaigns, Voters and Party Systems at the Local Level: From Single Member Plurality to the Single Transferable Vote in Scotland’, *Local Government Studies*, 47, (1), pp79-99; Clark, A. (2013) ‘Second Time Lucky? The Continuing Adaptation of Parties and Voters to the Single Transferable Vote in Scotland’, *Representation*, 49, (1), pp55-68.

between particular candidates within those lists. There are numerous variations of OLPR, but it is used in countries such as the Netherlands, Norway and Denmark. The democracy assistance organisation International IDEA have produced a useful overview.⁴

12. There seems an inconsistency between the Bill allowing parties to present lists of up to eight candidates (Section 7), when only six members will be elected from the 16 constituencies. Those at the bottom of party lists were already unlikely to be elected; for those in seventh and eighth place it would seem an impossibility. Were an open list system introduced, this provision for lists of eight could remain but instead of being an inconsistency, it could be justified by giving voters increased choice.

13. Political parties should be encouraged to prioritise diversity of candidacy in choosing their lists. This might be done formally, by requiring parties, as part of this legislation, to have either a quota for particular characteristics, or to 'zip' their candidate lists, alternating between candidate sex (male/female/male/female or vice versa). Political science evidence suggests that quotas are the most likely to be successful to improving descriptive representation and contribute to candidates with certain characteristics being elected.⁵ Procedures such as 'zipping' have also had some success. It was reported that the Bill might contain measures to permit 'zipping', but these do not seem to have made it through to the version published for Stage 1 Scrutiny.⁶

14. The alternative to requiring this in legislation would be to provide some sort of informal encouragement or incentive for parties to do so. Another option would be to develop programmes to encourage potential candidates to come forward, preferably with cross-party support.

15. It is correct that the Bill limits the number of lists that candidates can stand on, to prevent unsuccessful candidates from 'venue shopping'. I support this measure.

16. Research has suggested that there can often be links between 'independent' candidates and party lists, some 'independents' choosing that label for electoral reasons, knowing that they would be unlikely to be elected if they stood for a party they were nevertheless close to.⁷ It is correct therefore that there are limits on the ability of independent candidates to also stand on a party list.

17. With independent candidates, there is a need to be sure that such restrictions do not limit ballot access unnecessarily however. Independent candidates are already likely to face a high bar to election, even under a more proportional system. Such electoral systems have informal thresholds which require candidates to achieve more than a certain proportion of the vote before they are elected. This largely depends on issues like turnout on polling day and is difficult to predict precisely. Nonetheless, an independent candidate is likely to need at least approximately 10-12% to be elected to a list. It is therefore unlikely that many such candidates will be elected.

Institutional Consequences

18. The return to four-year terms represents an accountability check on executive power. While five-year terms were not necessarily problematic, they were nevertheless on the long side for voters being able to express their views. A shorter term allows for greater accountability and provides an important

⁴ <https://www.idea.int/sites/default/files/publications/open-list-proportional-representation.pdf> [23/10/23].

⁵ For example: Clayton, A. (2021) [How Do Electoral Gender Quotas Affect Policy?](#) *Annual Review of Political Science* 2021 24:1, 235-252.

⁶ <https://www.bbc.co.uk/news/uk-wales-politics-61392204> [23/10/23].

⁷ Copus, C., Clark, A., Reynaert, H. and Steyvers, K. (2009) 'Minor Party and Independent Politics Beyond the Mainstream: Fluctuating Fortunes but a Permanent Presence', *Parliamentary Affairs*, 62, (1), pp4-18.

imperative for governments to be responsive and implement public policy commitments quickly and effectively. I support this change.

19. Given the large increase in size that the Bill proposes for the Senedd, the addition of a further Deputy Presiding Officer seems an entirely reasonable reform. This can be justified by the need to provide capacity to run parliamentary business. Both the House of Commons and the Scottish parliament operate with systems of Deputy Presiding Officers/Speakers. I support this change.

20. The increase in size of the Senedd to 96 indicates providing additional capacity to deal with an expanded policy agenda given the increased powers the Senedd has accrued over time. Under such circumstances, it seems reasonable for the Welsh government to seek to increase the number of ministers. The increase from 12 to 17 would also seem reasonable.

21. Adding the potential for the Welsh government to appoint two further ministers by regulations (affirmative procedure) seems inconsistent with the need to pass primary legislation for the initial increase to 17. That any such further change would be irreversible seems potentially problematic, tying the hands of any future FM as to the shape of their government. The Welsh government should be pressed to clarify and detail the circumstances under which it would seek to appoint any additional ministers.

22. The requirement in Section 7 to initiate a Committee to examine possible job-sharing seems reasonable. There are numerous issues that would need to be resolved in this regard, such as the balance of responsibilities within any such job-share and the circumstances under which any job share was permissible. The Committee should examine these issues in detail.

23. At least two specific issues seem to be relevant to job-sharing where the role involved is Member of the Senedd (something which by definition also impacts the other roles specified in the Bill). Firstly, there is an obvious potential democratic conflict with this role being elected. To what extent will the proposal to job-share be highlighted to voters in an election campaign so that voters can make an informed choice? This interacts directly with the issues around closed lists noted above. What would it mean for parties to present lists, when one or more of their candidates was proposing to job share? Yet it would seem fundamental to the democratic choice put before voters that they know how candidates are proposing to perform their role if elected.

24. Secondly, might there be a link to job-sharing and the potential for MS's to have second jobs or hold other elected positions, such as councillors? This may seem to apply less with most of the roles, such as Ministers, Presiding and Deputy Presiding Officers set out in the legislation. It would however seem to apply with MS's, and become an area of potential future controversy.

25. Section 19's intention to establish a Committee to review the operation of the act in the aftermath of the 2026 election seems a good idea. *I would suggest that this is established as a formal post-legislative scrutiny process.*

26. However, Section 19 seems to go considerably beyond the narrow purpose of reviewing the Act. Section 19, clause ii's point about any review covering 'the extent to which the elements of a healthy democracy are present in Wales' is an extremely wide question, which almost inevitably contains many aspects not in this Bill. While a wider democracy review or audit would certainly be useful and desirable, this can be achieved in a number of other ways. *I would recommend removal of this specific point from the Bill.* This would ensure that the Act's operation is central to any inquiry, and that the review does not get diverted into other matters.

Candidacy and Residency

27. The question about residency requirements can, to a large part, be linked to the choice of electoral system. List proportional representation tends to de-emphasise local geographical links. An alternative system to proportional representation such as STV has, to a larger extent, a degree of localism built into it, while also providing a level of proportionality to results.

28. The recent history of electoral law in Wales has been towards opening and more permissive ballot access. For example, the franchise has been extended to residents, regardless of nationality in the Senedd and Elections (Wales) Act 2020 and the Local Government and Elections (Wales) Act 2021. While not unreasonable, the proposal in the current Bill to restrict candidacy and membership to those registered to vote in Wales could potentially be presented as restricting access to the ballot. The key theme in both those previous Acts and the current Bill being scrutinised would seem to be the importance of residency in the exercise of electoral rights.

29. 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.

Boundary Reviews

30. The various measures contained in the Bill relating to Boundary Reviews, renaming the Local Democracy and Boundary Commission for Wales as the Democracy and Boundary Commission Cymru, and clarifying its procedures seem reasonable enough. My only concern is that 'Democracy Commission' is reminiscent of, and is inevitably likely to be confused with, the Electoral Commission. Unless the intention is to signal some wider purpose, it might be simpler and clearer just to rename it the Boundary Commission Cymru.

Written Evidence Submission to Reform Bill Committee

Dr Jac M. Larnier
Wales Governance Centre, School of Law and Politics,
Cardiff University

October 30, 2023

1 Introduction

1.1 Cardiff University's Wales Governance Centre has carried out wide-ranging research into the topic of public attitudes and elections in Wales for over two decades. In this written submission I focus on two points highlighted in the general call for evidence relating to proposed changes in the Senedd Cymru (Members and Elections) Bill. These are:

- The increase in the size of the Senedd to 96 Members.
- Changing 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.

2 Increasing the size of the Senedd to 96 members

2.1. Evidence provided in this section is primarily taken from a 2023 research article published in *Parliamentary Affairs* by Dr James D. Griffiths (University of Manchester), Dr Ed Gareth Poole, Prof. Richard Wyn Jones, and myself (Cardiff University). Please see references section for the full citation.

2.2. As part of the 2021 Welsh Election Study (Wyn Jones et al., 2022) we explored public attitudes towards plans to expand the Senedd. We did this using novel survey experiment fielded between 18 March and 6 April 2022 on a representative sample of 2,988 voting age adults. Respondents were randomly split into five groups and shown one of four arguments for increasing the size of the Senedd

Group	Wording
Control	[No prompt]
Greater accountability	One argument for doing so is that it will increase the ability of the Senedd to hold the Welsh Government to account for its decisions
Compensate for MP reduction	One argument for doing so is that it will compensate for the reduction in the number of MPs from Wales that will occur after the next UK General Election
Needed for new powers	One argument for doing so is that the Senedd now has tax and major legislative powers and so needs an increased membership
Parity with Scotland and Northern Ireland	One argument for doing so is that the Senedd is currently much smaller than the Scottish Parliament and Northern Irish Assembly and should be of roughly equal size

Table 2.1: Survey experiment wording.

(the fifth ‘control’ group was not shown any argument). These arguments are displayed in Table 2.1.

2.3. Respondents were then asked, ‘To what extent do you agree that the number of Senedd Members should be increased?’ with responses measured on a 5-point Likert scale ranging from strongly agree to strongly disagree. Figure 2.1 displays the responses.

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

2.5. It is important to caveat these stark findings by saying that politicians — even democratically elected ones — are not popular. This is not a situation that is unique to Wales (e.g, see Stoker, 2006; Hay and Stoker, 2009; Flinders, 2012; Hatier, 2012; Wright, 2013). Indeed, when previous polls have asked about attitudes towards the numbers of politicians within a legislature the modal response is in favour of a reduction (for example, similar numbers across the UK oppose any further increase to the House of Lords (Yougov, 2017)). Beyond the occasional opinion poll, our research was unable to identify any scholarly literature that addresses public attitudes towards increasing the size of any legislature. Therefore, we cannot say with any level of certainty the extent to which these results

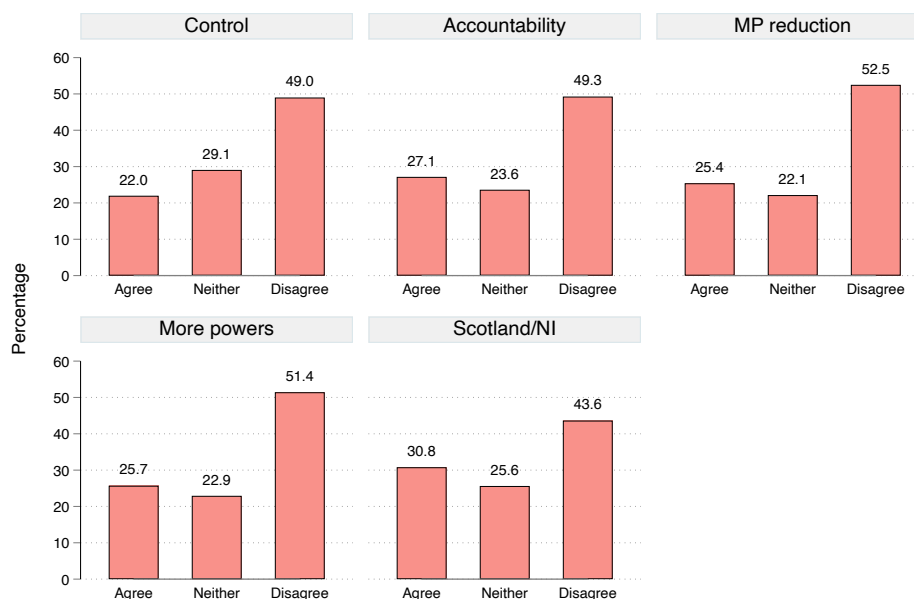


Figure 2.1: Distribution of outcome variable responses Control (N: 493), Accountability (N: 537), MP reduction (N: 552), More powers (N: 536), Scotland/NI (N: 504)

Alt-text: Bar charts showing the distribution of survey responses to question on increasing number of Senedd members, separated by treatment group. The Data shows a plurality of respondents in every treatment group disagree with increasing the number of members.

reflect unique hostility to the proposed Senedd expansion or wider antipathy to politicians.

3 Change to the Senedd's Electoral system

3.1. **Proportionality:** To date, work on electoral reform in Wales has highlighted the importance of proportionality of election outcomes (Expert Panel, 2017, p.97, p.129-149; Committee on Senedd Electoral Reforms, 2020, p.42; Special Purpose Committee on Senedd Reform, p.26). The selection of seat allocation method will have a significant and substantial impact on the proportionality of electoral outcomes. An example is provided in Table 3.1 using real electoral data combining regional list vote shares from two adjacent Welsh constituencies.

3.2. The table illustrates the difference between the two allocation methods considered by the Committee on Senedd Electoral Reforms: Sainte-Lagüe and D'Hondt (2020,2022). The two methods produce different effective thresholds for parties: D'Hondt favours large parties, Sainte-Lagüe favours smaller parties.

Party	Vote Share	Sainte-Laguë Allocation	D'Hondt Allocation
A	31%	2	3
B	14%	2	1
C	30%	2	2
D	8%	0	0
E	5%	0	0
F	8%	0	0
G	4%	0	0

Table 3.1: Example of seat allocation under different systems using real constituency level data.

3.3. The use of D'Hondt in constituencies with a magnitude of six will introduce a relatively high effective electoral threshold (especially in 'strong' party systems). For example, the 2021 Senedd election results modelled across 16 hypothetical constituencies suggests that there would have been an effective electoral threshold of 12% in 12 of the 16 constituencies. Unless voting behaviour were to shift dramatically in light of the new electoral system it remains unlikely that 'smaller' parties would secure representation in the Senedd.

