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

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.
