

Senedd reform: The next steps

September 2020



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September 2020



About the Committee

The Committee was established on 18 September 2019 to examine the recommendations of the Expert Panel on Assembly Electoral Reform. The Committee will be dissolved following a Plenary debate on its final report.

Committee Chair:



Dawn Bowden MS

Welsh Labour

Current Committee membership:



Huw Irranca-Davies MS

Welsh Labour



Dai Lloyd MS

Plaid Cymru

The following Members were also members of the Committee during its work.



Delyth Jewell MS

Plaid Cymru



David Rowlands MS

Brexit Party

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Chair's foreword

The powers devolved by the *Wales Act 2017* over the Senedd's electoral and institutional arrangements offer us opportunities to revitalise and reinvigorate participation in our democratic processes, and to ensure that our Senedd has the capacity it needs to serve the people and communities of Wales.

The first steps on this journey have already been taken. In January 2020 the *Senedd and Elections (Wales) Act 2020* became law, extending the right to vote in the 2021 Senedd election to 16 and 17 year olds and to all legal residents in Wales regardless of their nationality or citizenship. In May 2020 the legislature formally became Senedd Cymru/the Welsh Parliament, reflecting its place within the UK's constitutional landscape and offering greater clarity on its role and responsibilities.

In July 2019 the Senedd resolved that more Members were needed, but that further work was required to consider how that could be achieved. Our role as a Committee has been to examine the recommendations of the Expert Panel on Assembly Electoral Reform, and to consider how many Members the Senedd needs, how Members should be elected and the diversity of the Senedd.

These are issues which are central to representative democracy in Wales. This makes them politically sensitive, and we know that more still needs to be done to build political consensus around specific reform proposals. There is also more to be done to engage the people of Wales, to help them to understand the role of the Senedd and its Members, to demonstrate the difference the legislature's work can make on the issues which matter to them and their communities, and to make sure they know how they can be involved in and shape the work of their Senedd.

Nevertheless, we believe that there is clear and compelling evidence that the Senedd is currently undersized, that its membership lacks diversity, that the current electoral system constrains voter choice and Member accountability, and that the absence of a mechanism for the review of the Senedd's boundaries should not be allowed to continue.

Unless legislation is brought forward to reform the Senedd, we risk failing to ensure that our legislature can continue to deliver effectively for the people of Wales; that the scrutiny of policy, legislation, spending and taxation is informed by the perspectives and experiences of people from diverse communities and backgrounds; and that our electoral arrangements empower and engage voters.

We are grateful to everyone who has contributed to our inquiries. It is a matter of deep regret that the Welsh Conservative group in the Senedd decided not to participate in our work, particularly as the Committee was established on the basis of a majority vote in the Senedd. We also regret the Brexit Party group's decision to withdraw from the process at a late stage, after we had worked together collaboratively and collegiately as a Committee to gather evidence and reach initial conclusions on many of the issues within our remit.

Legislation to give effect to our recommendations will require broad political consensus across the Senedd, including a supermajority of 40 Members voting in favour at the final stage of the legislative process. We hope, therefore, that all political parties who contest the 2021 Senedd election will reflect carefully on our conclusions and recommendations; that they will work together to reach consensus on reform proposals; and that they will commit to taking legislative action early in the Sixth Senedd to reform our legislature and strengthen our democracy in Wales.



Dawn Bowden MS
Chair, Committee on Senedd Electoral Reform

Recommendations

Recommendation 1. Legislation should be introduced early in the Sixth Senedd to increase the size of the Senedd to between 80 and 90 Members with effect from the 2026 election..... Page 38

Recommendation 2. The Senedd Commission and Business Committee, working with political groups, Members, Senedd committees, the Chairs' Forum and other stakeholders as appropriate, should identify and implement temporary or permanent changes to ways of working, structures or procedures with a view to alleviating the acute capacity pressures which will be faced by a 60 Member Sixth Senedd. Such measures should be assessed and evaluated both in terms of their effectiveness in enhancing the legislature's capacity and their equality and diversity impacts. Consideration should also be given to trialling potential measures during the remainder of the Fifth Senedd..... Page 40

Recommendation 3. To inform decisions on whether any increase in the size of the Senedd should be accompanied by a pro rata increase in the limit on the number of Welsh Ministers and Deputy Ministers, the Welsh Government should commission academic research into the structure and capacity of the Welsh Government, including the allocation of responsibilities among Ministers and Deputy Ministers. Page 41

Recommendation 4. Legislation should be introduced early in the Sixth Senedd to provide that Members of the Senedd are elected by the Single Transferable Vote electoral system with effect from the 2026 election. Page 55

Recommendation 5. The Member-in-charge of developing primary and subordinate legislation to introduce STV for Senedd elections should ensure that information about the detailed technical design and operation of the electoral system, and any associated financial or other impacts, is available to inform the scrutiny of any Senedd reform Bill..... Page 65

Recommendation 6. Following the first election conducted by STV, the relevant Senedd committee should undertake post-legislative scrutiny of the primary and subordinate legislation, and any associated guidance, to assess whether the new electoral system had operated as intended and consider whether any further reforms were required. Page 66

Recommendation 7. Unless there are compelling policy or legal reasons for any divergence, there should be consistency between the STV rules used to elect Members of the Senedd and those used to elect councillors to any local authorities that have chosen to adopt STV.....Page 68

Recommendation 8. Regardless of whether any other reforms are brought forward, legislation should be introduced early in the Sixth Senedd to establish review arrangements for the Senedd's boundaries.....Page 82

Recommendation 9. We endorse the recommendation of the Equality, Local Government and Communities Committee that the Welsh Government should make representations to the UK Government for the commencement of section 106 of the *Equality Act 2010* in respect of elections in Wales.....Page 103

Recommendation 10. In the absence of legislative provision requiring political parties to collect, anonymise and publish data about the diversity of their candidates for Senedd elections, political parties should do so on a voluntary basis with effect from the 2021 Senedd election.....Page 103

Recommendation 11. A cross-party working group should be established early in the Sixth Senedd to explore in detail the feasibility of enabling election on the basis of job sharing and/or executive job sharing within the Welsh Government or other Senedd offices such as Llywydd, Commissioner, committee chair, or business manager. The role of the working group should be to consider in detail and make recommendations to the Senedd on:

- How any political or public concerns relating to democratic accountability or transparency might be addressed.
- How practical issues and obstacles might be overcome.
- Developing a pilot scheme at Senedd, local authority or community council level.
- The approach to engaging the public in respect of these issues.
..... Page 111

Recommendation 12. In undertaking its work, the cross-party working group on job sharing should take account of a wide range of perspectives, including: Members of the Senedd, political party officials, Senedd Commission and Welsh Government officials, the Remuneration Board, electoral administrators, the Electoral Commission and relevant stakeholders.....Page 111

Recommendation 13. We endorse the recommendation of the Equality, Local Government and Communities Committee that the Welsh Government should establish, as a matter of priority, an access to elected office fund to support people with disabilities to stand for election, and that consideration should also be given to extending eligibility for funding to other underrepresented groups. Page 118

Recommendation 14. The Welsh Government and the Electoral Commission should consider whether disability-related expenditure arising in respect of engaging with people with disabilities during election campaigns should be exempt from election campaign spending limits. Page 118

Recommendation 15. The Welsh Government should bring forward subordinate legislation to exempt expenses relating to the costs of a candidate’s childcare or other caring responsibilities from election campaign spending limits. Page 118

Recommendation 16. The Remuneration Board should work with political parties, the Electoral Commission and stakeholder groups who represent the interests of people with disabilities to develop and implement effective communication to ensure that potential candidates can easily access clear information in appropriate formats about the financial support available to candidates and elected Members in respect of disability-related expenses. Page 118

Recommendation 17. The Welsh Government and Senedd Commission should consider whether the national leadership programme for local government could be extended to include mentoring opportunities for people interested in standing for election to the Senedd. Page 122