3.4. Sainte-Laguë is also not without potential issues. The inclusion of smaller parties does not necessarily entail a more proportional electoral outcome. As the example illustrates it also introduces inequalities in electoral thresholds with Party A winning one seat for every 15.5% of votes they received, compared to 7% for Party B. However, previous modelling by the Expert Panel (2017) has demonstrated that when results are aggregated, Sainte-Laguë would produce the more proportional election outcomes.

3.5. **Familiarity with current electoral system:** The logic provided by the Committee on Senedd Electoral Reforms for its choice of D'Hondt was related to voter familiarity: "It was noted that this is the formula currently used for allocating regional seats to parties, and therefore has some familiarity." (2022, p.37). It is questionable whether citizens have any familiarity with the specific system used. Survey evidence measuring public knowledge of electoral procedures in Wales is limited, but the findings all suggest that there is a lack of understanding of the current mixed-member proportional system. For example, since the very first elections to the (then) National Assembly for Wales a large proportions of voters, sometimes majorities, have believed that the two votes represented a first and second preference or did not understand how vote shares in the list ballot translated into seats (Larner,

2020, p. 7).

3.6. There is no survey data directly measuring knowledge of the electoral system since 2016 however. It may be the case that knowledge of the method of seat allocation has increased substantially over this period. However, other areas of political knowledge over policy responsibility and knowledge of political actors in Wales has not measurably increased over this period (Wyn Jones et al., 2022).

4 References

Committee on Senedd Electoral Reforms (2020). 'Senedd reform: the next steps', September 2020. <https://senedd.wales/laid%20documents/cr-ld13452/cr-ld13452%20-e.pdf>

Expert Panel (2017) 'A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform', November 2017. <https://senedd.wales/media/eqbesxl2/a-parliament-that-works-for-wales.pdf>

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Larner, J. M. (2020) '*The multilevel voter: Identity, territory and electoral behaviour*'. PhD Thesis, Cardiff University. <https://orca.cardiff.ac.uk/id/eprint/133816>

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Wyn Jones, R., Larner, J., Poole, E. Gareth, Wincott, D., SurrIDGE, P. (2023). Welsh Election Study, 2021. [data collection]. *UK Data Service*. SN: 9063, DOI: <http://doi.org/10.5255/UKDA-SN-9063-1>

YouGov (2017). 'New members of the House of Lords could have a 15 year time limit, according to measures put forward by a committee to reduce the size of the chamber, which currently has 800 members.

Do you think a time limit is a good or bad idea?' 18 October 2017, <https://yougov.co.uk/topics/politics/survey-results/daily/2017/10/18/8135e/2>

Yn rhinwedd paragraff(au) iv o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon



Senedd Cymru (Members and Elections) Bill written evidence
October 2023
ERS Cymru

ERS Cymru welcomes the Senedd Cymru (Members and Elections) Bill. We have long supported and campaigned on the case for increasing the size of the Senedd along with broader reform of the Senedd's electoral arrangements and are delighted to see proposals being brought forward for 96 members within this legislation. While we are supportive of the measures to increase the capacity of the Senedd we have some concerns about the specific voting system chosen, which we detail below.

Increase in the size of the Senedd

It has been nearly a decade since the publication of our 'Size Matters' report calling for an increase in the number of Senedd members,¹ and nearly two decades since the work of the Richard Commission recommended that by 2011 the 'National Assembly for Wales should increase in size from 60 to 80 members'.² Several committees and, most notably, the Expert Panel on Assembly Electoral Reform have come to a similar conclusion since then.³ During this time further powers have been devolved to Wales, including law making powers, and thus the Senedd has taken on greater responsibilities and had its scrutiny capacity stretched even further. The increase in the number of Members of the Senedd has been long overdue and we welcome the provisions in this Bill to rectify this under-resourcing and realise a Welsh Parliament with sufficient capacity to do its job.

Both the Expert Panel report and the Committee of Senedd Reform recommended increasing the size of the Senedd to between 80 and 90 members, with the Expert Panel highlighting that a move to the upper end of this range would provide the most benefits and allow a level of future-proofing of capacity.^{4, 5}

Since these two reports were published in 2017 and 2020 respectively, the political landscape in Wales has changed considerably with Brexit, the Covid-19 pandemic and the UK parliamentary boundary review reducing the number of Welsh MPs from 40 to 32. Extra responsibilities in devolved areas, which were previously covered by EU law, have added to the workload of the Senedd and as such the Special Purpose Committee on Senedd Reform

¹ <https://www.electoral-reform.org.uk/latest-news-and-research/publications/size-matters/>

² <https://commonslibrary.parliament.uk/research-briefings/sn03018/>

³ <https://senedd.wales/media/eqbesxl2/a-parliament-that-works-for-wales.pdf>

⁴ <https://senedd.wales/media/eqbesxl2/a-parliament-that-works-for-wales.pdf>

⁵ <https://senedd.wales/laid%20documents/cr-ld13452/cr-ld13452%20-e.pdf>

recommended an increase in MSs beyond 90.⁶ We agree that 96 members is an appropriate number to both allow better scrutiny of current legislation and to future proof the parliament for further devolution of powers down the line. This also brings the Senedd more in line with other devolved parliaments, still significantly smaller than the Scottish Parliament and only slightly larger than Stormont.

Voting System

While we agree that a new voting system is needed to elect a larger Senedd, we have concerns about the closed list proportional representation (PR) system included in this legislation.

The Bill's explanatory memorandum recognises that a closed list PR electoral system reduces voter choice and uses it as part of the rationale for the introduction of a residency requirement for candidates, stating *"if an elector supports a party's list except for a candidate who they believe has no residency in Wales, they must either not vote for that party or be unable to express their objections"*.⁷

This dilemma is not unique to the issue of candidate residency, as there are 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 with their vote, and provides one of the arguments as to why a closed list PR electoral system is not an appropriate electoral system for Senedd elections.

Research by LSE in 2013 showed that closed list systems 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.⁸

We would advocate for the Single Transferable Vote (STV) to be the Senedd's new electoral system, as did the Expert Panel in 2017, the Committee on Senedd Electoral Reform in 2020 and two members of the Special Purpose Committee on Senedd Reform in 2022.^{9, 10, 11} An STV system would allow voters to not only select their preferred candidate, but also provide as many alternative options, through ranking candidates, as they desire. It is also the electoral system that has been selected for councils to choose to move to under the Local Government and Elections (Wales) Act.¹² Across the UK STV is also used for Scottish local elections since 2007 and for local and parliamentary elections in Northern Ireland.

⁶ <https://senedd.wales/media/5mta1oyk/cr-ld15130-e.pdf>

⁷ <https://senedd.wales/media/ixjdywtx/pri-ld16037-em-e.pdf> Paragraph 184, p53.

⁸ https://eprints.lse.ac.uk/62331/1/Hix_Open%20closed%20list_2016.pdf

⁹ <https://senedd.wales/media/eqbesxl2/a-parliament-that-works-for-wales.pdf>

¹⁰ <https://senedd.wales/laid%20documents/cr-ld13452/cr-ld13452%20-e.pdf>

¹¹ <https://senedd.wales/media/5mta1oyk/cr-ld15130-e.pdf>

¹² <https://www.legislation.gov.uk/asc/2021/1/contents>

Given the timescale of implementation for this Bill is tight, an alternative option would be to look at the electoral system recommended by the Expert Panel in the event that STV was not implemented, the flexible list system.¹³

We would endorse the addition of an amendment to the legislation to allow for a flexible list. This would entail allowing voters to vote for an individual candidate or a party, with individual candidates only moving up a party's list if they pass a certain threshold percentage of the party's votes in that constituency. This 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. Minimal amendments to the Bill as it stands could facilitate the change to a flexible list voting system.

This flexible list approach is used widely in countries across Europe including Austria, Belgium, the Czech Republic, Denmark, Estonia, Indonesia, Norway, the Netherlands, Slovakia, and Sweden.¹⁴ There are also examples of countries who have abandoned closed lists in favour of a flexible list approach. One such example is Sweden, which initially used a closed list PR system and upgraded this with a move to a flexible list system in 1998.

The Expert Panel developed a system for flexible lists in Wales as part of their 2017 report.

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

A flexible list approach, as described by the Expert Panel, could alleviate some concerns around the lack of voter choice under the current system proposed, while likely being manageable in light of the tight timescales of the Bill.

Seat Allocation

The electoral formula stipulated in the Bill to allocate seats under a list PR electoral system is the D'Hondt method. We have reservations around this as this method can result in less proportional results than the Sainte-Laguë method which was recommended by the Expert Panel.¹⁵

¹³ <https://senedd.wales/media/eqbesxl2/a-parliament-that-works-for-wales.pdf>

¹⁴ <https://www.santiagoolivella.info/pdfs/es2013.pdf>

¹⁵ <https://senedd.wales/media/eqbesxl2/a-parliament-that-works-for-wales.pdf>

If a list PR approach continues (either flexible or closed), then as the Expert Panel recommended, the Sainte-Laguë formula should be adopted to allocate seats on proportionality grounds. The D'Hondt method usually produces less proportional results than the Sainte-Laguë method due to the electoral formula normally favouring larger parties over smaller parties. The Expert Panel found in its modelling work “that the D'Hondt electoral formula generally produces outcomes which are less proportional than those using the Sainte-Laguë formula, and sometimes less proportional than the current electoral system” with two members of the Special Purpose Committee also initially preferring this formula.¹⁶

Constituency Boundaries

While we recognise the time limitations in getting this legislation enacted for the 2026 Senedd Elections we would like to note that it is a shame that there won't be bespoke Senedd constituencies at this time. Using the new UK parliamentary constituencies relies on boundaries that operate for an entirely different political system, that are drawn based on incomplete electoral rolls instead of actual population figures and are based on a different franchise.

We also have concerns about the provisions to ensure the number of representatives per constituency are equal due to the variance in constituency size and the number of voters represented, which specifically is an issue in the case of Ynys Môn given its protected status in the Westminster boundary review. As acknowledged in the explanatory memorandum of the Bill this will mean that voters within that paired constituency are effectively over-represented at the Senedd¹⁷.

The pairing of the Westminster constituencies also doesn't account for the different franchise in Wales and how that might alter the electorate size across the constituencies. The boundary review ahead of the 2030 Senedd elections should rectify this by establishing bespoke Senedd constituencies with more balanced electorates based on the Welsh franchise. However, the specification on the face of the Bill for 16 constituencies each electing six members has the potential to be too rigid in terms of balancing the competing interests of equal numbers of electors and respecting natural community boundaries in this boundary review exercise.

In Europe, both Spain and Portugal use the closed list PR system for their parliamentary elections. Spain has district magnitudes varying from 2 to 37 across its 50 multi-member constituencies and Portugal has district magnitudes varying from 2 to 48 across its 22 multi-member constituencies. In the UK, MEP elections used to be held using the closed list PR system, these too had varying district magnitude with between 3 and 10 MEPs being elected across the different nations and regions. Having equal district magnitudes, such as in this Bill, is far from the norm as natural boundaries and communities rarely fall into such similarly populated geographies.

In fact across all of the 20 EU member states who use any variation of the list PR electoral system, only two countries, Croatia and Slovenia, use equal district magnitude across

¹⁶ <https://senedd.wales/media/5mta1oyk/cr-ld15130-e.pdf>, p37.

¹⁷ <https://senedd.wales/media/ixjdywtx/pri-ld16037-em-e.pdf>

multiple constituencies. The result of this is that their electoral districts follow unnatural boundaries, something which is a cause of contention at the moment in Croatia.¹⁸ Given this, we believe that there is no need for the rigidity around the number of elected members per constituency. This will only serve to constrain the boundary review due to take place following the 2026 Senedd elections.

Job Sharing

The requirements in the Bill for the next Senedd to vote on a motion to establish a committee to look into job sharing are welcome, but leave us yet again without an opportunity for the benefits of job sharing to be realised in the next Senedd. The Expert Panel made recommendations around the provision of job shares for MSs in 2017, and nearly a decade later we will have made little practical progress on this issue.¹⁹ Both the Committee on Senedd Reform and the Special Purpose Committee on Senedd Reform looked at job sharing in varying depths but advised further consideration was needed. Job sharing for cabinet members in principal councils already takes place and has been considered quite successful over a number of years.

We have a number of concerns around the suggested method for any future discussion of job sharing. The legislation as drafted only requires a motion to be tabled following the 2026 Senedd election to establish a committee. There is no guarantee that motion would even be passed by the Senedd. There are also limited parameters in the legislation in terms of that committee if it were to be established. While it will be required to report on job sharing and temporary cover for if a member was unavailable, there is little to ensure that this work is extensive. Likewise, while this legislation requires a report to be tabled and Welsh Ministers to respond there is no guarantee these recommendations will be taken forward. We have concerns that this amounts to a further kicking into the long grass in relation to an issue that has already had substantial discussion within various Senedd committees and is supported by a range of third sector organisations and academics.

Senedd Terms

We support the return to four year terms for the Senedd, meaning that the electorate are able to choose their representatives more frequently. This return to pre-2011 term lengths is logical given the issue of clashes with UK parliamentary elections has changed with the introduction of the Dissolution and Calling of Parliament Bill, which repealed the Fixed-term Parliaments Act 2011, removing the five-year interval between UK parliamentary elections.²⁰ Alongside the provisions to change Senedd elections to every four years, the Welsh Government should also consider making this change for local elections. The electorate should have a frequent say in their representatives at a local level.

