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This response was submitted to the [Reform Bill Committee consultation](#) on the [Senedd Cymru \(Members and Elections\) Bill](#).

SCME(P)23 Ymateb gan: | Response from: Institute of Welsh Affairs





Senedd Cymru (Members and Elections) Bill

IWA Consultation Response

Evidence submitted by Joe Rossiter, Policy and External Affairs Manager at the Institute of Welsh Affairs (IWA), on behalf of the IWA.

Contact details: [REDACTED]

About the IWA

We are a think tank and charity, independent of government and political parties. By bringing together experts from all backgrounds, we conceive ambitious and informed ideas which secure political commitments to improve our democracy, public services and economy.

We provide platforms for debate, opportunities for people to make their voices heard and agenda-setting research. We are funded by our members, income from our events and training sessions, and supported by trusts, foundations and other funding bodies. We are a proud signatory to the Zero Racism Wales pledge, a Living Wage employer and hold NCVO Trusted Charity Mark Level One.

Our vision is to create a Wales where everyone can thrive.

The IWA is a registered charity in England and Wales: 1078435 and a company limited by guarantee registered in England and Wales: 02151006.

General Principles of the Bill

First, the IWA want to indicate our whole-hearted support for the general principles of the Senedd Cymru (Members and Elections) (Wales) Bill. There is a clear and urgent need for this piece of legislation to enlarge the Senedd and transition to a more proportional electoral system, making the Senedd more reflective of the votes cast across the nation. As has been established in the IWA's work over the past decade, it is clear that the current 60 Members are insufficient to carry out the Senedd's evolving new mix of powers and responsibilities. The Senedd as currently constituted is insufficiently resourced to carry out its functions, and is certainly not futureproofed for any further changes to the devolution settlement. Additionally, in a period when Wales is considering options for its constitutional future¹ there is a need to ensure the Senedd is equipped for any potential further functions and powers.

In broad terms, the IWA are content to see not only an expansion of the Senedd, but also fundamental reform of the electoral system. Like Welsh Government and Plaid Cymru (as established in the Co-operation Agreement²), we see these two endeavours of electoral reform and parliamentary reform as inextricably interlinked. We are supportive of these two reform packages proceeding as one piece of legislation.

¹ [The Independent Commission on the Constitutional Future of Wales](#)

² [Welsh Government, 2021. The Co-operation Agreement](#)

It is also important that the Bill aims to make the Senedd fit for purpose by indicating where the extra capacity of the Members will be utilised, such as through enabling the appointment of two more Government Ministers and the ability to appoint a second Deputy Llywydd. We do, however, have concerns around how the Bill will improve the quality of our democracy, enhance parliamentary standards and more concretely highlight where the extra capacity could be best served. We also have reservations about how the new system will strengthen the link between communities and their elected representatives, as the new system seems to erode this link.

The overarching aim of the reforms is to help to reinvigorate our democracy, but we should acknowledge that the legislation cannot and will not do this on its own. As outlined in our report, [*Building Bridges: Wales' democracy - now and for our future*](#), democratic health in Wales, despite receiving much political attention, is in a state of sustained malaise. This is particularly the case with elections to Senedd Cymru, where turnout is 46% compared to 67% for the last UK general election in Wales³. As our report highlighted, whilst turnout is a key electoral indicator in and of itself, there is a critical need to go above and beyond the ballot box when we consider the health of our democracy. Indeed, only 30% of people in Wales feel able to influence decisions about their local area⁴ (and underpinning such statistics is likely a reflection of wider inequalities in our society). It is through this lens, one of democratic malaise and disengagement, that we must appraise the Bill in question, taking the time to step back and consider whether these proposals help to create a better democracy for all of us in Wales. It is in this spirit that our response to the Bill follows and we hope it is in this spirit that the Committee will robustly scrutinise the legislative proposal. The fundamental question for the IWA is, do these proposals make for a fairer, healthier and more inclusive democracy?

In broad terms, the IWA supports the Bill and its key aims, however we think there are a number of areas which could be strengthened, in order to help the Bill deliver on its aims to strengthen our parliament and our democracy. The IWA recognise that this Bill represents a key moment for democracy in Wales, a moment where we can create mechanisms which improve the health of democracy for current and future generations alike. With this in mind, there are improvements to be made to the Bill, to futureproof our electoral and parliamentary mechanisms and create a Senedd that truly delivers for people in Wales.