Recommendation 18. The Welsh Government (and the Member-in-charge of any Senedd reform legislation if they are not a member of the Welsh Government) should make representations to the UK Government seeking amendments to Schedules 7A and 7B of the *Government of Wales Act 2006* to ensure that measures to encourage the election of a more diverse Senedd would be within legislative competence should the Senedd wish to legislate in this regard. Page 124

Recommendation 19. Political parties which contest Senedd elections should prepare and publish diversity and inclusion strategies which assess the diversity and inclusivity of their culture, processes, ways of working and representation, and set out the actions they intend to take to increase the diversity of their memberships, candidates and elected Members. Page 124

Recommendation 20. In reaching a decision on whether to include legislative candidate gender quotas in their reform proposals, the Member-in-charge of any Senedd reform legislation should consider the extent to which such provisions would be within the Senedd’s legislative competence, the risks associated with including such provisions if considerations in respect of legislative competence were not clear-cut, and any potential implications for the overall legislative timescales. Page 134

Recommendation 21. The relevant Sixth Senedd committee should undertake further work on diversity quotas in respect of characteristics other than gender to inform decisions on whether such quotas would be appropriate mechanisms to encourage the election of a more diverse Senedd. This work should be informed by expert advice on the design and operation of diversity quotas, and by working closely in partnership with underrepresented groups, including BAME communities in Wales and people with disabilities. Page 134

Recommendation 22. The Senedd Commission and Welsh Government should monitor the impact of their public information and education campaigns in respect of the extension of the Senedd franchise and the name change on levels of public understanding of the Senedd, with a view to assessing what further action might be required to help the people of Wales to understand and engage with their democratic processes and institutions. In particular, they should consider the extent to which the educational resources and awareness-raising activities have reached underrepresented groups, including younger people, ethnic minority communities and people with disabilities, and have been effective in encouraging them to register to vote and to participate in the election. Page 141

Recommendation 23. The Business Committee, the Chairs’ Forum and the Senedd Commission should work together to develop a systematic and proactive approach to assessing and communicating the impact of the scrutiny and oversight work carried out by the Senedd and its committees. The outcomes of this work should be used to drive continuous improvement in ways of working and procedures, and to help raise public understanding and awareness of the role of the Senedd and its Members. Page 141

Recommendation 24. The Business Committee should develop and publish an overview of the ‘core tasks’ which make up the role of Member of the Senedd. The core tasks should recognise Members’ formal Senedd business responsibilities, and also their wider roles as representatives, campaigners and employers. It would therefore be appropriate for the development of the core tasks to be informed by consultation with Members, political groups, the Remuneration Board and other stakeholders..... Page 145

Recommendation 25. Working with past and present Members of the Senedd and political groups within the Senedd, the Senedd Commission should prepare and publish on its website and social media channels case studies and personal stories illustrating what the role of Member of the Senedd entails..... Page 145

Recommendation 26. The Member-in-charge of any Senedd reform legislation should ensure that any legislative reforms, including of the Senedd’s size and electoral arrangements, are accompanied by effective, comprehensive and tailored communication, public information and awareness-raising campaigns to ensure not only that voters know how to participate in Senedd elections, but also that the people of Wales understand the role of their legislature and how they can engage in and shape its work..... Page 150

Recommendation 27. The relevant Sixth Senedd committee should undertake post-legislative and post-implementation scrutiny of the extension of the franchise for the 2021 Senedd election to examine the impact of the franchise extension on voter engagement and turnout. This work should include identifying any lessons which could be learned from the approach to engaging and informing voters and potential voters about the democratic process, their right to vote and the role of the Senedd, and how such lessons might be applied to increasing awareness and understanding of the current electoral arrangements or of any new electoral arrangements..... Page 150

Recommendation 28. The Welsh Government, the Senedd Commission or the Member-in-charge of any Senedd reform legislation should commission a citizens’ assembly on the capacity of the Senedd to ensure that the development of legislative reform proposals can take account of the public’s informed views on these matters..... Page 163

Recommendation 29. To ensure that electoral reforms can be implemented with effect from the 2026 election, consensus on the reform proposals and whether the legislation will be led by the Welsh Government, the Senedd Commission or a Senedd committee must be established very early in the Sixth Senedd..... Page 175

Recommendation 30. If the Member-in-charge of any Senedd reform legislation is not a member of the Welsh Government, the Welsh Government should nevertheless, as a key stakeholder with responsibility for the existing statutory framework and resourcing of Senedd elections, work closely with the Member-in-charge..... Page 175

Recommendation 31. The Member-in-charge of any Senedd reform legislation should engage early and effectively with the electoral community and other stakeholders to inform the policy and legislative development and scrutiny processes, and to facilitate implementation planning. Engagement with stakeholders should include practical, administrative and implementation issues, the potential financial implications and resourcing, and the assessment of any equality or other impacts..... Page 183

Recommendation 32. To inform the development of legislative proposals and the accompanying Explanatory Memorandum and Regulatory Impact Assessment, the Business Committee, Senedd Commission and Remuneration Board should engage in early scenario planning to identify the issues they would need to consider and the decisions they would need to take if the size of the Senedd were to be increased. This work should take account of the interdependency between their areas of responsibility, any lessons to be learned from the response to the COVID-19 pandemic and any measures that are introduced to maximise the capacity of a 60 Member Sixth Senedd. Page 187

1. Introduction

Background

1. The Wales Act 2017 devolved powers to the Senedd¹ in relation to its size and electoral arrangements. In February 2017, in anticipation of those powers coming into effect, the Senedd Commission established the Expert Panel on Assembly Electoral Reform (“the Expert Panel”).² The Expert Panel’s remit was:

- To review, and complement if necessary, the existing evidence and research relating to the Senedd’s size and electoral arrangements.
- From that evidence base, and in order to inform the preparation of any necessary legislation, to make recommendations on how many Members the Senedd should have, how Members should be elected, and the minimum voting age for Senedd elections.³

2. The Expert Panel published its report in December 2017.⁴ It made 16 recommendations, including:

- The size of the Senedd should be increased to at least 80 Members, but preferably closer to 90 Members.
- Subject to measures being introduced to encourage the election of a more diverse Senedd, Members of the Senedd should be elected via the Single Transferable Vote system. If such measures were not implemented, the Expert Panel concluded that the Flexible List Proportional Representation system would be a viable alternative.
- The minimum voting age for Senedd elections should be reduced to 16 with effect from the 2021 election.⁵

¹ On 6 May 2020, the National Assembly for Wales formally changed its name to Senedd Cymru or the Welsh Parliament. Other than in direct quotes, we use the name ‘Senedd’ and associated terms throughout this report.

² More information about the Expert Panel is available on the Senedd’s website.

³ Senedd Commission, Written statement on the Expert Panel on Assembly Electoral Reform, 1 February 2017

⁴ Expert Panel on Assembly Electoral Reform, A Parliament that Works for Wales, December 2017

⁵ A list of the Expert Panel’s recommendations is at Annex D.

3. The Senedd Commission (“the Commission”) consulted on the Expert Panel’s recommendations in early 2018.⁶ Taking account of the degree of political consensus at the time, the Commission decided to pursue a two-part legislative reform programme.