¹⁸ <https://analihpd.hr/en/hrvatske-muke-po-izbornim-jedinicama-sto-ne-valja-s-vladinim-rjesenjem/>

¹⁹ <https://senedd.wales/media/eqbesxl2/a-parliament-that-works-for-wales.pdf>

²⁰ <https://bills.parliament.uk/publications/41467/documents/206>

Recall/ by-election mechanism

The provisions for filling vacant seats are consistent with the current rules regarding vacancies when a member who has been elected on the regional list stands down, is disqualified or dies, with in most cases the next person on the list taking that vacant seat. This highlights the need for parties to stand a full list in each constituency if they can.

We are concerned by the lack of provision for a protocol around Members of the Senedd who change parties or leave a party to become an independent member, as detailed in paragraph 265 on page 73 of the Explanatory Memorandum.²¹ Given that under a closed list PR system, voters will be voting specifically for a party not for individual candidates, this brings into question the legitimacy of the mandate from their electors of any MS who changes party during a Senedd term.

While up until 2016 this was a relatively rare occurrence, with only four MSs switching parties across the first four Senedd terms (1999 - 2016), in the 5th Senedd term (2016 - 2021) nine MSs changed parties a total of 19 times. All of the MSs in question were elected under the regional list, using the closed list PR system where voters cast their ballot for a party not an individual candidate. Six of these nine MSs changed parties multiple times over the course of the fifth Senedd, with then Member of the Senedd Mark Reckless changing allegiance a total of four times. To date 87% of incidences of MSs changing parties during a Senedd term have been those elected via the regional list (20 of the 23 incidences), with the regional list currently only making up $\frac{1}{3}$ of the membership of the Senedd. This situation could get worse as we move to a 100% closed list PR system and leave voters represented by a party that they didn't vote for. A move to a flexible list system would give candidates more of a personal mandate and alleviate this situation somewhat.

Post-2026 election review of the legislation

We were pleased to see a requirement in the Bill for the review of the legislation post-2026 Senedd elections. We believe this review should be as wide in scope as possible and we welcome the parameters outlined in the Bill's Explanatory Memorandum.

We believe there could be a role for additional principles to be used to assess the effectiveness of the changes brought forth in the Bill. For example, the Electoral Administration and Reform White Paper set out six principles to guide the longer-term programme of electoral reform; equity, accessibility, participation, improving citizen experience, simplicity and integrity.²² Likewise, in 2017 the Expert Panel took a principles-based approach to assessing different electoral systems in its work, these covered 10 areas; government accountability and effectiveness, proportionality, member accountability, equivalent status, diversity, voter choice, equivalent mandates, boundaries, simplicity, and sustainability and adaptability.²³

²¹ <https://senedd.wales/media/ixjdywtx/pri-ld16037-em-e.pdf>

²² <https://www.gov.wales/consultation-electoral-administration-and-reform-white-paper-html>

²³ <https://senedd.wales/media/eqbesxl2/a-parliament-that-works-for-wales.pdf>

The Explanatory Memorandum details that the review should also take into account ‘the extent to which the elements of a healthy democracy are present in Wales’.²⁴ The recently published Defining, Measuring, and Monitoring Democratic Health in Wales report from the Wales Centre for Public Policy, commissioned by the Welsh Government, has outlined various metrics that could be used to do this. This could be through the inclusion of Wales specific data collection in international projects such as the Varieties of Democracy (V-Dem) project or through data that is already collected on a Wales level such as metrics around the Wellbeing of Wales in the National Survey for Wales or data from the Wales Election Study.²⁵ A comprehensive dataset covering all aspects of democratic health in Wales will likely involve a combination of existing surveys/projects and the commissioning of new data gathering.²⁶ We would urge the Welsh Government to adopt the recommendations of this report, and think about what additional data it could commission or produce around elections. For example the Explanatory Memorandum for the Bill includes turnout as a measure that could be considered. We would support the idea of this being disaggregated by demographic data, as takes place in Iceland.²⁷ We believe it is a sensible approach to link this data with the review of Senedd electoral arrangements.

Additional comments

The successful implementation of this Bill relies on good communication. Good ballot design and rigorous testing will be essential closer to the election as will wider engagement with the public on these changes.

Continued electoral divergence between systems across the UK makes public engagement and communication vital, especially when the changes in this Bill are considered alongside those in the Elections and Elected Bodies (Wales) Bill. While electoral divergence should not be a barrier to improving devolved elections and making changes to the Senedd, it does heighten the need for effective communication to voters.

Joined up and clear communication of the changes coming in ahead of the 2026 Senedd elections are crucial in ensuring that people are being brought along in that journey. This will involve working across the Senedd Cymru (Members and Elections) Bill, Elections and Elected Bodies (Wales) Bill and the forthcoming bill on gender quotas to provide a clear narrative that covers all of the changes to Welsh democracy for voters.

²⁴ Paragraph 201 <https://senedd.wales/media/ixjdywtx/pri-ld16037-em-e.pdf>

²⁵ <https://www.wcpp.org.uk/wp-content/uploads/2023/10/Defining-Measuring-and-Monitoring-Democratic-Health-in-Wales-REPORT.pdf>

²⁶ *Ibid.*

²⁷ <https://www.hagstofa.is/utgafur/frettasafn/kosningar/althingiskosningar-29-oktober-2016/>

Boundaries Scotland

Written submission on the Senedd Cymru (Members and Elections) Bill

Introduction

1. Thank you for the opportunity to comment on the Senedd Cymru (Members and Elections) Bill. The following points highlight some issues that may be of interest to the Committee. I would be very happy to answer further questions on these or other aspects of the legislation when I give oral evidence to the Committee. It goes without saying that these points reflect the experience and knowledge of Boundaries Scotland in a Scottish context and we appreciate that the position in Wales may need particular solutions.

Background

2. Boundaries Scotland is responsible for reviewing and making recommendations for:
 - constituencies and regions for the Scottish Parliament;
 - the number of councillors on each council in a local government area;
 - the number of wards for local government elections and their boundaries; and
 - the extent of council areas
3. Responsibility for reviewing Scottish Parliament boundaries was devolved to the Local Government Boundary Commission for Scotland by the Scotland Act 2018 which amended the Scotland Act 1998. The Scottish Elections (Reform) Act 2020 renamed the Local Government Boundary Commission for Scotland “Boundaries Scotland” reflecting that our focus was no longer simply reviews of local government electoral arrangements and administrative boundaries.
4. Boundaries Scotland commenced its first review (and the second review since establishment of the Scottish Parliament) of constituencies and regions for the Scottish Parliament 1 September 2022 and will submit its report by 1 May 2025.

Resourcing

5. Boundaries Scotland has provision for a Chair, Deputy Chair and up to 4 Commissioners. Since 1973 there had always been a vacant Commissioner post and it was only when responsibility for Scottish parliament reviews was devolved to us that the additional capacity for a 4th Commissioner was utilised, in part to reflect the increased workload but more importantly to ensure a wider breadth of experience and knowledge amongst Commissioners and a move away from a focus solely on local government.
6. More important to us than the number of Commissioners is ensuring the Secretariat supporting Boundaries Scotland is adequately resourced. The nature and scale of the work required in designing proposals, consulting effectively, analysing responses and so on falls largely on the staff. In addition the Secretariat deals with the challenges of sometimes overlapping reviews for local government, Scottish Parliament and Westminster. Our staff are shared with the reserved body, the Boundary Commission for Scotland, and we have been successful in ensuring sufficient staffing and other resource to support the work of both Commissions.

Reviews

7. The proposed arrangements for conduct of reviews appear to mirror the Westminster legislation closely. There are some aspects of this which may unnecessarily tie the hands of the Welsh Commission:

a. Parity

While the proposed 10% variation from parity offers more flexibility than Westminster which has a 5% limit, it is worth noting that in Scotland neither reviews of Scottish Parliament nor of local government electoral arrangements specify a hard target. For reviews of electoral arrangements the legislation specifies that the ratio of electors to councillor in wards across a council area be “as nearly as may be, the same” . For Scottish parliament constituencies the requirement is “The electorate of a constituency must be as near the electoral quota as is practicable” . In both cases, other rules, such as special geographical circumstances, allow a move away from strict parity.

The 5th Reviews of electoral arrangements, which reviewed the number of councillors and ward boundaries in all 32 council areas in Scotland recommended 351 wards. Of these 45 wards were over 10% based on the existing electorate but the five-year forecasts predicted only 22 would become over 10% in that period. These were mainly rural wards but also included some city wards. Flexibility was shown in some areas to maintain local ties and minimise change. The 5th Reviews were submitted to Scottish Ministers in 2016.

The Island Reviews, reviews of electoral arrangements for the six council areas with inhabited islands, recommended 65 ward boundaries of which 21 were over 10% variation from the electorate quota based on both existing and five-year forecast electorates. These council areas cover the most remote areas of Scotland. The Island Reviews were submitted to Scottish Ministers in 2021 and included: Argyll and Bute; Highland; Na h-Eileanan an Iar (Western Isles); North Ayrshire; Orkney Islands; and Shetland Islands Council areas.

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.

b. Public hearings

The Bill proposes 2-5 public hearings. In Scotland the limit of 2-5 hearings during Westminster reviews has been unhelpful for the Boundary Commission for Scotland, requiring restrictive choices to be made about where hearings should be held.

If the purpose is to allow oral representations to be made with equal weight to written representations then the number and location of hearings should be flexible and ensure accessibility across the country.

If the purpose is more akin to the Scottish Parliament review process, where local inquiries are held in areas where there is a weight of objection expressed or simply where the Commission feels it would be helpful then again a fixed number is an unnecessary constraint.

Clarity over the option of in person, online or hybrid hearings would be helpful for the avoidance of doubt and to ensure that people in remote and rural areas can access hearings.

c. Minimising disruption

We note that the Bill proposes retaining 6 members per constituency in future. This is more likely to require future boundary change, and consequent disruption, particularly with a fixed 10% variation from parity. A less disruptive option might be to allow adjustment of constituency size from 5 to 7 (or 4 to 8) members to reflect population change. Under such a system boundaries would remain fixed.

d. Automaticity

Automaticity is a welcome step in the right direction as it respects the independence of the Commission and limits partisan inference. In our experience it may also be good for parity outcomes. For example, the rejection in 2017 by Scottish Ministers of electoral arrangements in City of Dundee council area on the grounds of community ties, resulted in Dundee being the most underrepresented of the Scottish cities in terms of councillor numbers along with avoidable disparity between wards. Parity in Highland council area and Argyll and Bute council areas has also been impacted by rejection of new arrangements.

In the more recent reviews of Scottish council areas containing inhabited islands, the recommendation from the lead Committee of the Scottish Parliament to reject electoral arrangements in two council areas focussed on outcomes not process and were influenced by political lobbying. Automaticity has been adopted by the UK parliament for Westminster reviews and we are keen that this is addressed by the Scottish Parliament.

e. Engagement and scrutiny

To allay any concerns about automaticity it is important that consultation and scrutiny facilitate full engagement. The Bill proposes 4 week consultations which might be perceived to be too short. During the current Scottish parliament review where there is a similar 4 week limit it has proved difficult for councils, community councils and others who have a fixed meeting schedule to comply with the deadlines.

Prof. Ailsa Henderson
Chair
Boundaries Scotland
October 2023

THE ELECTORAL MANAGEMENT BOARD FOR SCOTLAND (EMB)

Written evidence presented to

The Reform Bill Committee of the Senedd Cymru in their
consideration of the

Senedd Cymru (Members and Elections) Bill



30 October 2023

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Background - The Reform Bill Committee of Senedd Cymru

1. Established on 12 July 2023, the Reform Bill Committee comprises four members from different political groups represented in the Senedd. The Committee's role is to consider Bills referred to it by the Senedd's Business Committee. The first Bill it is considering is the Senedd Cymru (Members and Elections) Bill, which was formally introduced to the Welsh Parliament on 18 September 2023 as part of Senedd Reform.
2. The Electoral Management Board for Scotland (EMB) has been asked to contribute to the Committee's work by taking part in an oral evidence session on Thursday 9 November 2023. The purpose of the evidence session is to inform the Committee's scrutiny of the Bill. The session may cover any aspect of the Bill, but it is anticipated that the focus will be on: the proposed changes to the electoral system; the proposed changes to the Local Democracy and Boundary Commission for Wales; and the proposed changes to the Senedd's boundaries and boundary review arrangements.

Background - Senedd Cymru (Members and Elections) Bill

3. The Senedd Cymru (Members and Elections) Bill is a Welsh Government Bill which, if passed, 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.
 - Increase the maximum number of Deputy Presiding Officers 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 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 Llywydd 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 Local Democracy and Boundary Commission for Wales; provide the renamed Democracy and Boundary Commission Cymru (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 Llywydd after the election to propose the establishment of a Senedd committee to review specified matters).
4. Further detail about the Bill can be found in its accompanying Explanatory Memorandum. [Senedd Cymru \(Members and Elections\) Bill, as introduced](#) and [Explanatory Memorandum](#)

Evidence from the Electoral Management Board for Scotland

5. The Committee has asked the EMB to provide comment on several subject areas relevant to the Bill. Comments from the EMB are presented below. The EMB is happy to provide this written evidence for consideration by the Committee but would be

pleased to expand on any element of it each in discussion with the Committee at the evidence session or in writing.

6. It is to be noted that the EMB is an independent body which supports Returning Officers (ROs) and Electoral Registration Officers (EROs) in Scotland. It is independent of both the UK and Scottish Governments and accountable to the Scottish Parliament. As such it is inappropriate for it to comment on matters of policy with respect to electoral administration. Policy discussions are the remit of elected governments.
7. However the EMB will offer comments on the practical implications of policies that are being considered or are being implemented. Such comments will include consideration of the impact on the delivery of elections by ROs and EROs. The EMB is always particularly concerned with ensuring that the interests of the voter are kept at the centre of all election planning and delivery; comments may particularly reflect that concern.

