

# P05-1088: Trigger by-election for Members wishing to change party affiliation

Y Pwyllgor Deisebau | 26 Ionawr 2021  
Petitions Committee | 26 January 2020

Reference: RS20/14886

**Petition Number:** P-05-1088

**Petition title:** Trigger by-election for Members wishing to change party affiliation

**Text of petition:** In the most recent term of the Senedd, a large number of MSs have changed their political affiliation. This is an undemocratic way for members to further their own political careers, against the parties they were elected to represent. When any member wishes to change their political affiliation, this should be taken to the people of their constituency. This isn't democracy, and can lead to dangerous ideas/parties being introduced to the Senedd.

## 1. Background

The [Government of Wales Act 2006](#), as amended by the Wales Act 2017, gives the Senedd power to make provisions about Senedd and local government elections. The Senedd's [Standing Orders](#) make provision about political groups. Changes to the Government of Wales Act would require primary legislation, while changes to Standing Orders would require two-thirds of Members voting to vote in favour.



## 1.1. Political groups

Section 24(5) of the Government of Wales Act 2006 requires the Senedd to make provision in Standing Orders for the determination of whether any Member belongs to a political group, and if so, to which political group.

Standing Orders set out that:

1.3 For the purposes of the Act, a political group is:

(i) a group of Members belonging to the same registered political party having at least three Members in the Senedd; or

(ii) three or more Members who, not being members of a registered political party included in Standing Order 1.3(i), have notified the Presiding Officer of their wish to be regarded as a political group.

1.4 The Presiding Officer must decide any question as to whether any Member belongs to a political group or as to which political group he or she belongs.

Members who are not in political groups may form political groupings for the purpose of Business Committee (SO11.3).

## 1.2. Disqualification

Section 16 and schedule 1A of the Government of Wales Act set out rules for when a person is disqualified from being a Member of the Senedd. This includes being under 18, not meeting citizenship requirements, or being sentenced to imprisonment. It does not include changes of political affiliation.

If a Member of the Senedd is disqualified, that person ceases to be a Member and their seat becomes vacant (section 18). For constituency vacancies, by-elections are held (section 10). If a Member of the Senedd vacating a regional list seat was elected from a party list, the Member who fills the seat must be from that list (section 11).

## 2. Welsh Parliament action

Since 1999, a number of Members have voluntarily changed their membership of political parties, groups or both. Up to the end of the fourth Senedd, three

Members changed their group or party. During the course of the fifth Senedd to date, ten Members have changed group or party, some more than once.

## 2.1. Senedd Commission

The Llywydd responded to this petition on 8 January. She confirmed that the Senedd Commission does not have a formal position on this matter and that any new legislation would be for the Senedd to consider.

## 2.2. Business Committee

On 20 May 2019, Mick Antoniw MS wrote to the Llywydd on behalf of a group of Members, proposing to amend Standing Orders to provide that any regional Member would only be able to be a formal member of the political group in the name of the party to which they were elected.

On 4 June 2019, Business Committee decided not to take forward the proposed change, but to review the relevant Standing Orders in time for the Sixth Senedd. Business Managers noted concerns about the ‘unprecedented fluidity of group membership.’

Business Committee considered the issue further on 8 December 2020 and agreed to seek views from their political groups.

## 2.3. Petitions Committee

On 9 July 2019, the Petitions Committee considered a petition to ‘stop regional AMs elected to represent specific parties from defecting’ (P-05-887). The petition proposed that if a Member elected from the regional list decided to change their political affiliation, the next candidate from the list should replace them. It proposed that the Senedd and Elections (Wales) Bill should be amended to this effect. The petition gathered 1301 signatures.

In a letter to the Chair of the Petitions Committee on 13 June 2019, the Llywydd confirmed the Commission did not plan to amend the Bill to this effect. The Committee closed the petition on 25 February 2020.

## 3. UK and international practice

### 3.1. UK

Members of the House of Commons cannot be disqualified in the same way as Members of the Senedd. However, under the Recall of MPs Act 2015, the Speaker can give notice to the returning officer for a constituency to open a recall petition for an MP if they have been:

- sentenced to imprisonment;
- suspended after a Standards Committee report; or
- convicted of providing false information in support of an expenses claim.

For a petition to succeed, it must be signed by 10% of registered voters in the constituency.

In 2020, Anthony Mangnall MP (Conservative) introduced the Recall of MPs (Change of Party Affiliation) Bill 2019-21. This aims 'to enable the recall of Members of the House of Commons who voluntarily change their political party affiliation'. The Bill was proposed under the 'ten-minute rule' for Private Members' Bills.

### 3.2. International

Some countries impose penalties on elected representatives who change party, including disqualification. Notably:

- In **New Zealand**, the Electoral (Integrity) Amendment Act 2018 provides for a Member to vacate their seat if they choose to give notice to the Speaker that they are leaving the party for which they were elected. It also allows a vacancy to be created if the party leader gives notice that they believe the Member's actions have distorted the proportionality of party representation determined at the previous election.
- The tenth schedule to the Indian Constitution (1985) provides that a Member of Parliament or a state legislature is disqualified if they have voluntarily given up membership of their party.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.