In our detailed response below, we will break down our comments into distinct sections within the Bill.

Senedd Reform

As highlighted above, the IWA fully supports the expansion of the Senedd to 96 members. There is a clear and urgent need for expansion to enable the Senedd to properly function, to exercise the additional powers it has gained over the 20 plus years of devolution and for its Members to undertake effective scrutiny. We supported the Expert Panel's recommendation for the expansion and 96 Members is a sensible number of electors, with an over 50% increase in the number of representatives offering to be transformative. Of course, while this

³ [Senedd Research, 2021. Election 2021: how many people voted?](#)

⁴ [Wellbeing of Wales: National Indicators, 2022, Percentage of people who feel able to influence decisions affecting their local area](#)

still puts the number of Members in the Senedd below the EU average of representatives per elector⁵, it is nonetheless a substantial step forward.

In regards to the proposals contained within this part of the Bill, we think these could go further in expressing what the increased capacity of the Senedd will be used for. In doing so, there should be a clearer expectation of what the Senedd will look like after the Bill comes into force, and a clearer explanation of why the expansion in Members is needed in the first place. The Explanatory Memorandum accompanying the Bill correctly identifies that an increase in the number of Members will result in enhanced scrutiny and better legislation⁶. Whilst both are true, there are further ways that the Bill can indicate how the extra capacity will be utilised to make the Senedd tangibly empowered, to improve scrutiny, the level of debate and, ultimately, improve democratic outcomes. This is particularly important given the £18 million expected cost of Senedd expansion⁷ in the wider context of the current cost of living crisis. As such, extra Members would be expected to deliver better outcomes for the people of Wales. How this would be the case, beyond expanding capacity (which is of course significant in and of itself) is underexplored. The Committee should aim to suggest amendments for how the extra capacity should best be utilised, in both a structural and practical sense. That such suggestions should come from a cross-party group of Members, as opposed to purely from Welsh Government, is crucial as all parties are key informed stakeholders in Senedd Cymru.

Senedd reform is not only about increased capacity per se but also, when the Bill moves into Stage 2 and beyond, scrutiny should consider **how this new capacity is going to be used**. We support the expansion of Government Ministers in the Siambr from 12 to 17 (excluding the First Minister and the Counsel General) and the ability to elect a second Deputy Presiding Officer. Both of these roles will make our Senedd stronger and more fit for purpose for a growing parliament. But what about the rest of the capacity and capability?

Currently, the lack of Members means that the Senedd can only have plenary on two days a week. This means that the Senedd is in full session for fewer days than either the Westminster Parliament, the Scottish Parliament or the Northern Ireland Assembly (when the latter is in session). The Senedd, as it stands, cannot sit for more than two days because most non-government Members sit on at least two Committees. Yet the Bill has nothing to say on the allocation of days in the Senedd, the Committee process or what the increase of capacity means for scrutiny. We know and agree that increasing the number of Members should lead to more robust scrutiny of Government and better legislation. But how can we make the Senedd itself, as an institution, a space where better deliberation can take place? The Bill does not go into detail here and we think that this part of the Bill could and should be more expansive. Doing so might also make the political arguments for Senedd reform and expansion clearer to those who are yet to be won over.

More specifically, is the Senedd going to have more days of plenary under the new system? If so, how is the weekly calendar of events going to be reconfigured, whilst ensuring that

⁵ [UK's Changing Union and Electoral Reform Society Cymru, 2013, Size Matters: making the National Assembly more effective](#)

⁶ [Senedd Cymru \(Members and Elections Bill\), 2023, Explanatory Memorandum](#)

⁷ [BBC Wales, 2023, Senedd: 36 more Welsh Parliament members could cost extra £18m](#)

Members continue to spend time in their constituencies listening to their constituents' concerns? If the face of the Bill is not the correct place for these considerations to be identified, then supplementary information should be provided to provide greater transparency on the planned functioning of the newly reformed and expanded Senedd. Providing this ahead of time would display the transparency and openness that in itself could raise democratic standards and inspire increased confidence in our devolved legislature.