Experience of implementing a new electoral system (we understand that the EMB Scotland was only created in 2011, and STV was introduced in Scottish local authorities in 2007, but any insight that could be offered would be welcomed)

8. While the EMB was created by statute in 2011 it had existed in form as an interim body since 2008, pulled together on a voluntary basis by ROs and EROs and their advisers with input from the Electoral Commission and governments to support the electoral administration following problems with the delivery of the combined Scottish Parliament and Scottish Local Government Elections in 2007.
9. An [independent review](#) of the Scottish Parliamentary and local government elections on 3 May 2007 was undertaken by the Canadian election expert Ron Gould which made a number of recommendations including the decoupling of elections to ensure that each received a parity of esteem and publicity, and the need to ensure that legal changes governing elections were in place at least 6 months ahead of any poll to allow adequate time for planning and implementation.
10. He also proposed the creation of a Chief Returning Officer for Scotland. While this recommendation was not implemented the creation of the EMB in many ways responded to the problems that he identified which prompted that recommendation in that he saw a need for a single point of contact for the oversight of elections and for a vehicle for the promotion and development of best practice.
11. The EMB would recommend that the Senedd Committee reviews the Gould report and notes its comments on the challenges of operating multiple electoral systems. In general however the issues to be considered are presented below.
12. The first is the risk of voter confusion. Voters need to understand how to cast their vote. Multiple electoral systems can be operated but there needs to be clear and effective public awareness campaigns to support the voter so that the vote is used as they intend and not unintentionally spoiled. Where there are multiple systems operating for elections on the same day such public awareness campaigns can be challenging to plan and deliver.
13. A second risk is the complexity for the electoral administrator / Returning Officer team responsible for the planning, preparation and delivery of the election. Multiple electoral

systems make the training of staff and the administration of poll and count more challenging and introduce additional risks to the sound delivery of the election. These risks can all be managed but require robust governance frameworks and professional project planning to promote effective and well-managed systems.

14. There is also a risk for candidates, agents and parties who need to develop an understanding of the voting system so that they can stand, campaign and ultimately offer the voter an informed and effective choice.

Experience of managing elections in a context where there are different franchises, boundaries and systems for different tiers of elections.

15. Returning Officers in Scotland have currently to deliver three tiers of election each of which operates to different electoral systems and over different boundaries. Local authority elections operate a Single Transferable Vote (STV) system using the Weighted Inclusive Gregory (WIG) method of counting, with multi-member wards. The system used for Scottish Parliament general elections is known as the Additional Member System (AMS), a "mixed member system" or as "mixed member proportional representation". Electors have two votes. Constituency MSPs are elected on a first past the post system with Regional MSPs elected from a list using the d'Hondt system which allocates additional seats to political parties or independent candidates. UK Parliamentary elections use the first past the post system. Up until 2019 European Parliament election were also administered by ROs and EROs on another different electoral system and boundaries.
16. There are also different franchises in operation for these polls with that for devolved polls being different from that for reserved UK elections, the major difference being that the voting age is 16 for devolved elections and foreign nationals are able to vote.
17. ROs and EROs successfully deliver elections under these different systems, with the Electoral Commission repeatedly reporting that elections in Scotland have been managed well with no concerns with respect to the integrity of the polls.
18. However this successful delivery has only been achieved following significant work by the teams of ROs and EROs across Scotland. The divergence between different polls necessarily introduces complexity and potential confusion for voter, electoral administrator and candidates.
19. For the voter this complexity needs to be addressed by effective public awareness exercises that explain clearly how to vote and how the vote will be counted to allow the voter to make informed decisions about how to vote. These public awareness campaigns are run by Returning Officers but for enhanced impact they often align with national campaigns undertaken by the Electoral Commission who can plan and procure media campaigns that have a greater impact than those delivered locally by ROs.
20. ROs and EROs need to build the additional complexity and divergence into their own planning, procedures and systems to ensure that staff understand the differences and operate each system effectively. Again the Electoral Commission provide helpful guidance but the divergence does add to the complexity of the administration.
21. Similarly candidates and political parties need to understand the systems to ensure that they can campaign effectively to offer the voters appropriate choice.
22. There are undoubtedly sound policy reasons for the adoption of different electoral systems but on a practical level the divergence does pose challenges that need to be accommodated with enhanced public awareness and training operations.

23. One basic example has been the need to provide focussed training for election staff on the operation of the STV system so that they remind voters to vote for as many candidates as they wish, using a 1 for their first choice, a 2 for their second etc, while many papers are still marked with a single cross.
24. Again the EMB would encourage the Senedd committee to review recent Electoral Commission reports on STV elections in Scotland which have identified the need to consider ways to minimise spoilt votes where the voter has not understood the voting system leading to high rates of spoiled papers. For example the Electoral Commission [report on the 2022 council elections in Scotland](#) noted that “while the level of spoilt ballots across Scotland has declined since the 2017 council elections, they increased in some wards; further action is needed to address this.”

The Bill does not propose STV, but STV has been a recommendation made in the context of Senedd elections and Members are likely to be interested in the experience of operating elections under STV.

25. Some of the issues with respect to the operation of STV are noted above with respect to the need for public awareness to ensure an understanding of the system such that votes are not unintentionally spoiled.
26. It should also be noted that “general” STV elections in Scotland where all members are elected to all sets in all 32 councils every five years, are counted electronically. By-elections are usually also counted electronically although some ROs do choose to count manually.
27. An electronic count is a major investment and a significant procurement exercise every five years. However it has been judged as the optimal method of counting given the number of candidates across the multiple wards and the complexity of the counting system, involving the transfer of fractions of votes. The procurement of a system to deliver electronic counting across the 32 councils is a large procurement project ultimately awarding a contract costing several million pounds. Besides the speed and accuracy of the electronic count the other benefit is the generation of volumes of data with the system allowing access to data on voting patterns even down to individual ballot boxes which is useful data for political groups and academics as they analyse voting patterns.
28. The electronic count solution is only really practical when delivered across multiple counts where economies of scale render it an efficient option. Costs would be prohibitive were it to be deployed at only one or two locations,

The Elections and Elected Bodies (Wales) Bill (which is not the direct subject of the Committee’s scrutiny) proposes giving the functions of an EMB to the current Local Democracy and Boundary Commission for Wales (to be reconfigured and renamed by the Senedd Cymru (Members and Elections) Bill as the Democracy and Boundary Commission for Wales). On that basis, to inform its scrutiny of the relevant provisions in the Senedd Cymru (Members and Elections) Bill (Part 3 of the Bill) the Committee would be interested in hearing about the role and experience of the EMB Scotland. Part 3 of the Bill makes provision, for example in respect of the number of members of the DBCC, disqualifications from being a member, CEX or assistant commissioner of the DBCC, and quorum.

29. The fundamental issue with respect to the EMB is its independence from government. The EMB has a defined role to promote best practice and to support ROs and EROs.

To achieve this the Convener following consultation can make directions to ROs and EROs and will routinely make such directions for each election to ensure a consistency of approach on key voter facing elements – such as the date of dispatch of poll cards and postal votes – and to ensure adequate contingency – for example proposing suitable numbers to be allocated to polling stations to prevent queues. However to ensure and protect the autonomy and independence of the RO and ERO who properly are accountable only to the courts and not to any politician, the EMB must itself be independent and not subject to any political influence. The protects the independence of RO and ERO and also promotes the interest of the voter ultimately to deliver elections with results that can be trusted as accurate.

30. In terms of the operation of the EMB, the Convener is appointed by Ministers. The Convener then appoints five ROs and three EROs with an effort to ensure a spread of experience and a representation of different types of constituency: urban, rural island etc.
31. The Board's objective, principles and approach are discussed in the background paragraphs below. With respect to the overall approach there is an effort to operate through a progression of consensus where possible, guidance where helpful and direction if necessary. The Board has the privilege of supporting a close and mutually supportive community of electoral professionals in Scotland which makes consensus a valid and practical approach. The concern to protect the independence of the RO also means that the Convener will only intervene where necessary in promotion of best practice and to support the RO and ERO and will avoid interference to take away the local autonomy and role of the RO.

Background – The Electoral Management Board for Scotland

32. The Electoral Management Board for Scotland (EMB) was established by the Local Electoral Administration (Scotland) Act 2011. This Act gave the Board “the general function of co-ordinating the administration of local government elections in Scotland.” The Scottish Elections (Reform) Act 2020 extended the remit of the Board to cover elections to the Scottish Parliament.
33. The EMB is independent of both Scottish and UK Governments and political parties and is accountable to the Scottish Parliament. The Convener is appointed by Ministers and leads a Board consisting of Returning Officers, their Deputies and Electoral Registration Officers.
34. Advisors include the professional associations: the Association of Electoral Administrators (AEA), the Electoral Registration Committee of the Scottish Assessors Association (SAA), the Elections Working Group of the Society of Local Authority Lawyers & Administrators in Scotland (SOLAR), and Scottish and UK Governments, and the Electoral Commission.
35. The EMB’s prime focus is ensuring that the interests of the voter are kept at the centre of all election planning and administration. The work of the EMB assumes the close community of electoral professionals in Scotland and accordingly the Board seeks to operate by consensus rather than formal direction, wherever possible. However, the Convener does have a power to issue directions to Returning Officers and Electoral Registration Officers in relation to their duties around Scottish Parliament and Local Government elections as required, and this power has been exercised in recent elections with the consent and wish of the electoral community.
36. The EMB has assisted in the coordination of the work of ROs and EROs in the delivery of European Parliamentary Elections, UK Parliamentary General Elections, Scottish Parliament Elections, Scottish Local Government Elections and UK and Scottish Referendums. Where the Convener does not have a legal power of direction the Board has made recommendations to achieve consistency and support adequate contingency planning across the country. Since its creation, the EMB has had an increasingly important role in promoting a consistent delivery approach, acting as a single point of contact for stakeholders and providing a source of professional expertise and support to the electoral community.

The EMB’s Role

37. The EMB’s “general function of co-ordinating the administration of local government and Scottish Parliament elections” involves two specific roles:
 - (a) assisting local authorities and other persons in carrying out their functions in relation to local government elections; and
 - (b) promoting best practice in local government elections by providing information, advice or training (or otherwise).
38. The over-riding goal is to ensure that the interests of the voter are kept at the centre of all election planning, delivery and administration.

Our Objective

39. With respect to specific electoral events this function translates into a single clear objective: "...to deliver a result that will be trusted as accurate." The currency of elections is trust. Confidence in the result is fundamental to the democratic process and is predicated on confidence in all stages of the process of planning and delivering an electoral event.

Our Principles

40. The EMB shapes its work around four key principles:

- Accessibility - there should be no barriers to any voter taking part;
- Consistency - voters should have the same experience wherever they are in Scotland;
- Efficiency - electoral events will be administered efficiently; and
- Integrity - electoral events will produce results that are accepted as accurate.

Our Approach

41. The Board has the privilege of supporting a close and mutually supportive community of electoral professionals in Scotland. The preferred approach is always to operate through a progression of consensus where possible, guidance where helpful and direction if necessary.



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26/10/2023

Annwyl Bwyllgor,

Bil Senedd Cymru (Aelodau ac Etholiadau)

Diolch ichi am y cyfle i roi tystiolaeth ysgrifenedig a llafar ichi ar y Bil hanesyddol hwn yn natblygiad datganoli yng Nghymru. Edrychaf ymlaen at gwrdd â chi i drafod y Bil mewn mwy o fanylder ar 9 Tachwedd.

Fel Comisiynydd y Gymraeg fy mhrif nod wrth arfer fy swyddogaethau yw hybu a hwyluso defnyddio'r Gymraeg fel y nodir ym Mesur y Gymraeg (Cymru) 2011. Manylir ar y swyddogaethau yn Rhan 2 y Mesur hwnnw. Mae gen i hefyd gyfrifoldeb pwysig ac unigryw i argymhell ffurfiau safonol enwau lleoedd Cymru ac mae fy swyddogion yn cynnig gwasanaeth ymgynghorol poblogaidd i sefydliadau o bob math. Cyfyngaf fy sylwadau felly, i'r agweddau penodol o'r Bil y credaf sy'n benodol yn ymwneud â chyfluoedd i ddefnyddio'r Gymraeg, yn ogystal ag effeithiau posibl y Bil ar fy ngweithgareddau innau fel Comisiynydd.

1. Cynyddu maint y Senedd i 96 Aelod

Eglura'r Memorandwm Esboniadol wrth roi'r cefndir i fwriad y Bil i gynyddu maint y Senedd i 96 aelod: 'Un pryder cyson sydd wedi codi yn y gwahanol adroddiadau yw bod maint y Senedd yn effeithio ar ei gallu cyfunol i ddal Llywodraeth Cymru i gyfrif yn effeithiol, gan gynnwys craffu ar bolisiau a deddfwriaeth' (36 yn y memorandwm) ac 'Yn benodol, mae diffyg capasiti yn cyfyngu ar allu Aelodau'r Senedd i arbenigo, fel a fyddai'n digwydd mewn seneddau eraill. Yn ddelfrydol, mae Aelodau'n arbenigwyr mewn maes craffu penodol, ac yn defnyddio cyfarfodydd pwyllgor i ddal Llywodraeth

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Cymru i gyfrif – nid dim ond ar sail briffiau cefndirol gan y staff, ond ar sail eu hymchwil a'u hymgysylltiad eu hunain' (39 yn y memorandwm). Buaswn yn croesawu pob cyfle posibl i gynyddu'r craffu sy'n digwydd ar bolisiau a deddfwriaeth sy'n ymwneud â'r Gymraeg a hynny ar draws yr holl feysydd sydd o fewn cymhwysedd Llywodraeth Cymru, nid dim ond ar faterion sydd ar yr olwg gyntaf yn ymwneud yn benodol â'r Gymraeg. Mae potensial mawr i nifer o ddeddfau a pholisïau eraill effeithio ar gyfleoedd i bobl ddefnyddio'r Gymraeg mewn meysydd mor eang â'r economi, arloesi, yr amgylchedd, cynllunio ac addysg. Mae'n bosibl felly y byddai cynyddu maint y Senedd i 96 aelod yn cynyddu'r capasiti hwnnw ac yn galluogi nifer uwch o Aelodau i ddod yn arbenigwyr ar y Gymraeg, ac i bob aelod ddod i ddeall sefyllfa'r Gymraeg yng Nghymru heddiw yn well. Fodd bynnag, ni allwn gymryd hyn yn ganiataol wrth gwrs felly rhaid pwysleisio pwysigrwydd yr isadeiledd hwnnw a ddarperir gan staff Comisiwn y Senedd a staff Aelodau a phleidiau i alluogi'r Aelodau i ddyfnhau eu gwybodaeth am sefyllfa'r Gymraeg.