4. In October 2018, the Commission sought the approval of the Senedd to introduce the first phase of its legislative programme: a Bill to reduce the minimum voting age to 16, to change the name of the legislature, and to make other changes including clarifying the disqualifications framework.⁷ The *Senedd and Elections (Wales) Bill* was subsequently introduced in February 2019, and became law in January 2020.⁸

5. The Commission had intended that the second phase of its reform programme would be legislation to increase the number of Members and make consequential reforms to the electoral system. However, in June 2019 the Commission concluded that while it was “confident that the case in favour of increasing the number of AMs has been made”, there was not yet political consensus on the electoral system and it was not therefore possible to legislate on phase two of Senedd reform during the Fifth Senedd.⁹

6. In July 2019, the Senedd debated a Plaid Cymru¹⁰ motion on Senedd reform which called for an increase in the number of Members of the Senedd and for Members to be elected by Single Transferable Vote with effect from 2021. Following the debate, the Senedd resolved by a majority to:

- Note the Expert Panel’s report.
- Agree that an increase in the number of Members was needed.
- Call for further cross-party work to take these matters forward.¹¹

7. In September 2019, the Senedd agreed to establish the cross-party Committee on Senedd Electoral Reform¹² with a remit to examine the recommendations of the Expert Panel. We regret that the Welsh Conservative

⁶ Senedd Commission, *Creating a Parliament for Wales: consultation report*, October 2018

⁷ Plenary, *RoP*, 10 October 2018

⁸ *Senedd and Elections (Wales) Act 2020*. More information can be found on [the Bill’s webpage](#).

⁹ *Letter from the Llywydd to Members of the Senedd*, 10 June 2019

¹⁰ Where appropriate throughout this report, references to specific political parties should be read as references to the relevant political group in the Senedd, unless otherwise stated.

¹¹ Plenary, *RoP*, 10 July 2019

¹² Prior to 6 May 2020, the Committee was named the Committee on Assembly Electoral Reform.

group in the Senedd decided not to participate in our work.¹³ The Brexit Party group was represented on the Committee until David Rowlands MS resigned on 28 June 2020, after we had completed the majority of our work.

Our strategic objectives

8. We established three strategic objectives to guide our examination of the Expert Panel's recommendations:

- To consolidate and add to the existing evidence base.
- To inform and engage the public.
- To outline a roadmap for reform to inform political parties' consideration of their policy positions and manifestos for the 2021 Senedd election.

9. To fulfil these objectives, we held three inquiries (see Table 1).

Table 1 The terms of reference of our inquiries

| Inquiry | Terms of reference |
|---|---|
| Capacity of the Senedd | <p>Identifying the implications for the capacity of the Senedd of any relevant changes in the roles and responsibilities of the Senedd and its Members, or the wider constitutional context, since the Expert Panel reported.</p> <p>Exploring how any change in the size of the Senedd would be implemented, including the potential impact of increasing the Senedd's scrutiny capacity and the financial and other implications.</p> <p>On the basis that the size of the Senedd will remain at 60 until at least 2026, considering whether there are any alternative measures which could be adopted in the short term to ensure it has the capacity it needs to carry out its representative, scrutiny and legislative functions.</p> |
| Electoral systems and boundaries | <p>Examining the implications of the electoral systems and boundaries recommended by the Expert Panel for democratic representation in Wales, and considering how the principles identified by the Expert Panel might be weighted to ensure that the Senedd's electoral arrangements are appropriate to the Welsh context.</p> <p>Exploring public sentiment and understanding of the Senedd's current electoral arrangements and boundaries and the options recommended by the Expert Panel.</p> <p>Considering the implications for political parties in Wales of changing the electoral system and boundary models.</p> <p>Exploring the principles and practicalities of establishing boundary review arrangements for Senedd electoral areas.</p> <p>Considering the cost and resource implications of reforming the electoral system and Senedd boundaries.</p> |

¹³ Business Committee, [Minutes of the meeting](#), 17 September 2019

| Inquiry | Terms of reference |
|--|--|
| <p>Electing a more diverse Senedd</p> | <p>Exploring whether political parties should be required to publish anonymised diversity information about their Senedd election candidates, and the practical implications to which this would give rise.</p> <p>Considering the principles and the practical implications of the Expert Panel's recommendation that legislative candidate gender quotas should be integrated into the Senedd's electoral system, and any voluntary steps parties could take to increase the diversity of their electoral candidates across the full range of protected characteristics under the <i>Equality Act 2010</i>.</p> <p>Examining issues relating to the Expert Panel's recommendation that people should be allowed to stand for election on the basis of job sharing, including implications for democratic accountability and any practical considerations which would need to be addressed.</p> |

Evidence gathering

10. We are grateful to all those who have contributed to our work. A list of the oral evidence we received is at Annex A. We also held two discussion events with stakeholders in relation to the capacity of the Senedd and its diversity; a list of organisations who were represented at these events is at Annex B. We undertook three public consultations covering electoral systems and boundaries, the diversity of the Senedd and the issues raised with us by stakeholders at our discussion event on the capacity of the Senedd. A list of the responses we received to those consultations, and additional written submissions received from individuals and stakeholders throughout our work, is at Annex C.

Impact of COVID-19 on our work

11. The COVID-19 pandemic has had a significant impact on the way in which we have approached our work. The issues within our remit are undoubtedly of fundamental constitutional significance, and we were determined to fulfil our remit and provide a roadmap for the next steps of the Senedd reform process. However, we were also clear that under such extraordinary circumstances the energy, time and resources of the Senedd, its committees, the Welsh Government and public bodies and organisations across Wales should be focused primarily on responding to the ongoing public health emergency.

12. Our intention had been to commission a citizens' assembly to inform our work. Our citizens' assembly would have brought together a representative group of people from across Wales to learn about, discuss, deliberate and reach consensus on matters relating to the capacity of the Senedd and how its Members are elected. However, following the outbreak of the COVID-19

pandemic, in April 2020 we reluctantly concluded that it was not possible for us to safely hold a citizens' assembly within the timescales required for our work.¹⁴

13. We had planned to visit Scotland in March 2020 to meet electoral administrators, the boundary commissions, political parties and MSPs to discuss the experience of adopting the Single Transferable Vote for local elections in 2007, and issues relating to electoral and boundary reform. However, our visit was cancelled as a result of the pandemic.

14. We had also hoped to engage directly with members of the Welsh Youth Parliament to discuss the roles of Members of the Senedd, and gauge their views on whether they or other young people would consider standing for election. However, the postponement of the Youth Parliament's April 2020 regional meetings as a result of the pandemic meant that this was not possible.

15. The COVID-19 pandemic also limited the extent to which we were able to take oral evidence in respect of our electoral systems and boundaries inquiry. In place of gathering oral evidence, we initially wrote to key stakeholders seeking additional written evidence in June 2020. However, following the resignation of David Rowlands MS from the Committee later that month, and the Brexit Party group's indication that it no longer intended to participate in our work, we decided to report based on the evidence we had already gathered and considered to date.

16. As a result of these changes to our approach, there are some issues within our remit on which we have not been able to draw firm conclusions. These issues include electoral boundaries, boundary review and diversity quotas. While we were not in a position to make detailed, evidence-based recommendations on these matters, we have nevertheless identified key themes and issues which we believe will help focus further work on these matters in the Sixth Senedd.

¹⁴ [Letter from the Chair to the Llywydd](#), 1 June 2020

2. The capacity of the Senedd

In this chapter we examine whether a 60 Member Senedd has the capacity it needs to fulfil its role and responsibilities, explore how the capacity of a 60 Member Senedd could be increased, and consider the appropriate sizes for the Senedd and the Welsh Government.