Second, we know that the Committees are where the Senedd undertakes a large proportion of its scrutinising functions and that Committees have a key role not only in the development of legislation, but also in holding the Government and public bodies to account on key areas. In this sense, they are undertaking a role which is the equivalent of both Westminster's House of Commons and House of Lords Committees in our unicameral system. But what will the Senedd reform proposals mean for this system, beyond that the additional Members will mean that Senedd Members do not have to sit on multiple committees to make up the numbers? Could such mechanisms be put on the face of the Bill? For example, should the number of Committees required by a Senedd be put in the Bill, and if so, should this be expanded? As it stands, a number of Committees have remits that are relatively broad. Is there an argument to give each Committee a more distinct remit? The IWA believes consideration should be given to this as part of the progression of the Bill beyond stage 1.

As stated above the Bill represents an opportunity to improve **standards and process** in the Senedd, however we would like to see it go further in these areas. Taking time to consider this as part of the Committee process would be a good use of the Committee's time.

Furthermore, the IWA are concerned around governance and the lack of a recall mechanism on the face of the Bill. With the intention of the Bill being to deliver a better standard of debate and scrutiny in the Senedd, the lack of information on how standards will be upheld is a significant gap. We have seen in recent years how a number of Members have been suspended for poor behaviour by their party groups, but have not been met with swift action from the Senedd itself. **There should be more robust and transparent mechanisms for ensuring high standards of integrity from our Members** and this Bill should be an opportunity to formalise such mechanisms. A modern democracy requires a clear recall mechanism to improve scrutiny, transparency and accountability on behalf of the electorate. Without this, the Senedd will fall further behind its Westminster equivalent in this area which, however flawed, has clear processes around recall mechanisms for parliamentarians.

There is also a need to rethink the lack of by-election process outlined in the proposed changes, where the intention is currently either to leave seats vacant or go further down the closed list from the party in that constituency. There seems to be a lack of scrutiny and accountability attached to this mechanism. For example, if a Senedd Member resigns due to failing to meet the standards required, then is it fair and appropriate that the seat automatically goes to another candidate from the same party? In such instances, it would seem reasonable for a by-election to take place in that constituency, to establish whether the constituency still supports that seat being held by the party of the former Member. Not establishing such a mechanism weakens a structure which could influence accountability and transparency of Members to the electorate.

As highlighted above, **it is not clear what further support an expanded Senedd would require.** With an expanded Senedd and 36 additional Members likely at the next Senedd election, what mechanisms are being put in place to ensure they are supported to deliver effectively in their role? The Committee should spend time scrutinising how the Senedd as an institution is itself strengthened in order to provide a more robust wrap-around support function for Senedd Members, one that would meet the requirements of an enlarged Senedd. This will be particularly useful for the new MSs elected to the 7th Senedd. For example, how will they be supported in setting up offices, appointing staff and learning Senedd processes? Again, this moment of reform would be an opportune moment to consider these supporting functions which are essential infrastructure for Members and underpin any strong, confident, modern parliament.

These also link to the inclusivity of the Senedd. That mandatory gender zipping on the closed lists is progressing on a separate Bill is clearly understood by those closely following the process, if not by the general public. However there are other measures that could be contained within this Bill which could improve governance standards within the Senedd and make the Senedd a more attractive place to work at all levels. We think the Bill could consider standards on offering childcare to Senedd members on site, as is customary in other Parliaments, such as Westminster. Furthermore, given that job sharing is continuing across all sectors of our economy, it should be considered if these reforms are to stand the test of time and create a space where all are able to stand for election regardless of their personal circumstances and other responsibilities. It is the IWA's view that such **mechanisms to improve inclusivity should sit as part of this Bill** as these deal with reforms of the make-up of the Senedd itself. Is there a need for a separate commission to consider job sharing as proposed in the Bill? The case for job sharing has already been established ahead of this Bill, with key considerations set by WEN Wales⁸. It is our contention that these should be part of this Bill in order to be enacted at the same point as the wider reform package. Establishing a Commission during the 7th Senedd further delays the change and misses the opportunity to attach this to the current package of reforms. The case for change already exists: why delay further?