Yn unol â [Deddf Llywodraeth Cymru 2006](#) mae testunau Cymraeg a Saesneg pob Mesur Cynulliad a Deddf Senedd Cymru sydd yn Gymraeg ac yn Saesneg pan gânt eu deddfu, a thestunau unrhyw is-ddeddfwriaeth sydd yn Gymraeg ac yn Saesneg pan gaiff ei wneud, i'w trin at bob diben â'u statws yn gydradd â'i gilydd. Mae'n gwbl hanfodol felly fod Aelodau'r Senedd yn gallu craffu ar y ddeddfwriaeth yn y ddwy iaith i sicrhau fod y Gymraeg a'r Saesneg yn cael eu trin yn gyfartal a bod deddfwriaeth yn y ddwy iaith yn cyflawni ei nod polisi.

Mae Rhan 1, Adran 35 (2) Deddf Llywodraeth Cymru 2006 yn nodi 'The Assembly [y Senedd bellach wrth gwrs] must, in the conduct of Assembly proceedings, give effect, so far as is both appropriate in the circumstances and reasonably practicable, to the principle that the English and Welsh languages should be treated on a basis of equality.' Mae gan bob Aelod o'r Senedd yr hawl i ddefnyddio'r Gymraeg a'r Saesneg wrth eu gwaith fel Aelodau felly. Mater i Aelodau unigol wrth gwrs yw'r iaith y dewisant ei defnyddio. Cyhoeddir data am ddefnydd Aelodau'r Senedd o'r Gymraeg yn yr adroddiad blynyddol am weithrediad Cynllun leithoedd Swyddogol y Senedd. Mae [adroddiad diweddaraf \(2022– 23\)](#), er enghraifft, yn nodi bod canran y cyfraniadau Cymraeg mewn Cyfarfodydd Llawn wedi parhau ar yr un lefel (30%) â'r flwyddyn flaenorol ond gwelwyd gostyngiad yng nghanran y cyfraniadau Cymraeg mewn Pwyllgorau (12%) mewn cymhariaeth â 2021-22. Mae'r ffigurau hyn wedi bod mor isel â 16% a 6% mor [ddiweddar â 2019 – 20](#)). Mae'r adroddiad diweddaraf yn cydnabod bod hyn yn destun siom a phryder ac yn cydnabod y ffactorau cymhleth sy'n gallu



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effeithio ar ddewis iaith unigolion mewn gwahanol gyd-destunau, gan gynnig datrysiadau pragmataidd i geisio gwyrddroi'r patrwm. Ac mae'n rhaid gwyrddroi'r patrwm hwn ar fyrder er mwyn sicrhau statws gwirioneddol i'r Gymraeg fel iaith gwaith ar lawr y Senedd. Buaswn yn annog pob Aelod i geisio defnyddio eu Cymraeg ar bob cyfle posibl ac i gymryd rôl arweiniol drwy fodelu i Gymru ac i'r byd sut mae gweithio'n wirioneddol ddwyieithog.

Credaf fod y cynnydd hwn ym maint y Senedd yn gyfle euraid i gyflwyno arferion gweithio ieithyddol newydd ymysg Aelodau'r Senedd ac i ystyried o'r newydd a yw'r isadeiledd presennol sy'n cefnogi Aelodau'r Senedd yn ddigonol i sicrhau bod yr Aelodau yn gallu craffu yn llawn ar ddeddfwriaeth ddwyieithog Cymru, ac yn ddigonol i'w cymell a'u galluogi i weithredu eu hawl i ddefnyddio'r Gymraeg yn llawn wrth eu gwaith fel Aelodau. Dylid ystyried ar y pwynt hwn sut i fynd i'r afael â phob rhwystr sy'n golygu nad yw Aelodau yn defnyddio'r Gymraeg a bod buddsoddiad a chynllunio digonol mewn lle i gefnogi Aelodau'r Senedd i weithio trwy gyfrwng y Gymraeg yn y cyd-destun newydd hwn. Drwy ddechrau cynllunio yn awr dyma gyfle gwirioneddol gyffrous i'n Senedd arloesi ddod yn ddeddfwrfa wirioneddol ddwyieithog. Wrth gynllunio ymlaen, ac o ystyried mai hawl Aelod unigol yw'r dewis iaith, y man cychwyn fyddai cynnal adolygiad gyda'r Aelodau hynny er mwyn deall pa ddarpariaeth benodol fyddai modd i'r Comisiwn ei ddatblygu ymhellach er mwyn hybu a hwyluso eu defnydd o'r Gymraeg.

2. Lleihau'r amser rhwng etholiadau cyffredinol arferol y Senedd o bum mlynedd i bedair blynedd.

Nid oes gennyf safbwynt ynghylch newid y cyfnod amser rhwng etholiadau arferol y Senedd yn ôl i bedair blynedd fel yr arferai fod. Er hynny, gwn nad mater hawdd a chyflym yw datblygu polisi a deddfu mewn unrhyw faes a bod angen cryn adnoddau i alluogi hynny. O'r herwydd, gofynnaf i Aelodau sicrhau eu bod o'r farn fod tymhorau o bedair blynedd yn caniatáu digon o amser i graffu a deddfu ar bolisi a deddfwriaeth ym mhob maes sydd o fewn cymhwysedd y Senedd, gan gynnwys y Gymraeg. Yn yr un modd, petai'r cyfnodau rhwng etholiadau yn fyrrach byddai'n rhaid sicrhau bod adnoddau digonol gan bob adran o Lywodraeth Cymru i alluogi datblygu polisi a deddfwriaeth ym mhob maes o fewn ei chymhwysedd y bwriada ddeddfu ynddo o fewn yr amser sydd ar gael i wneud hynny.



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3. Cynyddu uchafswm y Dirprwy Lywyddion o un i ddau

Nid oes gennyf safbwynt ynghylch cynyddu uchafswm y Dirprwy Lywyddion o un i ddau. Buaswn yn annog y dylid rhoi ystyriaeth i'r angen i o leiaf un o'r Dirprwy Lywyddion allu siarad Cymraeg er mwyn hwyluso'r defnydd o'r Gymraeg yn y Senedd a darparu arweiniad wrth wneud hynny.

4. Cynyddu'r terfyn deddfwriaethol ar faint Llywodraeth Cymru i 17 (ynghyd â'r Prif Weinidog a'r Cwnsler Cyffredinol), a rhoi'r pŵer i gynyddu'r terfyn ymhellach i 18 neu 19.

Mae'r Gymraeg yn fater sydd o fewn cymhwysedd Llywodraeth a Senedd Cymru sy'n gwbl unigryw i Gymru. Er hynny, rhan yn unig o bortffolio gweinidogion Llywodraeth Cymru fu'r Gymraeg ers dechrau cyfnod datganoli. Mae'n bosibl y byddai ehangu nifer y gweinidogion yn galluogi Llywodraeth Cymru i greu gweinidog allai ganolbwyntio yn llwyr ar y Gymraeg. Byddai neilltuo amser gweinidog i arwain yn strategol ar bwnc trofswaol y Gymraeg o bosibl yn caniatáu adnodd gweinidogol ychwanegol i sicrhau bod y Gymraeg yn cael ei hystyried yn strategol ar draws portffolios pob gweinidog yn y Llywodraeth.

5. Ei gwneud yn ofynnol i ymgeiswyr yn etholiadau'r Senedd ac i Aelodau o'r Senedd, fod yn preswyllo yng Nghymru (drwy anghymwyso ymgeiswyr ac Aelodau nad ydynt wedi'u cofrestru i bleidleisio yn un o etholaethau'r Senedd).

Nid oes gennyf sylw ar y mater hwn.

6. Cynnig mecanwaith i'r Seithfed Senedd fedru ystyried rhannu swyddi sy'n ymwneud â'r Senedd (drwy ei gwneud yn ofynnol i'r Llywydd yn y Seithfed Senedd gynnig sefydlu pwyllgor Seneddol i adolygu materion penodedig).

O safbwynt y Gymraeg yn benodol nid oes gennyf safbwynt ar y mater hwn. Fodd bynnag, buaswn yn croesawu pob cyfle i ddileu rhwystrau sy'n atal pobl rhag dod yn Aelodau o'r Senedd. Dangosodd y cyfrifiad diwethaf fod proffil oedran siaradwyr Cymraeg yn iau na'r boblogaeth gyffredinol. O'r rheini adroddodd eu bod yn gallu siarad Cymraeg yn 2021, roedd dros hanner yn iau na 33 oed a thri chwarter yn iau na 57 oed. Gwelwyd cynnydd bychan yn nifer y siaradwyr yn y grŵp oedran 20-44 sy'n grŵp oedran lle mae sawl un yn cynllunio magu teuluoedd a datblygu eu gyrfaoedd. Mae'n bosibl felly y byddai dulliau gweithio mwy hyblyg yn denu rhagor o siaradwyr Cymraeg felly.



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7. Newid system etholiadol y Senedd fel bod pob Aelod yn cael ei ethol drwy gynrychiolaeth gyfrannol ar sail rhestr gaeedig, a throi pleidleisiau'n seddi gan ddefnyddio fformiwla d'Hondt.

Nid oes gennyf sylw ar y mater hwn.

8. Newid diben ac enw Comisiwn Ffiniau a Democratiaeth Leol Cymru. Ei alw'n Gomisiwn Democratiaeth a Ffiniau Cymru a rhoi'r swyddogaethau sydd eu hangen arno i sefydlu etholaethau newydd y Senedd a chynnal adolygiadau parhaus o ffiniau etholaethol y Senedd; a rhoi cyfarwyddiadau i'r Comisiwn eu dilyn wrth adolygu ffiniau.

Mae i'r adran hon oblygiadau penodol o safbwynt gwaith Comisiynydd y Gymraeg. Mae'n rhoi'r gofyniad penodol ar Gomisiwn Ffiniau a Democratiaeth Leol Cymru a fydd yn cael ei alw yn Gomisiwn Democratiaeth a Ffiniau Cymru i ymgynghori â Chomisiynydd y Gymraeg ar orgraff enwau arfaethedig ar gyfer cyfathrebu drwy gyfrwng y Gymraeg a rhoi sylw i unrhyw sylwadau a gafwyd gan Gomisiynydd y Gymraeg wrth ystyried ei gynigion. Mae hynny mewn perthynas ag adolygu ffiniau 2026 a ffiniau etholaethau'r Senedd wedi hynny.

Fel y gwyddoch, mae gan fy swyddfa gyfrifoldeb penodol i argymhell ffurfiau safonol enwau lleoedd. Mae gennym [banel o arbenigwyr](#) i'n cefnogi yn y gwaith hwn ac mae'r panel wedi datblygu [canllawiau safoni cenedlaethol](#) i sicrhau seiliau cyson a chadarn i'r gwaith. Mae gennym berthynas dda a llwyddiannus â swyddogion Comisiwn Ffiniau a Democratiaeth Leol Cymru a Chomisiwn Ffiniau i Gymru ers sefydlu swyddfa'r Comisiynydd ac rydym wedi darparu cyngor rheolaidd iddynt ar faterion enwi wrth iddynt gynnal adolygiadau. Yn wir, rydym newydd ddechrau cynghori'r Comisiwn Ffiniau a Democratiaeth Leol ar enwau cymunedau yn rhan o'u cyfres o arolygon cymunedol. Rwyf felly yn croesawu ymestyn y berthynas hon i gwmpasu enwau etholaethau Senedd Cymru a bod y berthynas yn cael ei ffurfioli mewn deddfwriaeth.

Fodd bynnag, rhaid pwysleisio nad yw'r cydweithio hwn bob amser wedi arwain at fabwysiadu'r ffurfiau y mae'r Comisiynydd yn eu hargymhell. *Argymell* yw gwaith y Comisiynydd ac nid oes gofyniad statudol i neb ddilyn yr argymhellion hyn. Gall hyn arwain at sefyllfa lle mae penderfyniadau anghyson yn cael eu gwneud mewn perthynas ag enwau lleoedd, fel yn achos ambell enw ar wardiau etholiadol a gadarnhawyd mewn rheoliadau gan Lywodraeth Cymru yn ddiweddar. Ysgrifennodd fy



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rhagflaenydd fel Comisiynydd, Aled Roberts at Jeremy Miles AS, Gweinidog y Gymraeg ac Addysg yn amlinellu rhai o'r heriau a gododd ar y pryd. [REDACTED]

[REDACTED] Gall yr heriau hyn arwain at ddryswch ac anghysondeb. Ategwyd peth o'r rhwystredigaethau hyn ynghylch prosesau enwi ymhellach wrth i'r Comisiynydd ymateb i [Arolwg Seneddol 2023 y Comisiwn Ffiniau i Gymru](#) hefyd. Rhaid defnyddio'r cyfle hwn i ddysgu gwersi a mireinio'r drefn gan sicrhau nad yw'r Gymraeg yn cael ei thrin yn llai ffafriol na'r Saesneg wrth bennu'r enwau hynny fydd wrth galon democratiaeth yng Nghymru.