Recommendations of the Expert Panel

17. The Expert Panel was tasked with making recommendations on the number of Members the Senedd needs to fulfil its responsibilities to the people and communities of Wales. It recommended that:

- **Recommendation 1:** The size of the Senedd should be increased to at least 80 Members, and preferably closer to 90 Members, to ensure that the parliament has sufficient capacity to fulfil its policy, legislative and financial scrutiny responsibilities, and that Members can also undertake their representative, campaigning, political and other roles.
- **Recommendation 2:** The Remuneration Board and Senedd Commission should consider how the total staffing support, services and financial resources provided to Members can be altered in the case of a larger Senedd, so that the cost of implementing the Expert Panel's recommendations is kept to an absolute minimum.
- **Recommendation 3:** The Senedd must exercise restraint in the way it makes use of any increase in the size of the institution—for example in relation to the number and size of committees, the appointment of office holders, and the maximum size of the Welsh Government—in order to ensure that the potential benefits for the quality and quantity of scrutiny are realised and additional costs are kept to an absolute minimum.¹⁵

¹⁵ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, recommendations 1, 2 and 3

18. The Senedd Commission consulted on the number of Members the Senedd should have in its 2018 *Creating a Parliament for Wales* consultation, which found that:

“Of the 1,830 responses to questions on the number of Members the Assembly needs, 56 per cent (1,030) of responses were in favour of more Assembly Members, 39 per cent (710) were opposed and five per cent (90) were unsure or did not express a preference”.¹⁶

19. Members of the Senedd subsequently debated the capacity of the Senedd in Plenary on 10 July 2019, and resolved that an increase in the number of Members was needed.¹⁷

Developments since 2017

20. There have been some significant changes since the Expert Panel reported at the end of 2017:

- The reserved powers model of devolution set out in the *Wales Act 2017* came into effect in April 2018.
- The Welsh Government has made use of its new fiscal and taxation powers, with associated implications for the Senedd’s scrutiny role.¹⁸
- The Brexit process has resulted in increased volumes of subordinate legislation and brought new scrutiny responsibilities for the Senedd, including oversight from a Welsh perspective of the development and agreement of UK-wide common frameworks.¹⁹
- The Senedd has changed procedures and ways of working, including a reduction in 2019 in the size of policy and legislation committees, and, more recently, radical adaptations to ensure that its scrutiny, legislative and representative work could continue during the COVID-19 pandemic.

¹⁶ Senedd Commission, *Creating a Parliament for Wales: consultation report*, October 2018, p.9

¹⁷ Plenary, *RoP*, 10 July 2019

¹⁸ *Letter from the Chair of the Finance Committee*, 24 January 2020

¹⁹ External Affairs and Additional Legislation Committee, *Common policy frameworks: Assembly scrutiny*, December 2019, p.1; *Letter from the Chair of the Constitutional and Legislative Affairs Committee*, 29 January 2020

- The *Senedd and Elections (Wales) Act 2020* has extended the franchise for Senedd elections to include 16 and 17 year olds and citizens of other countries who are legally resident in Wales.

21. We anticipate further changes could increase the volume or complexity of legislation or give rise to new areas of activity for the Senedd or Welsh Government:

- Post-Brexit there is likely to be a redistribution of powers from an EU-level, further changes in the nature and volume of subordinate legislation, responsibility to scrutinise the implications for Wales of international agreements, and an increased focus on intergovernmental and interparliamentary working.²⁰ The UK Government has highlighted the anticipated increased workload for parliamentarians after Brexit as its reason for reversing the planned reduction in the number of MPs from 650 to 600.²¹
- The Commission on Justice in Wales recommended the devolution of justice, policing and probation. It also recommended in the interim that greater focus should be given by the Senedd to the scrutiny of justice-related matters that are already within the Senedd's competence.²²

Capacity of a 60 Member Senedd

22. Some of the evidence we received suggested that the Senedd's current size may help it operate with agility and flexibility, give individual Members greater voice and influence, and provide an incentive for all Members to maintain a cross-cutting perspective and strategic overview.²³ Nevertheless, the majority of the evidence expressed concern over whether a 60 Member Senedd has sufficient capacity to fulfil its responsibilities effectively.

23. A recurrent theme was the time pressures faced by individual Members as a result of the Senedd's size. These pressures were felt by many to limit the time

²⁰ EAAL Committee, *Common policy frameworks: Assembly scrutiny*, December 2019, paras 84-85; [Written submission from Wales Environment Link](#), January 2020; Professor Stirbu, [RoP \[paras 46-47\]](#), 20 January 2020; [Letter from the Chair of the EAAL Committee](#), 27 January 2020; [Letter from the Chair of the CIA Committee](#), 29 January 2020; [Letter from the Minister for Finance and Trefnydd](#), 10 February 2020

²¹ Cabinet Office, *Written Statement: Update: Strengthening democracy*, 24 March 2020

²² Commission on Justice in Wales, *Justice in Wales for the people of Wales*, October 2019

²³ Llywydd, [RoP \[para 81\]](#), 2 December 2019; [Capacity of the Assembly: note of discussion event](#), 6 January 2020, para 15

Members have to prepare and reflect; to engage with the evidence or sources of expertise; to think creatively and strategically; to undertake visits to learn from best practice; or to develop alternative policy or legislative proposals.²⁴

24. While different Members will experience the pressures on their time differently—for example, Members will each take different approaches to their responsibilities, may be members of small, large or no political groups, may or may not hold additional offices such as Minister or committee chair, and may have to spend a greater or lesser proportion of their time travelling between the Senedd and their constituencies or regions—nevertheless the cumulative impact was felt by stakeholders to constrain the capacity of the institution as a whole.²⁵ The consequences of this lack of capacity for different aspects of Members' roles are summarised in Table 2.

²⁴ [Capacity of the Assembly: note of discussion event](#), 6 January 2020

²⁵ Ibid.

Table 2 The implications of the Senedd's size²⁶

| Theme | Implications of the Senedd's size | What could be different in a larger Senedd |
|--|---|--|
| Political and institutional culture | Contributes to increased tendency towards political tribalism as a result of a lack of opportunities for informal cross-party engagement. Members may also feel unable to be critical within their own parties. | Greater scope for Members to engage and work on a cross-party basis and overcome political tribalism. |
| Working relationships and networks | Limits scope for committee chairs and Members to develop working relationships with Ministers, officials and stakeholders, or to think about how the Senedd works and its role as a legislature. | More time to develop effective working relationships. Opportunities for constructive challenge to the Senedd's procedures, practices and ways of working. |
| Engagement and outreach | Limits time available to Members to undertake informal or innovative engagement with stakeholders and the public, resulting in engagement activity becoming ineffective or official-led. | Increased quality, diversity and participation in informal engagement and outreach activity and cross-party groups, enabling Members to hear a range of perspectives, and providing opportunities to communicate with the public and stakeholders. |
| Representation | Limits time and opportunities for the Senedd or Members to operate beyond Cardiff Bay, risking the perception of the Senedd as a truly national institution. | More opportunities to engage people across Wales with political institutions and processes, including encouraging people to stand for election and potentially increasing the diversity of the Senedd's membership. |
| Committees | Multiple committee memberships restricts Members' ability to prepare, develop expertise and fulfil their wider responsibilities. Membership clashes limit the flexibility of the committee timetable. | Opportunities to establish a more flexible and resilient committee system and timetable, and give individual committees greater scope to innovate and manage their |

²⁶ CLA Committee, *Making Laws in Wales*, October 2015, paras 331 and 338; Llywydd and the Chief Executive and Clerk of the Senedd, *RoP* [paras 24, 51, 61 and 74], 2 December 2019; *Written submission from Wales Environment Link*, January 2020; *Capacity of the Assembly: note of discussion event*, 6 January 2020; Professor Stirbu and Dr White, *RoP* [paras 58 and 100-101], 20 January 2020; *Letter from the Chair of the Culture, Welsh Language and Communications Committee*, 20 January 2020; *Letter from the Chair of the Petitions Committee*, 24 January 2020; *Letter from the Chair of the Equality, Local Government and Communities Committee*, 27 January 2020; *Letter from the Chair of the EAAL Committee*, 27 January 2020; *Letter from the Chair of the Children, Young People and Education Committee*, 29 January 2020; *Letter from the Chair of the CLA Committee*, 29 January 2020; *Letter from the Chair of the Health, Social Care and Sport Committee*, 29 January 2020

| Theme | Implications of the Senedd's size | What could be different in a larger Senedd |
|-------|--|--|
| | <p>Reducing committee sizes has alleviated some pressures, but may hamper flexibility and innovation, fact-finding visits, meetings or engagement activity away from the Senedd estate or the establishment of sub-committees. Reduced resilience to respond to Member illness or conflicting commitments could result in quorum issues or use of substitutes, with implications for capacity and the quality of scrutiny.</p> <p>High membership turnover can lead to varying levels of expertise or knowledge of technical issues, limit the scope for Members to specialise, and make it challenging to follow issues up over time.</p> <p>Lack of capacity is exacerbated by broad portfolios and the relative unpredictability and rigidity of legislative timescales. This can limit witness diversity and the scope for post-legislative scrutiny, in-depth inquiries, or chances to set the agenda or influence government policy. It also risks missing opportunities to improve policy and spending decisions or legislative proposals, with subsequent implications for outcomes.</p> | <p>policy, legislative, pre- and post-legislative scrutiny and financial scrutiny workloads more effectively.</p> <p>Greater stability of committee memberships and more scope for committee chairs and members to specialise in their committee roles, thereby contributing to an increase in the quality and effectiveness of committees' scrutiny work.</p> |