Finally, the IWA believes that **there is a clear case for establishing mechanisms for deliberative methods of democracy** as part of a modernised Senedd. As part of our Media and Democracy policy work we have clearly articulated the role that deliberative methods can play in a mature democracy. If we are considering how to reinvigorate Welsh democracy, there should be provisions that go beyond the ballot box and deal with the link between people, communities, the places they live and the Members who represent them. There are a growing number of examples internationally of deliberative mechanisms that have been institutionalised as part of the parliamentary process. And we have seen how establishing deliberative mechanisms as part of the extra-parliamentary process, as was the case in recent referendums in Ireland⁹, can also work effectively. The IWA are currently fundseeking to support the Net Zero 2035 Challenge Group¹⁰ with a full scale citizens' assembly, to inform the pathways put forward to achieve net zero by 2035. And while we of course recognise that citizens' assemblies are by no means a unique silver bullet, we contend

⁸ [WEN Wales, 2022. Briefing Paper: Job Sharing for Senedd Members](#)

⁹ [Jane Suiter, 2018. LSE: Lessons from Ireland's recent referendums: how deliberation helps inform voters](#)

¹⁰ [Net Zero 2035 Challenge Group](#)

that they are now no longer ‘new’ mechanisms, and have radically informed democratic outcomes across the globe. We firmly believe that, within the unicameral system in the Senedd, there must be space for opinions from people outside the field of elected politics to input their lived experience and their perspective directly into the legislative process in a far more substantial and in-depth manner than the systems enabled currently (such as the petitions process and the consultation process, both of which are blunt instruments which are not equally accessible to all). We do however accept that this may sit outside of the scope of this particular Bill, but want to put this on record as a potential future area for Senedd reform.

Overall the IWA feel there are a number of areas which could strengthen the Bill and its impact on the Senedd as an institution. That these reforms appear limited in this area is a missed opportunity to engender radical change that could improve the mechanisms that underpin our democracy. While it is never going to be easy to make the case for additional spending on more politicians in an era of intense budgetary pressure, we do think it is both necessary and justifiable. We therefore commend the intention and much of the detail of the Bill. It is our view, however, that the tangible benefit this expanded capacity could provide to people across Wales is not inherently clear. People in Wales need to be brought along on the journey so that they, too, understand the need to expand the Senedd. This has not been done to date. Building a modern, fit for purpose Senedd sits at the heart of this endeavour.

Voting System

The IWA are supportive of moving towards a more proportional voting system. Any move to create a Senedd which more accurately reflects each individual elector's votes is a step forward.

However, we have concerns over the closed proportional list system proposed.

Chief among our concerns with this system is the breaking of the historic candidate-constituency link. Under the proposed system, electors will lose the opportunity to vote for individual candidates, and instead will vote only for a political party. Now, this is not without merit as it is a straightforward process for electors and removes any confusion around where individual politicians stand. It may also be a simpler system as it means electors would put only one cross in a box, rather than the two votes under the current system (with one vote for a constituency candidate and another for a party through which regional Members are elected).

However a move to a closed list system will have distinct implications for democratic health in Wales. Notably, a closed list system will dilute the accountability and transparency of our democratic processes. Removing the link between an individual candidate may mean that constituents are less sure on whom they reach out to for support, or are more hesitant about who represents them. During the IWA's leading courses on *Decision Making in Wales*¹¹, we have observed that, when asked who represents them, participants can regularly name their constituency Member but not their four regional Members. Whether this would improve under the new system is debatable. Our concern is that a closed list system will erode direct accountability to the electorate.

¹¹ [IWA Professional Training](#)

The closed list system will also further entrench political parties' control of the candidate selection process. As we look to reinvigorate Welsh democracy, we should be enacting changes which strengthen the links between candidates and the communities they serve, not adding further barriers to this relationship. Reinforcing political parties' control over who represents a constituency is a backward step.

The IWA, alongside a number of other organisations in the democracy space, would prefer the Single Transferable Vote System (STV), which is not only a more proportional system than that proposed, but also retains the elector-candidate link. If the Welsh Government is committed to creating a proportional Senedd then we think that STV is the best option going forward, creating a Senedd which is most representative of the votes cast. This is also reflective of the recommendations of the Expert Panel on Electoral Reform¹² undertaken in 2017 and a Senedd Committee report on the issue of reform¹³. The current proposal of a closed list system reflects an approach which puts politics ahead of the opportunity for truly transformative reform.

A further possible unintended implication of the potential adoption of the closed list system is that it may not mean that we expand the number of parties represented in the Senedd. Indeed, an expansion of the current Regional List System might be more likely to bring in new parties to the Senedd. The reason for this is that a number of parties, such as the Wales Green Party, have a broad base of minority support across the nation. However, their support is not concentrated in a particular constituency, or even a paired constituency. As such, despite being a more proportional electoral system relatively speaking, the closed list system does not offer a transformative possibility for new parties to enter the Senedd. Whether or not this is a positive or not is a political question, but it may well represent an unintended consequence of the Bill.