Ar sail profiad sylweddol yn y maes hwn felly, rwy'n argymhell fod y Pwyllgor yn ystyried y materion canlynol:

Mae gofyniad o dan Atodlen 1 y Bil i nodi enwau etholaethau'r Senedd mewn adroddiad yn ofyniad i 'nodi'r ddau enw— (a) yn y fersiwn Gymraeg, a (b) yn y fersiwn Saesneg, oni bai bod y Comisiwn yn ystyried bod un enw yn dderbyniol ar gyfer cyfathrebu drwy'r naill iaith neu'r llall'. Yn ogystal, ar ôl cyhoeddi ei ail adroddiad ar adolygiad ffiniau 2026 (c) 'os yw'r Comisiwn yn ystyried unrhyw newidiadau i'r cynigion a nodir yn yr adroddiad cychwynnol ar gyfer enwau etholaethau'r Senedd i'w defnyddio ar gyfer cyfathrebu drwy gyfrwng y Gymraeg— (i) ymgynghori â Chomisiynydd y Gymraeg ar orgraff yr enwau arfaethedig, a 5 (ii) rhoi sylw i unrhyw sylwadau a wneir gan y Comisiynydd'.

Rwyf yn croesawu'r gydnabyddiaeth i'r ffaith ei bod yn bosibl y byddai un enw yn dderbyniol ar gyfer cyfathrebu drwy'r naill iaith neu'r llall. Credaf y dylid mynd ymhellach na hynny a rhoi blaenoriaeth i enwau y byddai'n addas eu defnyddio yn y ddwy iaith er mwyn osgoi enwau deuol diangen. Yn achos nifer o etholaethau ar hyn o bryd dim ond un enw a hwnnw yn enw Cymraeg sy'n bodoli fel enw ar yr etholaeth yn y ddwy iaith. Mae [Canllawiau safoni enwau lleoedd Cymru](#) yn nodi 'Dylid anelu at arfer un ffurf yn unig pan nad oes ond llythyren neu ddwy o wahaniaeth rhwng y ffurf Gymraeg a'r ffurf 'Saesneg', gan dueddu at y ffurf Gymraeg. Dyma hefyd ddymuniad yr Arolwg Ordnans ac Awdurdodau'r Priffyrdd.' Buasem yn argymhell yn gryf fod yr egwyddor hon yn cael ei mabwysiadu gan y Comisiwn wrth ei waith.

Mae'r Bil presennol felly yn gosod y cyfrifoldeb ar y Comisiwn i ystyried a phenderfynu a fyddai un enw yn dderbyniol ar gyfer cyfathrebu drwy'r naill iaith neu'r llall. Mae fy swyddogion yn gwybod o brofiad nad yw hyn bob amser yn benderfyniad hawdd a gall



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nifer o ffactorau lywio penderfyniadau. Mae'n hanfodol fod canllawiau cyson yn cael eu llunio ar ddechrau'r broses hon fydd yn rhoi meini prawf cadarn ar gyfer dod i benderfyniadau fel hyn er mwyn sicrhau nad ar fypwys unigolion y gwneir y penderfyniadau hyn. Byddai polisi cadarn o blaid enwau uniaith – a'r rheini'n enwau Cymraeg – yn fodd o osgoi trafodaethau hirfaith am enwau ac yn fodd o hyrwyddo a phoblogeiddio'r defnydd o enwau Cymraeg yn unig fel sydd wedi dod yn arfer poblogaidd yn ddiweddar ymhlith ein parciau cenedlaethol. Buasai mabwysiadu enw Cymraeg yn unig yn arwydd grymus o statws y Gymraeg yng Nghymru.

Er gwaetha'r posibilrwydd bod un enw'n addas ar gyfer y ddwy iaith, nodir mai'r bwriad yw ymgynghori â Chomisiynydd y Gymraeg ar orgraff yr enw arfaethedig ar gyfer cyfathrebu drwy gyfrwng y Gymraeg yn unig. Rhaid gofyn pam nad yw'r un gwasanaeth ymgynghorol ar gael i swyddogion y Comisiwn wrth iddynt bennu enwau i'w defnyddio mewn testunau Saesneg? Fel y nodwyd eisoes mae'n hynod bosibl mai enw Cymraeg yn unig fydd ar etholaeth felly mae nodi mai'r gofyniad yw i ymgynghori â'r Comisiynydd ynghylch enwau ar gyfer cyfathrebu drwy gyfrwng y Gymraeg yn gamarweiniol. Nid yw ychwaith yn gwneud cyfiawnder â'r arbenigedd helaeth sydd gan y Comisiynydd yn y maes. Mae'r Comisiynydd yn gyfrifol am safoni enwau lleoedd Cymru – ac nid enwau sy'n tarddu o'r iaith Gymraeg yn unig.

Gan mai ymarferiad paru fydd yn digwydd ar gyfer etholiadau 2026 mae'n bosibl iawn y bydd angen defnyddio cysyllteiriau wrth gyfeirio at enwau'r etholaethau. Cymerer er enghraifft petai etholaeth Dwyfor Meirionnydd yn cael ei baru ag etholaeth Ynys Môn. Rhaid gofyn beth fyddai enw'r etholaeth hon sydd â'r un enw yn Gymraeg ac yn Saesneg yn achos etholaethau Senedd San Steffan ar hyn o bryd erbyn etholiadau 2026. Er enghraifft, a fyddai'n gorfod bod yn 'Dwyfor Meirionnydd ac Ynys Môn' yn Gymraeg yn ogystal â 'Dwyfor Meirionnydd and Ynys Môn' yn Saesneg neu a allai fod yn 'Dwyfor Meirionnydd Ynys Môn' a fyddai'n gweithio yn y ddwy iaith, ond o bosibl ddim yn dderbyniol gan etholwyr gan ei fod yn enw gwneud sy'n pentyrru elfennau ac yn ddieithr ar yr olwg gyntaf. Fy mwriad o nodi hyn yw amlygu bod nifer o ystyriaethau yn ymwneud ag argymell ffurfiau enwau etholaethau sydd ddim o bosibl yn amlwg ar yr olwg gyntaf, a rhaid neilltuo amser priodol i drafod a dod i gytundeb ar egwyddorion a phatrymau clir i'w dilyn. Byddai'n ddymunol iawn petai confensiynau cytunedig yn cael eu datblygu gan bwyllgor o arbenigwyr a'u cadw o dan ystyriaeth wrth ymgymryd â thasg o'r fath a bod hynny yn ofyniad statudol fel rhan o waith y Comisiwn ar y cyd â'r Comisiynydd. Fel y nodwyd eisoes, mae gan fy staff gryn brofiad o gydweithio â'r



Comisiynydd y
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Comisiwn Ffiniau i Gymru ar ffiniau etholaethau San Steffan a gyda'r Comisiwn Ffiniau a Democratiaeth Leol Cymru ar enwau wardiau etholiadol a chymunedau. Ar ben hyn mae ganddynt brofiad sylweddol o weithio gydag awdurdodau lleol a chyrrff cenedlaethol eraill ar brosiectau i safoni ffurfiau enwau aneddiadau a nodweddion tirweddol, sydd yn eu tro yn sylfaen i lawer o enwau gweinyddol. Mae'n deg imi nodi yn y fan hon y byddai'n ddymunol gen i petai ystyriaeth yn cael ei rhoi i'r angen am adnodd ychwanegol oherwydd y gofyniad statudol hwn fydd arnaf i a'm staff, yn benodol i ddatblygu'r confensiynau cytunedig y cyfeirir atynt uchod.

O safbwynt yr ymwneud â Chomisiynydd y Gymraeg amlinellir proses debyg i'r un gydag etholaethau 2026 yn Atodlen 2 y Bil yn achos etholaethau ar gyfer y cyfnod ar ôl 2026 ac yn benodol wrth gynnal adolygiad ffiniau 'llawn' cyn Etholiad y Senedd yn 2030. Mae'r pwyntiau uchod felly yn berthnasol yn yr achos hwnnw hefyd.

Edrychaf ymlaen at barhau i drafod darpariaethau penodol y Bil mewn perthynas â gwaith Comisiynydd y Gymraeg ymhellach â'r Comisiwn Ffiniau a Democratiaeth Leol Cymru (fydd yn cael ei alw yn Gomisiwn Democratiaeth a Ffiniau Cymru maes o law).

9. Darparu ar gyfer cynnal adolygiad o effaith y darpariaethau deddfwriaethol newydd a'r modd y cânt eu gweithredu, yn dilyn etholiad 2026 (drwy ei gwneud yn ofynnol i'r Llywydd, ar ôl yr etholiad, gynnig sefydlu pwyllgor Seneddol i adolygu materion penodedig).

Mae'n ymddangos yn rhesymol cynnal adolygiad o effaith y darpariaethau deddfwriaethol yn dilyn etholiad 2026 a'r modd y cânt eu gweithredu. Buaswn yn croesawu petai ystyriaeth yn cael ei rhoi i effaith y darpariaethau ar gyfleoedd i bobl ddefnyddio'r Gymraeg fel rhan o'r adolygiad.

Edrychaf ymlaen at drafod y Bil ymhellach â chi ar 9 Tachwedd.

Yn gywir

Efa Gruffudd Jones
Comisiynydd y Gymraeg



**Comisiynydd y
Gymraeg
Welsh Language
Commissioner**

Amg.

Yn rhinwedd paragraff(au) iv o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref CG/PO/355/2023
Ein cyf/Our ref CG/PO/355/2023

David Rees AS
Cadeirydd y Pwyllgor Biliau Diwygio

20 fed Hydref 2023

Annwyl David

Diolch am eich llythyr dyddiedig 26 Medi 2023 ynghylch rhyngddibyniaethau rhwng y Bil Senedd Cymru (Aelodau ac Etholiadau) a'r Bil Cwotâu Rhywedd arfaethedig.

Gan mai'r Dirprwy Weinidog Partneriaeth Gymdeithasol fydd yn cyflwyno'r Bil Cwotâu Rhywedd yn y Senedd, hi fydd yn ymateb i'r pwyntiau penodol a godwyd yn eich llythyr.

Yn gywir

Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Y Dwyllgor Biliau Diwygio

Item 6.2

Reform Bill Committee

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Mick Antoniw AS

Y Cwnsler Cyffredinol

Llywodraeth Cymru

25 Hydref 2023

Annwyl Mick

Bil Senedd Cymru (Aelodau ac Etholiadau): cyd-ddibyniaeth â'r Bil cwotâu rhywedd a ddisgwylir

Diolch am eich llythyr dyddiedig 20 Hydref 2023 yn nodi y gallwn ddisgwyl cael ymateb gan y Dirprwy Weinidog Partneriaeth Gymdeithasol, fel yr Aelod sy'n gyfrifol am y Bil cwotâu rhywedd sydd ar ddod, i'm llythyr dyddiedig 26 Medi 2023.

Rydym yn deall y gallai'r Dirprwy Weinidog fod mewn gwell sefyllfa i ymateb i rai o fanylion y cynigion sydd i'w cyflwyno yn y Bil a ddisgwylir, ac edrychwn ymlaen at gael ei hymateb erbyn 3 Tachwedd 2023.

Nodaf, fodd bynnag, wrth ysgrifennu atoch, roeddem yn ymwybodol o'ch rolau amrywiol fel Cwnsler Cyffredinol, gan gynnwys cyfrifoldeb am hygyrchedd cyfraith Cymru; fel Gweinidog y Cyfansoddiad, cyfrifoldeb cyffredinol am bolisi etholiadau; ac fel yr Aelod sy'n gyfrifol am Fil Senedd Cymru (Aelodau ac Etholiadau), cyfrifoldeb am sicrhau y bydd eich Bil yn gweithio'n effeithiol o fewn y fframwaith deddfwriaethol cyffredinol a bod y memorandwm esboniadol a'r asesiad effaith rheoleiddiol sy'n cyd-fynd ag ef yn darparu'r amcangyfrifon a'r wybodaeth orau i lywio gwaith craffu gan y Senedd a chan randdeiliaid.

Mae cyflwyno dau ddarn o ddeddfwriaeth sydd â chysylltiadau agos o fewn cyfnod byr o amser yn anarferol. Mae'r her o graffu ar y cyntaf o'r darnau cysylltiedig hyn o ddeddfwriaeth heb weld yr ail, hyd yn oed ar ffurf drafft, yn sylweddol.

Edrychwn ymlaen, felly, at gael eich ymateb i gwestiynau 2(c) a (d) a nodir yn fy llythyr dyddiedig 26 Medi 2023 (a atgynhyrchir isod er hwylustod):



2(c) Asesiad o'r goblygiadau y gellir yn rhesymol ddisgwyl a fydd i'r polisi arfaethedig o ran gweithredu a rhoi'r system etholiadol a gynigir ym Mil Senedd Cymru (Aelodau ac Etholiadau) ar waith, gan gynnwys, ond heb fod yn gyfyngedig i, gyflwyno rhestrau ymgeiswyr i swyddogion canlyniadau etholaeth (adran 7(1)), hyd rhestrau ymgeiswyr (adran 7(3)), a chymhwysedd ymgeiswyr i lenwi seddi gwag (adran 9)).

2(d) Gwybodaeth am sut yr ystyriwyd goblygiadau o'r fath wrth asesu'r effeithiau ariannol a'r effeithiau eraill yn y Memorandwm Esboniadol ar y Bil Senedd Cymru (Aelodau ac Etholiadau). Dylai hyn gynnwys manylion ynghylch pa rai o'r asesiadau ariannol neu'r asesiadau effaith eraill a fyddai wedi bod yn sylweddol wahanol pe bai darpariaeth ynghylch cwotâu rhywedd wedi'i chynnwys ym Mil Senedd Cymru (Aelodau ac Etholiadau), ac, os felly, sut.

Byddai'n ddefnyddiol cael eich ymateb erbyn 3 Tachwedd 2023.