An appropriate size for the Senedd

25. Debates about the Senedd's size and capacity are not new. In 2004 the Richard Commission recommended that as part of the separation of the executive and legislature, and the move towards becoming a primary law-making body, the size of the Senedd should be increased to 80 Members:

“...primary powers would require an increase in the size of the elected Assembly. This should be kept to the minimum required by the additional work. We believe that an increase of one third, from 60 to 80, combined with increased flexibility on working arrangements would be necessitated by the additional scrutiny workload”.²⁷

26. Thirteen years later, following a detailed assessment of the roles and responsibilities of the Senedd and its Members, the Expert Panel recommended that the size of the Senedd should be increased to between 80 and 90 Members.²⁸

27. The majority of those who have contributed to our work have agreed that the number of Members should be increased so that the Senedd is a more appropriate size to fulfil its responsibilities. Where specific views on the number of Members have been offered, stakeholders have generally agreed that the Expert Panel's preferred size bracket of 80 to 90 Members would increase the legislature's capacity and resilience and avoid the need for the question of capacity to be revisited in the foreseeable future.²⁹

28. Where we heard opposition to an increase in the size of the legislature, this was generally because of concerns about potential costs rather than arguments that the current number of Members is appropriate.³⁰ This is consistent with the evidence we heard from Professor Laura McAllister, the Chair of the Expert Panel, who told us that she was not aware of any academics or other stakeholders having made “rational evidence-based” arguments either in favour of a legislature

²⁷ Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, *Report of the Richard Commission*, Spring 2004, p.259

²⁸ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, recommendation 1

²⁹ See, for example, *Written submission from Wales Environment Link*, January 2020; *Capacity of the Assembly: note of discussion event*, 6 January 2020; *CAP01 Electoral Reform Society Cymru*

³⁰ See, for example, written submissions from an *individual*, January 2020; *Old Radnor Community Council*, January 2020; *Presteigne and Norton Town Council*, February 2020; and *New Radnor Community Council*, February 2020

with the Senedd’s responsibilities having 60 Members or against the Expert Panel’s recommendation that 80 to 90 Members would be appropriate:

“I’ve had some debates with other academics about whether the figures should be higher, and I know some of my colleagues, not just in Wales but elsewhere, say they think that 90 still seems relatively small. But my pushback to them has been to read the detail of the report where we do quantify why 90 is probably an effective cut-off for now and will probably give that security for the immediate future too. But I don’t think we received anything in our evidence for the Expert Panel, or have I seen anything subsequently, that argues for a figure either lower than 80 or significantly higher, but properly evidenced as well”.³¹

Maximising the capacity of a 60 Member Senedd

29. The need to maximise the capacity of a 60 Member Senedd has informed the development of the legislature’s ways of working, procedures and support services. However, the Expert Panel concluded in its report that:

“Alternative approaches to enhance the capacity of the institution have been explored and implemented, without addressing the fundamental limitation of the severely limited time available to 60 Members to fulfil their varied and complex roles as legislators, scrutineers, representatives, employers and politicians”.³²

30. The Expert Panel was tasked with recommending reforms which could be implemented with effect from the 2021 Senedd election. However, in June 2019 the Llywydd wrote to Members of the Senedd to advise that while she was “confident that the case in favour of increasing the number of AMs has been made”, the Senedd Commission had decided that it was not possible to legislate in the Fifth Senedd to increase the size of the Senedd in 2021 because there was not yet any consensus on how Members should be elected.³³

31. The earliest, therefore, that any change in the size of the Senedd could be implemented at a scheduled Senedd election would be 2026. We have heard a range of suggestions for alternative measures which could be considered to alleviate capacity pressures in the Sixth Senedd or in the longer term, including:

³¹ Professor McAllister, [RoP \[para 38\]](#), 20 January 2020

³² Expert Panel on Assembly Electoral Reform, [A Parliament that Works for Wales](#), December 2017, p.7

³³ [Letter from the Llywydd to Members of the Senedd](#), 10 June 2019

- **Timetabling or procedural measures:** such as extending the formal Senedd working week; increasing the number of sitting weeks; reviewing the organisation of Plenary business or the balance between committee and Plenary activity; or use of technology or proxy voting to enable remote participation.
- **Reviewing the operation or structure of committees:** such as changing sizes, remits, functions or ways of working; giving greater account when establishing remits to the anticipated volume or complexity of legislation; undertaking more coordinated or joint scrutiny; use of ad hoc committees or rapporteurs; rigorous prioritisation; more flexible legislative timetables; or meeting during recesses.
- **Enhancing support and information:** for example by increasing provision for Members' support staff; reviewing Commission services and staffing; enabling the co-option of experts onto Senedd committees; or improving links with experts, academics and stakeholders.
- **Increasing or enhancing public engagement:** for example by engaging with more diverse groups; making use of paid consultants embedded in communities or remunerated advisory groups; undertaking more activity across Wales; or using innovative deliberative engagement tools like citizens' assemblies to test policy ideas or explore complex issues.
- **Other measures:** such as working collaboratively with elected representatives at local or Westminster levels; devolving responsibilities to regional or local level; prioritising the exercise of devolved powers; or pausing the devolution of further powers.³⁴

32. However, stakeholders also noted that many of these options had already been tried, or could be expensive or give rise to unintended consequences for the legislature, its Members, its diversity or the people it represents (see Table 3).

³⁴ [Capacity of the Assembly: note of discussion event](#), 6 January 2020; Oral evidence, [RoP](#), 20 January 2020; [Letter from the Chair of the Petitions Committee](#), 24 January 2020; [Letter from the Chair of the ELGC Committee](#), 27 January 2020; [Letter from the Chair of the EAAL Committee](#), 27 January 2020; [Letter from the Chair of the CYPE Committee](#), 29 January 2020; [Letter from the Chair of the CLA Committee](#), 29 January 2020; [Letter from the Chair of the HSCS Committee](#), 29 January 2020; [DIV06 Leonard Cheshire Cymru](#); [DIV07 Ethnic Minorities and Youth Support Team](#)

Table 3 Examples of issues arising from measures to increase the capacity of a 60 Member Senedd

| Measure | Issues arising |
|--|---|
| Increased sitting hours, days or weeks³⁵ | <p>The number of sitting weeks has increased from 34 per year at the start of the Third Assembly to 36 per year from the start of the Fifth Senedd in 2016, bringing the Senedd into line with other UK parliaments. The formal Senedd business week has been extended to include Monday mornings and Thursday afternoons, with only Fridays protected for constituency or regional activity.³⁶ The average length of Plenary meetings increased from an average of 3 hours and 55 minutes in 2007 to an average of 4 hours and 58 minutes in 2018.</p> <p>Stakeholders suggested that further increases in sitting hours, days or weeks for formal business could:</p> <ul style="list-style-type: none"> ▪ Reduce the time available to Members representing areas further from the Senedd at weekends or on Fridays if they had to travel for early business on Mondays, later business on Thursdays or business on Fridays. ▪ Conflict with the Senedd's long-standing family-friendly ethos, potentially exacerbating barriers which could deter people from some underrepresented groups from standing for election. ▪ Reduce the time available to Members to read, research, prepare and reflect on issues, undertake casework, or carry out campaigning or engagement activity in their constituencies or regions. ▪ Limit the scope for committees to hold meetings or undertake engagement activity away from Cardiff Bay. ▪ Risk the health and wellbeing of Members, their staff or Senedd Commission staff as a result of working excessive hours or being unable to take appropriate annual leave. |