Regardless of the voting system eventually decided upon, **it is vitally important that a substantial budget be utilised to communicate the proposed changes to the electoral system to the public in Wales.** This is particularly important given that Wales is further diverging from UK parliamentary elections in its electoral system. Communicating this change clearly, consistently and repetitively, with local context and accompanied by information on the purpose underpinning the changes, will be vital to establishing its successful impact. Without this crucial work, there is a risk that such widespread changes will confuse voters and put them off not only voting in elections, but engaging in political processes in Wales more broadly. At a time when Senedd turnout is far below Welsh turnout in general elections,¹⁴ it is important that people understand the voting system and what the Senedd has control over more broadly. There is much work to be done in this area and it remains a key concern for the IWA.

The role of independents in the political process should also be subject to more scrutiny. It is not entirely clear in the Bill how this mechanism would function. It is important that individual candidates who are not part of a political party (or are their party's sole candidate in a constituency) are able to stand for election. But how this interplays in a system which prioritises closed party lists could result in confusion. Could an unintended

¹² [Expert Panel on Assembly Electoral Reform, 2017, A Parliament that works for Wales](#)

¹³ [Senedd Committee on Senedd Electoral Reform, 2020, Senedd Reform: The next steps](#)

¹⁴ [Senedd Research, 2021, Election 2021: How many people voted?](#)

consequence be that candidates selected on the bottom half of a party list choose instead to stand as an independent candidate? Indeed, party candidates sitting below number three or four on a closed list might stand little chance of election under the new system. As such, as highlighted above, the proposed closed list system could act to disempower candidates and empower larger party cohorts.

Overall we are supportive of a more proportional electoral system in Wales. Further diverging from UK parliament electoral processes is a bold step, showing a democracy in Wales that is maturing and shaping its own democratic path. However, there remains much to be improved to create a system that will create a Senedd which is most representative of the votes cast. The IWA remains convinced that STV is the best mechanism for doing so.

Boundaries and Boundary Commission Cymru

The IWA supports the intention to establish Boundary Commission Cymru in order to create boundaries for post-2030 Senedd elections which reflect the new Senedd electoral system. This is a logical approach and continues the pathway of Wales having more control over its electoral process, which has been gathering pace since the Wales Act 2017.

One area of concern, however, is the significant confusion this may mean for electors. Given that there is large-scale change to the electoral system ahead on UK-aligned boundaries, with another change to these for the 8th Senedd, there will be substantial change over the next ten years. This could lead to significant confusion within the electorate if due attention is not paid to communicating clearly the complexity of different electoral processes at different levels of government. As mentioned above, it is therefore vital that substantial budget is allocated to the communication of these changes, at each stage in which these changes take place.

A further area of concern is the governance and funding allocated to the new Boundary Commission Cymru. Is this approach going to be a cost effective exercise, when similar work is already undertaken by the current UK-wide Commission? Welsh Government and Senedd Members should take the time to ensure that there are no adverse consequences as a result of the establishment of this new body, especially in a moment when the fiscal framework is already under intense pressure. Efforts should be made to learn from the experience in Scotland, where Boundaries Scotland¹⁵ have responsibility for establishing boundaries for Holyrood elections (alongside local government boundaries since 1973).

Costs of enacting the Bill

We are glad to see a comprehensive cost breakdown of implementing the Bill in the Explanatory Memorandum¹⁶. There are, however, large deviations included in the costs associated with enacting the Bill. We think it would be worth the Committee's time to provide robust scrutiny on the costs of the Bill.

It is vital that the benefits of the Senedd reform proposals contained in the Bill are scrutinised closely as they should be far reaching, especially when it comes to the benefits of

¹⁵ [Boundaries Scotland, N.D](#)

¹⁶ [Senedd Cymru \(Members and Elections Bill\), 2023. Explanatory Memorandum](#)

increased scrutiny of Government spending across the Board. Whilst this is difficult to quantify, this must be considered when taking a holistic approach of the costs and benefits of the Bill.

Summary

The IWA looks forward to following and contributing to the progression of this Bill through the Committee stages and the Senedd at large. We reiterate that the Bill represents a vital opportunity to strengthen our democracy in Wales alongside our devolved parliamentary processes. Our main concern is that these proposals deliver maximum benefit for the people of Wales both now and in the longer term. We would welcome the opportunity to expand on our response above, in whatever capacity.