Yn gywir



David Rees AS

Cadeirydd y Pwyllgor Biliau Diwygio

cc Peredur Owen Griffiths AS, Cadeirydd y Pwyllgor Cyllid

Huw Irranca Davies AS, Cadeirydd y Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

Hannah Blythyn AS, y Dirprwy Weinidog Partneriaeth Gymdeithasol

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.



Llywodraeth Cymru
Welsh Government

David Rees AS
Cadeirydd y Pwyllgor Biliau Diwygio

01 Tachwedd 2023

Annwyl David,

Diolch am eich llythyr dyddiedig 26 Medi 2023 ynghylch rhyngddibyniaethau rhwng Bil Senedd Cymru (Aelodau ac Etholiadau) a'r Bil sydd ar ddod ynghylch cwotâu rhywedd. Rwy'n ymateb fel yr Aelod sy'n gyfrifol am y Bil sydd ar ddod. Rwyf wedi ceisio ateb isod bob un o'r cwestiynau yn eich llythyr.

Mae ymrwymiad y Llywodraeth i gyflwyno deddfwriaeth o fewn 12-18 mis yn dilyn adroddiad y Pwyllgor Diben Arbennig ym mis Mai 2022 wedi ei gwneud yn ofynnol inni weithio'n gyflym i drosi argymhellion lefel uchel yn gynigion polisi manwl. Nid yw'r amserlen hon wedi caniatáu i'r Bil sydd ar ddod gael ei gyhoeddi cyn ei gyflwyno i'r Senedd. Mae gwahanol baneli a phwyllgorau yn y Senedd wedi bod yn ystyried cwotâu rhywedd statudol ar gyfer ymgeiswyr Etholiadau'r Senedd yn y blynyddoedd diwethaf ac mae rhanddeiliaid allweddol, gan gynnwys arbenigwyr, wedi bod yn rhan o'r broses o lunio rhai o'r argymhellion sydd wedi deillio o'r grwpiau hyn.

Rwy'n awyddus i gefnogi craffu ar y Bil sydd ar ddod a'i gysylltiad â'r pecyn ehangach o ddeddfwriaeth Diwygio'r Senedd. Felly, os yw'n bosibl, byddaf yn anelu at ddarparu copi o'r Bil ymlaen llaw, dan embargo, i'r pwyllgor cyn ei gyflwyno. Byddwn yn ddiolchgar pe bai'r Aelodau'n cofio y bydd y Bil yn destun y gwiriadau cyn cyflwyno arferol, gan gynnwys penderfyniad y Llywydd arno.

Pwrpas cyflwyno cwotâu ymgeiswyr yw gwneud y Senedd yn ddeddfwrfa fwy effeithiol ar gyfer pobl Cymru, ac ar eu rhan, drwy geisio sicrhau bod y Senedd yn cynrychioli'n fras gyfansoddiad rhywedd poblogaeth Cymru. Bydd y manteision a allai ddeillio o gynrychiolaeth menywod mewn deddfwrfa yn cael eu nodi yn y Memorandwm Esboniadol ar gyfer y Bil.

Mae gan y Senedd hanes cymharol dda o aelodaeth sy'n gytbwys o ran rhywedd. Cyrhaeddwyd uchafbwynt yn 2003 pan oedd 50% o'r Aelodau a etholwyd i'r ail Gynulliad yn fenywod. Ers hynny, fodd bynnag, mae lefelau cynrychiolaeth menywod yn y Senedd wedi

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

Tudalen y pecyn 86
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gostwng yn is na'r lefel hon, er bod ffigurau'r cyfrifiad diweddaraf yn dangos bod 51% o'r boblogaeth yn fenywod. Mae hyn yn dangos bod menywod ar hyn o bryd yn fwyafrif heb gynrychiolaeth ddigonol yn ein deddfwrfa.

Wrth ystyried argymhelliad lefel uchel y Pwyllgor Diben Arbennig, rydym wedi gorfod llunio polisi manwl sydd wedi cynnwys ystyried dulliau a ddefnyddir o amgylch y byd a'r hyn a allai weithio orau yng nghyd-destun etholiadau'r Senedd. Mae ein model arfaethedig ar gyfer cwotâu wedi'i gynllunio i sicrhau'r siawns orau posibl o gyflawni Senedd y mae o leiaf 50% o'i haelodau yn fenywod (sy'n adlewyrchu ein poblogaeth yn fras), gan sicrhau hefyd fod modd ei weithredu'n effeithiol o fewn system etholiadol y Senedd.

Bydd y ddeddfwriaeth yn darparu ar gyfer cwotâu rhywedd ymgeiswyr o fewn y system rhestr gaeedig (y darperir ar ei chyfer ym Mil Senedd Cymru (Aelodau ac Etholiadau)), yn unol ag argymhelliad y Pwyllgor Diben Arbennig. Yn benodol, bydd yn gosod trothwy isaf ar gyfer cyfran y menywod ar restrau ymgeiswyr pleidiau ac yn y safle cyntaf ar draws holl restrau plaid. Bydd Swyddogion Canlyniadau Etholaethol a swyddog cenedlaethol newydd yn chwarae rôl allweddol o ran asesu cydymffurfiaeth pleidiau â'r rheolau. Wrth ddatblygu'r model, rydym wedi gweithio i sicrhau y gellir parhau i gynnal etholiadau'r Senedd yn effeithiol.

I ddylunio'r polisi, mae Llywodraeth Cymru wedi gweithio gyda chynrychiolwyr y gymuned etholiadol i ystyried effeithiau cwotâu ar brosesau etholiadol presennol, gan gynnwys yng nghyd-destun y newidiadau sydd i'w rhoi ar waith o ganlyniad i'r system cynrychiolaeth gyfrannol â rhestrau caeedig newydd.

Ni fydd y ddeddfwriaeth sydd ar ddod yn effeithio ar weithrediad y system etholiadol a gynigir ym Mil Senedd Cymru (Aelodau ac Etholiadau). Er enghraifft, bydd y darpariaethau ynghylch cyflwyno rhestrau ymgeiswyr i Swyddogion Canlyniadau Etholaethol (adran 8 o Fil Senedd Cymru (Aelodau ac Etholiadau), sy'n mewnosod adran 7 newydd yn Neddf Llywodraeth Cymru 2006), hyd rhestrau ymgeiswyr (adran 7(3) newydd) a llenwi seddi gwag (adran 9 o'r Bil), yn aros yr un fath p'un a ydynt yn gweithredu gyda chwotâu neu hebddynt. Serch hynny, mae cwotâu yn rhan bwysig o'r pecyn cyffredinol ar gyfer diwygio'r Senedd ac mae'r ddau ddarn o ddeddfwriaeth wedi'u cynllunio i ategu ei gilydd.

Gallaf gadarnhau mai'r bwriad, yn unol ag adroddiad y Pwyllgor Diben Arbennig, yw i Swyddogion Canlyniadau Etholaethol fod yn gyfrifol am wirio bod rhestrau pleidiau yn cydymffurfio â'r ddeddfwriaeth cwotâu ar lefel yr etholaeth leol, yn yr un modd ag y maent ar hyn o bryd yn derbyn ac yn asesu papurau enwebu a rhestrau pleidiau i sicrhau eu bod yn gyflawn ac yn cydymffurfio â'r rheolau etholiadol cyfredol.

Roedd y Memorandwm Esboniadol a'r Asesiad Effaith Rheoleiddiol ar gyfer Bil Senedd Cymru (Aelodau ac Etholiadau) wedi'u cyfyngu i gwmpas y Bil hwnnw. Bydd effeithiau ariannol cwotâu yn cael eu nodi mewn Asesiad Effaith Rheoleiddiol ar wahân o fewn y Memorandwm Esboniadol ar gyfer y Bil sydd ar ddod. Er mwyn helpu'r Pwyllgor i graffu ar y Bil sydd gerbron y Senedd ar hyn o bryd, gall y Cwnsler Cyffredinol a minnau gadarnhau na fyddai'r asesiad ariannol na'r asesiadau effaith eraill ar gyfer Bil Senedd Cymru (Aelodau ac Etholiadau) wedi bod yn sylweddol wahanol pe bai darpariaeth ynghylch cwotâu wedi'u cynnwys ynddo. Y rheswm dros hyn yw y gweithredwyd mewn modd i integreiddio'r model i brosesau etholiadol presennol a'r cynigion ar gyfer system etholiadol cynrychiolaeth gyfrannol â rhestrau caeedig.

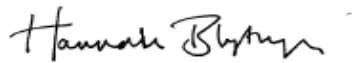
Rwy'n cael ar ddeall eich bod wedi ysgrifennu at y Cwnsler Cyffredinol ar 25 Hydref 2023 mewn perthynas â chwestiynau 2(c) a 2(d) a oedd yn eich llythyr dyddiedig 26 Medi 2023.

Gallaf gadarnhau bod fy ymateb i'r cwestiynau hyn yn adlewyrchu ein safbwynt ni'n dau, a hyderaf ei fod yn darparu'r wybodaeth sydd ei hangen ar y pwyllgor.

Edrychaf ymlaen at gyflwyno'r Bil ac at weithio gyda'r pwyllgor yn ystod y broses graffu.

Mae copi o'r llythyr hwn yn cael ei anfon at gadeiryddion y Pwyllgor Cyllid a'r Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad.

Yn gywir



Hannah Blythyn AS/MS

Y Dirprwy Weinidog Partneriaeth Gymdeithasol
Deputy Minister for Social Partnership

CC: Peredur Owen Griffiths AS, Cadeirydd y Pwyllgor Cyllid
Huw Irranca Davies AS, Cadeirydd y Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

**Y Pwyllgor Deddfwriaeth,
Cyfiawnder a'r Cyfansoddiad**

**Legislation, Justice and
Constitution Committee**

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Eitem 6.4

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Mick Antoniw AS,
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad

31 Hydref 2023

Annwyl Mick,

Y Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad, 16 Hydref 2023

Diolch eto am ddod i'n cyfarfod ar 16 Hydref 2023. Rydym yn ddiolchgar am yr amser rydych wedi'i roi i'r Pwyllgor.

Fel y nodwyd ar ddechrau'r cyfarfod, hoffem fod wedi gofyn nifer o gwestiynau i chi ond nid oedd digon o amser i wneud hynny. Felly, byddem yn croesawu cael ymateb i'r cwestiynau yn yr Atodiad erbyn 16 Tachwedd 2023.

Rwy'n anfon copi o'r llythyr hwn at Gadeirydd y Pwyllgor Biliau Diwygio, David Rees AS.

Yn gywir

Alun Davies
Cadeirydd (Dros Dro)

ATODIAD**Adran 5 – Cynyddu nifer y Gweinidogion**

Cwestiwn 1: Mae adran 5 o'r Bil yn caniatáu ar gyfer cynyddu, drwy reoliadau, yr uchafswm terfynol o Weiniogion Cymru o 17 i 18 neu 19. Pam y cynigir pŵer gwneud rheoliadau, a pham na fyddai Bil newydd yn fwy priodol o safbwynt cyfansoddiadol?

Cwestiwn 2: Pam nad oes pŵer i ostwng yr uchafswm terfynol drwy reoliadau yn y dyfodol ar ôl i'r pŵer gael ei ddefnyddio? Oherwydd hyn ni fyddai'n bosibl, er enghraifft, gynyddu'r terfyn dros dro at ddibenion penodol - fel Gweinidog penodol ar gyfer argyfyngau penodol (e.e. Covid), neu ddigwyddiadau mawr (e.e. Gemau'r Gymanwlad).

Cwestiwn 3: Pa ystyriaeth a roddwyd i wneud y pŵer yn adran 5 yn ddarostyngedig i weithdrefn a fyddai'n ei gwneud yn ofynnol bod uwch-fwyafrif o Aelodau yn pleidleisio o'i blaid?

Adran 7 – Rhannu swyddi

Cwestiwn 4: Yn eich barn chi, a fyddai adran 7 o'r Bil yn ddiangen pe bai Llywodraeth newydd Cymru yn cyhoeddi datganiad ar rannu swyddi, er enghraifft, ym mlwyddyn gyntaf y Seithfed Senedd?

Cwestiwn 5: Pam na fyddai Llywodraeth newydd Cymru yn rhwym i gymryd unrhyw gamau mewn perthynas ag argymhellion Pwyllgor a sefydlwyd o dan adran 7?

Cwestiwn 6: Pam nad oes darpariaeth yn y Bil i'w gwneud yn ofynnol i Lywodraeth Cymru yn y dyfodol gyhoeddi Bil drafft yn ymwneud â rhannu swyddi ac ymgynghori arno?

Adran 19 – darpariaethau adolygu

Cwestiwn 7: A allwch egluro pam y mae adran 19 yn ei gwneud yn ofynnol i bwyllgor newydd gael ei sefydlu, pan allai pwyllgor a sefydlir ar ddechrau'r Seithfed Senedd fod mewn sefyllfa well i ymgymryd â'r gwaith hwnnw (pe bai am wneud hynny)?

Cwestiwn 8: Pa ffactorau y gwnaethoch chi eu hystyried cyn penderfynu bod yn rhaid i'r pwyllgor gwblhau'r adolygiad ddim hwyrach na 12 mis ar ôl cyfarfod cyntaf y Senedd yn dilyn yr etholiad cyffredinol cyntaf a gynhelir ar ôl 6 Ebrill 2026? Pam na fyddai pwyllgor yn gosod ei amserlen ei hun ar gyfer craffu ar ôl deddfu?

Hygyrchedd (gan gynnwys gorgyffwrdd rhwng Biliau diwygio etholiadol)

Cwestiwn 9: Mae rhywfaint o orgyffwrdd rhwng y Bil hwn a'r Bil Etholiadau a Chyrff Etholedig (Cymru). Er enghraifft, mae'r ddau yn diwygio trefn anghymhwysu y Senedd, ac mae'r ddau yn gwneud darpariaeth ynghylch Comisiwn Ffiniau a Democratiaeth Leol Cymru (fel y caiff ei adnabod ar hyn o bryd).