³⁵ Llywydd, RoP [paras 21-22 and 65], 2 December 2019; [Capacity of the Assembly: note of discussion event](#), 6 January 2020, paras 20-23; Professor Stirbu, RoP [para 70], 20 January 2020; [Letter from the Llywydd](#), 27 January 2020; [Letter from the Chair of the CYPE Committee](#), 29 January 2020; [Letter from the Minister for Finance and Trefnydd](#), 10 February 2020

³⁶ During the Fifth Senedd the Committee for the Scrutiny of the First Minister has usually met once per term on a Friday. A revised committee timetable has been in place during the COVID-19 pandemic, which has included more routine scheduling of committee meetings on Monday mornings and Fridays.

| Measure | Issues arising |
|--|---|
| <p>Increased staff support from Members' support staff or Commission staff³⁷</p> | <p>There have already been increases in both the resources available to Members and political groups to employ their own staff, and the provision of tailored Commission staffing support. However, the Llywydd told us that:</p> <p>“...providing excellent research support, excellent legal advice, excellent political support through your own support staff, can only take one Member that far and probably no further, because, if everything is funnelled through just the one channel, which that one channel of Member would always be, there’s only so much you can squeeze into somebody’s head on a Sunday night when they’re reading their committee papers; there’s only so much support you can give to one Member. And I think we’re beyond the point, now, where we can give more support and for that to have an added value, then, because it’s always channelled through the limited number of Members that we have.”</p> <p>Professor Diana Stirbu of London Metropolitan University similarly emphasised that the Senedd’s capacity gap is political capacity i.e. the time available to Members themselves, rather than administrative capacity. The Remuneration Board agreed that:</p> <p>“From engaging with Members, we are also aware of the pressures on Members’ time, and the limits of their capacity to absorb more information or manage more staff. It is Members’ own time that is particularly pressed, due to the number of committees on which they sit, the length of Plenary sessions etc., and the demands of meeting constituents and interest groups. It is hard to identify how the Board could provide for any further support to relieve such pressures on Members’ time”.</p> <p>In addition to having financial implications, Professor McAllister suggested that further increases in staff support, whether Members’ support staff or Senedd Commission staff could:</p> <p>“...lead to [...] a system where a Parliament is staff-heavy rather than Member-heavy. What that does, actually, is risk the democratic process, because you are elected Members; staff are not elected Members. You can have the most wonderful staff around a politician, but, if they’re leading the accountability relationship, then I think that’s fundamentally risky for the institution as a whole”.</p> |

³⁷ Llywydd, [RoP \[paras 24 and 33\]](#), 2 December 2019; Chief Executive and Clerk of the Senedd, [RoP \[para 25\]](#), 2 December 2019; Professor Stirbu, [RoP \[para 17\]](#), 20 January 2020; Professor McAllister, [RoP \[para 61\]](#), 20 January 2020; [Letter from the Chair of the Remuneration Board](#), 22 June 2020

| Measure | Issues arising |
|---|--|
| <p>Review the structure or operation of Senedd committees³⁸</p> | <p>The number of committees was increased at the start of the Fifth Senedd, and increased further by the establishment of the Committee on Senedd Electoral Reform in September 2019. This demonstrates that there was some flexibility within the system, potentially released by the reduction in the size of policy and legislation committees from eight to six members.</p> <p>Stakeholders identified a number of potential reforms and associated consequences:</p> <ul style="list-style-type: none"> ▪ Increasing the breadth of committee remits could reduce the number of committees established, but make it more challenging for committees to cover all aspects of their portfolios. ▪ Increasing joint or coordinated scrutiny work in areas of overlap or mutual interest could prevent duplication, but is challenging within rigid committee and legislative timetables, especially when Members sit on multiple committees. ▪ More rigorous work programme prioritisation over the course of a Senedd could facilitate greater focus on policy or post-legislative scrutiny early in a Senedd when the legislative workload may be lower, but could limit flexibility to respond to emerging issues. ▪ Reducing the size of committees could reduce the need for Members to sit on multiple committees. Small committees can be effective if they adopt suitable ways of working and all Members are engaged, but increase the pressure on committee members to participate fully in all aspects of their committees' work, reduce committees' resilience, and limit the diversity of perspective or backgrounds within committee memberships. ▪ Meeting in recesses could increase committee meeting time, but increasing the time spent on formal Senedd business necessarily decreases the time available for constituency and regional casework, campaigning and engagement activity. |

³⁸ Plenary [RoP](#), 18 June 2019; [Capacity of the Assembly: note of discussion event](#), 6 January 2020; Dr White, [RoP \[paras 49 and 98-102\]](#), 20 January 2020; [Letter from the Chair of the CWLC Committee](#), 20 January 2020; [Letter from the Chair of the Petitions Committee](#), 24 January 2020; [Letter from the Chair of the ELGC Committee](#), 27 January 2020; [Letter from the Chair of the EAAL Committee](#), 27 January 2020; [Letter from the Chair of the CYPE Committee](#), 29 January 2020; [Letter from the Chair of the CLA Committee](#), 29 January 2020; [Letter from the Chair of the HSCS Committee](#), 29 January 2020

Implications of the COVID-19 pandemic

33. Responding to the COVID-19 pandemic has required the Senedd to adopt radical new approaches to ensure that Members have been able to continue to fulfil their representative, legislative and scrutiny functions. Some of the innovative working practices that have been deployed reflect suggestions we have heard for increasing the capacity of a 60 Member Senedd, for example, remote participation in formal Plenary and committee business, reorganisation of Plenary business, and rigorous prioritisation and deprioritisation of Welsh Government policy and legislation and the associated scrutiny work.³⁹

34. The timescales of our work have meant that we have been unable to gather specific evidence on the Senedd's response to the pandemic. Further work is therefore needed to assess the implications associated with implementing in the longer term measures that have been necessarily and appropriately adopted during the public health emergency. For example:

- Enabling remote participation in Plenary and committee meetings could improve accessibility for Members and witnesses, with corresponding implications for diversity and inclusion. During the pandemic remote participation has enabled Members to hold Ministers to account, gather evidence and discuss issues with stakeholders. It also eliminates the need for travel, offering potential capacity and accessibility benefits. The Hansard Society has argued that the option of holding virtual meetings should remain available to House of Commons select committees after the pandemic on the basis of providing greater flexibility and agility, and reducing financial and environmental impacts.⁴⁰ However, concerns have also been raised that virtual rather than physical meetings can limit the potential for free-flowing debates, for Members to ask supplementary questions, or for Members to interact informally within parties, on a cross-party basis, or with Ministers, stakeholders and the public.⁴¹

³⁹ [Capacity of the Assembly: note of discussion event](#), 6 January 2020

⁴⁰ Fowler, B., [Remote select committee evidence-taking is a Coronavirus change that should be kept](#), 7 May 2020

⁴¹ See, for example, minutes of the [Business Committee from 18 May 2020](#) which record the Llywydd's decision to adopt a more structured approach to interventions during debates; the conclusion of the [House of Commons Procedures Committee in its April 2020 report](#) on procedure under COVID-19 restrictions that it would be necessary in the House of Commons to prepare speakers' lists in advance, that interventions on contributions to debates would not be possible, and that hybrid proceedings "do not lend themselves to the conduct of contentious

- Between March and August 2020 the majority of Plenary and committee business has focused on issues relating to the implications of the pandemic and planning for Wales' recovery, with other policy and legislative activity and scrutiny largely being paused.⁴² However, while COVID-19 will undoubtedly shape the lives of people in Wales for a significant period, it may not be sustainable in the longer term for the Welsh Government, or the Senedd and its committees, to continue to deprioritise other responsibilities across the full range of devolved matters.