- a. A allwch chi esbonio pam nad yw darpariaethau sy'n ymwneud ag anghymhwysu yn cael eu cydgrynhoi mewn un Bil?
- b. A allwch chi esbonio pam nad yw darpariaethau sy'n ymwneud â Chomisiwn Ffiniau a Democratiaeth Leol Cymru (fel y caiff ei adnabod ar hyn o bryd) yn cael eu cydgrynhoi mewn un Bil?

Cwestiwn 10: A allwch chi esbonio sut mae'r Bil 'cwotâu rhywedd' sydd ar y gweill yn debygol o ryngweithio â'r Bil hwn, ac i ba raddau y mae'r ddau yn gyd-ddibynnol?

Cwestiwn 11: Mae adran 4 o'r Bil yn darparu ar gyfer ethol Dirprwy Lywydd ychwanegol drwy wneud diwygiadau niferus i adran 25 o *Ddeddf Llywodraeth Cymru*. Mae'n anodd gweld effaith gyffredinol y diwygiadau ar wyneb y Bil heb gyfeirio at yr Atodlen Ddiwygiadau/Atodlen Keeling yn y Memorandwm Esboniadol.

Rydym yn cydnabod na ellid dileu adran 25 o Ddeddf 2006 yn ei chyfanrwydd a rhoi testun newydd yn ei lle am resymau cymhwysedd deddfwriaethol. Fodd bynnag, a allwch egluro pam na aed ati yn y Bil i ddileu'r rhan fwyaf o'r testun yn adran 25 fel ei bod yn darllen yn gliriach, yn hytrach na gwneud nifer o ddiwygiadau ar wahân yn adran 4?

Ffactorau posibl sy'n effeithio ar weithredu erbyn 2026

Cwestiwn 12: Pa asesiad y mae Llywodraeth Cymru wedi'i wneud o'r risg y caiff y Bil ei atgyfeirio i'r Goruchaf Lys gan Dwrnai Cyffredinol y DU?

Cwestiwn 13: A allwch chi esbonio canlyniad atgyfeiriio i'r Goruchaf Lys ar allu'r Senedd i weithredu'r diwygiadau etholiadol o dan y Bil erbyn etholiad 2026.

Cwestiwn 14: A allwch chi esbonio pa ffactorau eraill a allai effeithio ar allu'r Senedd i weithredu'r diwygiadau arfaethedig erbyn etholiad 2026, a sut mae Llywodraeth Cymru wedi lliniaru yn erbyn y risgiau hynny.

Deddfwriaeth y dyfodol

Cwestiwn 15: A oes gan Lywodraeth Cymru gynlluniau ar gyfer unrhyw ddeddfwriaeth ddiwygio etholiadol bellach ar ôl y Bil 'cwotâu rhywedd' sydd ar y gweill? Os felly, a fyddai'r Cwnsler Cyffredinol yn ymrwmo i gyflwyno deddfwriaeth o'r fath ar ffurf drafft?

Huw Irranca-Davies

Eitem 6.5
Aelod o'r Senedd/dros Ogwr
Member of the Senedd for Ogmore

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Huw Irranca-Davies MS
Former Chair
Special Purpose Committee on Senedd Reform

David Rees
Chair
Reform Bill Committee

Dear David,

Senedd Cymru (Members and Elections) Bill

Thank you for your letter dated 16 October 2023. I welcome this opportunity, in my capacity as former Chair of the Special Purpose Committee on Senedd Reform, to respond to your questions about its work.

I enclose my response to your questions with this letter, which I hope you will find useful in your scrutiny of the Senedd Cymru (Members and Elections) Bill.

Please let me know if I can be of any further assistance.

Yours sincerely,

Huw Irranca-Davies

Member of the Senedd for Ogmore/Aelod o'r Senedd dros Ogwr
Welsh Labour and Co-operative/ Llafur Cymru a Chydweithredol

Croesewir gohebiaeth yn Gymraeg neu Saesneg. / We welcome correspondence in Welsh or English.



Senedd Cymru
Welsh Parliament

Tudalen y pecyn 92

Response to questions posed in a letter from the Chair of the Reform Bill Committee on 16 October 2023

Question 1

The Committee's interpretation of its remit (to consider the conclusions reached by the Committee on Senedd Electoral Reform and to make recommendations for policy instructions for a Welsh Government Bill on Senedd reform), and how that remit shaped the Special Purpose Committee's recommendations.

1. In considering the Committee's interpretation of its remit, it is important to both consider the task it was set by the Senedd and the voting arrangements that were applied to its work.
2. As you are aware, the task set was to consider the conclusions previously reached by the Committee on Senedd Electoral Reform in the Fifth Senedd; and by 31 May 2022, to make recommendations for policy instructions for a Welsh Government Bill on Senedd reform.
3. From the outset, the Senedd restricted the Committee to only making recommendations to the Senedd that carried the support of a supermajority i.e. a resolution to agree recommendations to the Senedd had to be passed on a vote in which the committee members voting in favour carried at least 40 votes. Voting on the committee was weighted, with members representing a political group carrying a vote for each member of the political group to which they belonged (with the Llywydd not voting, and the Chair only holding a casting vote if required).
4. As you will see from the Committee's report (see in particular Section 1 Para 1 "Our Establishment"), this requirement to ensure a supermajority of support shaped the Committee's recommendations, with some committee members showing a willingness to compromise at times in the spirit of achieving the supermajority required.
5. To meet the terms of our remit, we conducted our work in three distinct phases:

Phase One: we identified where there was common ground between the policy positions of our respective political parties, in relation to the Committee on Senedd Electoral Reform's conclusions on:

- the Senedd's size and associated electoral system;

- the establishment of ongoing boundary and seat apportionment review arrangements; and
- legislative measures to encourage diversity.

Phase Two: based upon these identified areas of common ground, we gathered further information necessary for us to develop our policy proposals;

Phase Three: we developed recommendations for policy instructions for a Welsh Government Bill on Senedd reform.

6. The Welsh Conservatives were represented on the Committee until Darren Millar MS resigned on 10 May 2022, during our Phase Three discussions.

Question 2

The impact of the joint position statement issued by the First Minister and the then leader of Plaid Cymru on 10 May 2022, and the letter to the Special Purpose Committee of the same date, on the Committee's report, including any impact on the Committee's direction of travel, conclusions or recommendations.

7. Members and their political parties inevitably had a range of views on different issues related to Senedd Reform, but there was a will on all sides to try to understand different positions and to identify common ground.
8. The announcement by the Cooperation Agreement parties, and their subsequent letter to the Committee on 10 May 2022, helped inform the Committee's discussions and it was considered with equal weight as other evidence provided to the Committee. Ultimately, the decisions detailed in our report were ours to take.

Question 3: The evidence upon which the Special Purpose Committee based its recommendations, particularly recommendations in respect of: the specific number of Members (recommendation 2); the use of closed list proportional representation to elect Members of the Senedd (recommendation 7); the use of the D'Hondt electoral formula to allocate seats (recommendation 8); and the proposal that Senedd constituencies should initially be created by pairing the 32 Westminster constituencies established by the 2023 UK Parliamentary boundary review (recommendation 18).

9. In taking forward our work, we did not seek to replicate the volume of evidence previously gathered through public consultation and expert deliberation gathered by the Committee on Senedd Electoral Reform and the Expert Panel. Rather, we sought to come forward with a cross-party proposition on where we go in this Senedd on electoral reform.
10. Nevertheless, we gathered the further information that was necessary for us to develop our policy proposals and we held a number of private meetings that were not limited by the Senedd's Standing Orders, in order to facilitate frank, open and interactive discussions with a range of stakeholders.
11. We also invited stakeholders that had previously provided information to our predecessors to provide an update and we utilised this information as a platform for developing agreement across our respective political parties.

Number of Members (Rec 2)

12. The Committee recommended, among other matters, that the Senedd should have 96 Members, elected by closed list proportional representation to represent constituencies based upon the 32 new Westminster constituencies.
13. Since the Expert Panel reported in 2017, there have been major changes to the political landscape in Wales, particularly because of:
 - the significant changes since the original devolution settlement, including the roles of primary law-making powers and agreeing Welsh taxes;
 - the increased responsibility due to the UK's withdrawal from the EU;
 - the awareness of the role of the Senedd in holding the Welsh Government to account has increased since the pandemic;
 - the reduction in the number of Welsh MPs from 40 to 32, and
 - the loss of Members elected to the European Parliament.
14. We believed that an additional 36 Members would provide greater opportunity for Members to prepare for scrutiny, to conduct background research and engage with the people of Wales to better represent their concerns.
15. For these reasons, and as laid out in our report, we came to the conclusion that a larger chamber than that proposed by the Expert Panel in 2017 is appropriate, and furthermore that the increase beyond

90 members is essential to future-proof the Senedd's capacity to scrutinise the Welsh Government's increasing powers and responsibilities.

- 16.** Our decision was a proportionate adjustment in light of the significant changes that have occurred since the Expert Panel's 2017 report was published, and it recognises that the Welsh Government makes critical decisions which affect the lives of millions of people in Wales, and those decisions need to be effectively scrutinised.

The electoral system (Rec 7)

- 17.** A majority of the Committee, representing a supermajority within the Senedd as a whole agreed that the first past the post electoral system needed to be replaced in favour of a proportional system. We noted that this system would provide a single route to election for all Members and would enable a proportionate election of Members. Evidence provided to us suggested that a proportional system would be more compatible with measures to encourage gender equality.
- 18.** The Committee considered carefully the Expert Panel report and, although we acknowledged its preferred option was STV, a super-majority within our Committee ultimately felt that a list proportional system would be more suitable for Senedd elections.
- 19.** There are pros and cons to both the closed list system and flexible list system. A majority of committee members, representing the required supermajority, agreed to recommend a closed list system.
- 20.** This was because ballots used under a closed list proportional system would already be very familiar to voters (being akin to those currently used to elect Regional Members) and would facilitate strong, cohesive political parties. It was also noted that this system would readily integrate with the introduction of legislative gender quotas, and facilitate parties in putting forward a more diverse list of candidates on a broader basis.
- 21.** In respect of the electoral system and related matters discussed below, it is important to note that our report also makes clear where there were minority positions on issues such as particular types of proportional voting systems and the calculation of votes, and the use of closed or open lists.
- 22.** Ultimately however, in all these matters and in line with our remit, whilst recognising and identifying minority positions on aspects of electoral reform the committee ultimately sought to establish where the common-ground of a majority position (reflective of a super-majority vote in the Senedd) could be found.

The translation of votes into seats (Rec 8)

- 23.** We looked in some detail at different models for Members to be elected using the Sainte-Laguë formula (the option preferred by the Expert Panel) and the D'Hondt formula.
- 24.** Although a minority of Members on our Committee preferred the use of the Sainte-Laguë formula, a majority which represented a legislative super-majority within the Senedd, agreed that the D'Hondt formula should be used. It was noted that this is the formula currently used for allocating regional seats to parties, and therefore has some familiarity.

Constituency boundaries for the 2026 Senedd election (Rec 18)

- 25.** The Expert Panel considered two models for the boundaries of Senedd constituencies: the 40 existing Senedd constituencies; and the 22 local authority areas of Wales.
- 26.** We considered these models along with a third option of basing them on the 32 Westminster constituencies, which were under review at the time of our deliberations.
- 27.** Although a minority within our Committee favoured using the 22 local authority areas to create 17 multi-Member constituencies, the majority did not on the grounds that the approach would necessarily entail variances in the district magnitudes of constituencies as a result of size and population differences.
- 28.** The majority of our Committee favoured using constituencies that were broadly similar in population, to enable zero variance in the district magnitudes of different constituencies. This majority considered that it would be undesirable for some areas of Wales to have less representation than others (i.e. as some areas would have fewer Members than others).
- 29.** The Expert Panel previously rejected using the (then proposed 29) Westminster constituencies on the basis that at time of its report, there was "uncertainty about whether or when the boundary review [would] be implemented". However, since the Expert Panel reported, the Parliamentary Constituencies Act 2020 has received Royal Assent - meaning the uncertainty around whether the review would be implemented is no longer a factor.
- 30.** A majority of the Committee agreed that there would be value in using the constituencies that had been recently reviewed, given that a swift process would be necessary for pairing them. This majority also considered that there would be value in providing for Senedd constituencies to contain a broadly equal number of electors, with each electing the same number of Members.

31. We therefore recommended that the 2026 election uses the final 32 UK Parliament constituencies proposed by the Boundary Commission for Wales following its review, and that these are paired to create 16 new multi-member constituencies.

Question 4: The way in which the Special Purpose Committee's recommendations have been interpreted and reflected in the Welsh Government's Bill and accompanying Explanatory Memorandum.

32. I am pleased to see that many of the Committee's recommendations have been reflected in the Bill.

33. In making our recommendations, we understood that there would inevitably need to be drafting decisions taken by the Welsh Government as it translated some of our recommendations into workable legislation. For example, the detail of the drafting around the provisions relating to the filling of vacant seats.

34. There are provisions in the Bill that do not relate to the work of the Committee. For example, provision for the disqualification of candidates and Members on the grounds of residency.

35. Some of our recommendations simply invited further work to be undertaken by the Welsh Government and/or the Business Committee prior to the legislation being drafted.

36. The Business Committee's response to the conclusions of our report should be considered in conjunction with our report, when considering the basis for corresponding provisions.

37. There are certain recommendations which are not reflected in this Bill, such as those relating to gender equality. We will need to await the second Senedd Reform Bill, that is to provide for balanced gender representation, before assessing how this aspect of the Committee's work has been reflected in draft legislation.