35. Responding to oral questions on 1 July 2020, the Llywydd confirmed that she anticipated the Senedd Commission and the Business Committee would learn lessons from the response to the pandemic in respect of working practices and formal Senedd business:

“...we have worked with the frustrations of working remotely, but we’ve also seen many of the benefits of working remotely, both as a Senedd in our business and also in the work that our staff are able to do remotely. We’ll learn the lessons from this and, I’ve no doubt, like many other aspects of life, our Senedd and the Commission will be working in different ways in the years to come because of the experiences of this time of pandemic. And there will be good that comes from this in terms of designing our future working lives.

[...]

And I do think that this provides us with an opportunity, once we have been able to draw a breath in responding to the pandemic, to look creatively at not only how we carry out our business, but what our business is and should be, and to give some consideration to all of that. So, I am happy to [...] ask not only the Business Committee, but the Commission to look at the important lessons that emerge from this period, and how we can think about our agenda for the future in a way

business”; or Power, G, *Can analogue politics work in an era of digital scrutiny? The negative effect of COVID-19 on the informal politics of Westminster*, 22 April 2020

⁴² See for example, Welsh Government, *Written Statement: The Government’s approach to legislation in the light of COVID-19*, 1 April 2020; *Letter from the Chair of the CYPE Committee to the Llywydd*, 15 April 2020; Statement by the First Minister on the legislative programme, *RoP*, 15 July 2020

that reflects somewhat on the experiences that we've had over the past weeks and months".⁴³

Our view on the capacity of the Senedd

An appropriate size for the Senedd

36. During our work we have considered the extent to which the Senedd's role and responsibilities have changed since the Expert Panel reported, and may continue to change, for example as a result of the redistribution of powers or other changes to the UK's constitutional and intergovernmental arrangements post-Brexit, or the recommendations of the Commission on Justice in Wales. We have also considered the implications of the Senedd's current size for its capacity to fulfil its responsibilities now and in the future.

37. There are, undoubtedly, benefits associated with being a small legislature. The Senedd is able to respond with agility and flexibility. Individual Members have more opportunities to contribute than they might have in a larger institution. However, in our view, these benefits are outweighed by the risks the Senedd's lack of capacity presents to the effective fulfilment of its scrutiny, engagement and representative roles, and thereby to the proper functioning of representative democracy in Wales.

38. The Senedd is a unicameral legislature; Members cannot rely on a revising chamber to catch any issues they miss, or put right any issues which emerge. We believe that effective scrutiny is therefore key to ensuring that democratically-elected Members of the Senedd can hold the Welsh Government to account on behalf of their constituents for the decisions it takes, the policies and legislation it puts in place, the money it spends, and the outcomes it delivers. Ineffective scrutiny can risk missed opportunities, defective legislation or poorer outcomes, and constrain the extent to which the Senedd can fully represent the interests of the people it serves. Similarly failing to engage effectively with people and stakeholders across Wales could have a detrimental impact on participation, limit the diversity of voices reflected in the Senedd's work, or miss opportunities to identify what is or is not working for all our communities.

39. We recognise that the measures suggested to us, including reviewing working practices, changing procedures or reconfiguring support services, may offer some scope for marginal capacity gains. Indeed, it will be vital to adopt such measures to alleviate the acute pressures facing the Senedd between now and

⁴³ Plenary, [RoP](#), 1 July 2020

2026. We therefore agree with the Expert Panel that consideration should continue to be given to identifying, implementing and evaluating such measures.

40. Like other parliaments across the world, the Senedd has had to respond rapidly during the COVID-19 pandemic to develop and implement radical new procedures, practices and ways of working. It is, perhaps, too soon to reach any firm conclusions on the longer term applicability of innovations introduced at a time of crisis. Nevertheless, the need to adapt offers opportunities to test and trial new ways of working and to learn lessons which could help to alleviate capacity pressures, increase accessibility and encourage greater diversity.

41. However, we have not heard any evidence that has persuaded us that measures which may be necessary to maximise the capacity of a 60 Member Senedd could adequately address the capacity challenges facing the institution in the longer term. The situation would, of course, be exacerbated if significant issues such as justice, policing or probation were devolved to Wales, but even if the Senedd's powers and responsibilities remained exactly as they stand today, the legislature would still continue to face significant capacity issues and corresponding implications for the fulfilment of its democratic responsibilities.

42. We therefore agree with the Expert Panel that with only 60 Members the Senedd is too small to carry out its scrutiny, legislative and representative functions effectively.

43. We believe that increasing the number of Members to a figure more appropriate for the legislature's responsibilities would lead to corresponding increases in the effectiveness and impact of the Senedd's scrutiny and oversight work. In a larger institution there could be greater potential for engagement with people and stakeholders across Wales, more scope for Members to specialise and build expertise, more opportunities for creative and strategic thinking, a more resilient committee system, and the chance to develop a more positive and constructive political culture which facilitated more cross-party and collaborative working. Such improvements could contribute to improved legislation, more effective policy and spending decisions, better value for money, and most importantly, better outcomes for the people and communities of Wales. As a former Leader of the House of Commons stated: "good scrutiny makes for good government".⁴⁴

44. We therefore also agree with the Expert Panel, with the findings of the *Creating a Parliament for Wales* consultation, and with the resolution of the

⁴⁴ Cook, R., *Modernisation of the House of Commons*, December 2001, para 2

Senedd of 10 July 2019, that the size of the Senedd should be increased. We believe that legislation to give effect to this should be introduced early in the Sixth Senedd to provide certainty and clarity about the legislature's future.

45. We recognise that increasing the number of Members will have financial implications, and do not, therefore, reach this conclusion lightly. An increase in the number of Members must, of course, offer the best possible value for money, and we explore the potential costs further in chapter 11 of this report. However, value for money is not just about cost. It is also about the quality of our democracy, and ensuring that the Senedd is of an appropriate size to deliver effectively on its constitutional responsibilities to the people and communities of Wales. For this reason, any increase in the number of Members must be sufficient to ensure that the question of the legislature's capacity does not need to be revisited in the foreseeable future.

46. Decisions on the specific size of the Senedd will need to be informed by decisions on the particular electoral system and boundary models around which political consensus may be built. Nevertheless, we agree in principle with the Expert Panel, and the majority of responses to the Commission's consultation, that the Senedd should have between 80 and 90 Members.

RECOMMENDATION

Recommendation 1. Legislation should be introduced early in the Sixth Senedd to increase the size of the Senedd to between 80 and 90 Members with effect from the 2026 election.

Capacity of the Sixth Senedd

47. While we have concluded that the number of Members should be increased to ensure that the Senedd is an appropriate size to fulfil its responsibilities effectively, the earliest that any change could be made to the size of the Senedd at a scheduled election would be 2026.

48. Therefore, steps must be taken in the short term to maximise the capacity of the 60 Member Sixth Senedd. Work to this effect will need to take place as a matter of urgency before the 2021 election to ensure that the Sixth Senedd is able to establish structures, ways of working and procedures which encourage and facilitate greater prioritisation, efficiency, flexibility and innovation. In addition to

considering the additional costs which could arise from such measures, care must be taken to guard against undesirable or unintended consequences arising from any measures which are put in place. For example:

- Measures that seek to delegate functions to others, such as co-opting experts onto committees or relying more heavily on staff support, could result in an imbalance between Members and staff, raising issues of transparency and democratic accountability.
- Measures that increase the level of inputs, such as increased staff support or enhanced access to information or expertise would offer only administrative capacity, whereas, in our view the issue the Senedd faces is political capacity i.e. the time available to Members to assimilate, analyse and apply evidence, information and different perspectives to their scrutiny, legislative and representative work. Such measures could even, therefore, exacerbate rather than alleviate capacity pressures.
- Measures that significantly increase workloads or further erode the Senedd's 'family-friendly' hours could risk the health and wellbeing of Members, their staff or Senedd Commission staff, or have a detrimental impact on the diversity of the institution and its Members by discouraging people with caring responsibilities from putting themselves forward as candidates. Increasing formal business would also reduce the time available for preparation or for Members to carry out their wider responsibilities as representatives, campaigners, activists and employers.

49. Many of the easier and more effective potential measures have already been put in place. While these have mitigated the issue to an extent, they have not been sufficient to fully close the capacity gap which faces our legislature on a daily basis. The remaining options available to the Senedd may be less practical, less effective, poorer value for money, less politically palatable, or more difficult to present to the public. Addressing the capacity gap for the Sixth Senedd and beyond will therefore require the Senedd, including its Members, political groups, committees, the Chairs' Forum, the Business Committee, the Senedd Commission and the Remuneration Board, to accept compromises, consider radical options, rigorously prioritise, reprioritise and deprioritise, and face up to hard choices.

RECOMMENDATION

Recommendation 2. The Senedd Commission and Business Committee, working with political groups, Members, Senedd committees, the Chairs' Forum and other stakeholders as appropriate, should identify and implement temporary or permanent changes to ways of working, structures or procedures with a view to alleviating the acute capacity pressures which will be faced by a 60 Member Sixth Senedd. Such measures should be assessed and evaluated both in terms of their effectiveness in enhancing the legislature's capacity and their equality and diversity impacts. Consideration should also be given to trialling potential measures during the remainder of the Fifth Senedd.

Size of the Welsh Government

Limit on the number of Welsh Ministers and Deputy Ministers

50. While decisions on the structure of the Welsh Government and the number of Ministers and Deputy Ministers to be appointed are the responsibility of the First Minister, section 51 of the *Government of Wales Act 2006* ("GOWA 2006") limits the overall size of the Welsh Government to 14.⁴⁵ This was an increase from the previous limit of nine set out in the *Government of Wales Act 1998*. The increase of the maximum size of the Welsh Government, without any corresponding change in the overall size of the Senedd, meant that, subject to decisions taken by First Ministers on how many Ministers and Deputy Ministers to appoint, there are potentially up to five fewer Members available to scrutinise the Welsh Government.

51. The Minister for Finance and Trefnydd ("the Trefnydd") told us that should the number of Members increase, there should be a pro rata increase in the limit on the size of the Welsh Government. She cited the evolving constitutional settlement and associated responsibilities and powers, increased intergovernmental working and cooperation, and the lack of flexibility available within the current limit to respond to emerging issues such as Brexit.⁴⁶

52. Reflecting on the size of the Welsh Government, the Expert Panel noted in its report that it had not heard "a compelling case" that any change in the number of

⁴⁵ The First Minister, the Counsel General and 12 Ministers or Deputy Ministers.

⁴⁶ [Letter from the Minister for Finance and Trefnydd](#), 10 February 2020

Members of the Senedd should necessarily be accompanied by a change in the limit on the size of the Welsh Government.⁴⁷ It further advised that the Senedd should “exercise restraint” when considering how to deploy the additional capacity provided by an increase in the size of the Senedd, and suggested that if the number of Members were to be increased without such restraint:

“...the additional capacity and the subsequent benefits for the quality and quantity of scrutiny may not be realised, and the rationale which underpins our recommendations will be significantly weakened”.⁴⁸

Our view on the size of the Welsh Government

53. We agree with the Expert Panel and those who have contributed to our work that it is the Senedd’s scrutiny role which is under most pressure as a result of the legislature’s size. We also share the Expert Panel’s view that when deploying any additional capacity released by an increase in the number of Members, the Senedd must prioritise its scrutiny functions.

54. Nevertheless, we recognise that the context has changed since the Expert Panel reported. The outcomes from the Brexit process, while still uncertain, are clearer now than they were in 2017. In addition, the COVID-19 pandemic has highlighted the potential for significant unforeseen challenges to face the Senedd and the Welsh Government. However, while we note the Trefnydd’s suggestion that any increase in the size of the Senedd should be accompanied by a pro rata increase in the limit on the number of Welsh Ministers, we do not believe that the case has yet been made that any additional capacity should be focused on executive as well as scrutiny or representative functions.

RECOMMENDATION

Recommendation 3. To inform decisions on whether any increase in the size of the Senedd should be accompanied by a pro rata increase in the limit on the number of Welsh Ministers and Deputy Ministers, the Welsh Government should commission academic research into the structure and capacity of the Welsh Government, including the allocation of responsibilities among Ministers and Deputy Ministers.

⁴⁷ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, para 08.28

⁴⁸ Ibid., para 08.34

3. How Members should be elected

In this chapter we examine the principles and electoral systems recommended by the Expert Panel, reach conclusions on the system by which Members of the Senedd should be elected, and consider issues relating to detailed electoral system design and operation.

Recommendations of the Expert Panel

55. The Expert Panel was tasked with recommending how Members of the Senedd should be elected. Noting that its work on these matters was driven by its conclusion that the size of the Senedd should be increased to between 80 and 90 Members, the Expert Panel identified ten principles of electoral system design against which it assessed different electoral systems: Government accountability and effectiveness; Proportionality; Member accountability; Equivalent status; Diversity; Voter choice; Equivalent mandates; Boundaries; Simplicity; Sustainability and adaptability.⁴⁹

56. After rejecting potential systems which it did not consider adequately fulfilled its principles, the Expert Panel recommended three options:

- **A preferred option:** Single Transferable Vote, with the flexibility to elect a Senedd of 80 to 90 Members on the basis of multimember constituencies while maximising voter choice and providing simplicity for voters, should local authorities in Wales adopt STV.
- **A viable alternative:** a Flexible List Proportional Representation system, similarly flexible on the size of the Senedd it could elect and the constituencies upon which it could be based, but providing a balance between voter choice and party influence.
- **The ‘status quo’ option:** a Mixed Member Proportional or Additional Member system, adapting the Senedd’s current system in a minimal

⁴⁹ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, paras 10.02 and 16.18

way, with the advantage of familiarity for voters, but the limitation of a maximum Senedd size of 80 Members without a full boundary review.⁵⁰

57. The Expert Panel explained that its principles offered “a robust framework against which to assess different electoral systems and reach impartial, politically neutral conclusions and recommendations”, but emphasised that no electoral system can deliver fully against every principle. It concluded:

“Ultimately, we recognise that it is for the Assembly to determine the priorities and principles it wishes its electoral system to deliver”.⁵¹

How Members of the Senedd should be elected

Electoral system principles

58. Many of those who contributed to our work were broadly supportive of the principles identified by the Expert Panel. Professor Roger Awan-Scully of Cardiff University’s Wales Governance Centre explained that while the Expert Panel’s principles aimed to provide a comprehensive framework against which electoral systems could be assessed, decisions about the application and weighting of principles are necessarily context-specific. He observed that while there may be some tension in the extent to which different principles are given effect by different systems, it is more a matter of balancing different principles than a “strict trade-off”.⁵² The Electoral Reform Society Cymru (“ERS Cymru”) described the principles as “a sound basis with which to examine the best system for this specific context”, and Professor Denis Mollison of Heriot-Watt University highlighted the “close agreement” between the Expert Panel’s principles and those proposed by other electoral reformers.⁵³

59. We heard a range of views about which of the principles proposed by the Expert Panel should be prioritised. Dr Alistair Clark of Newcastle University suggested that priority should be afforded to voter choice and proportionality.⁵⁴ ERS Cymru agreed that voter choice and proportionality should be priorities, but also highlighted equal mandates for all Members.⁵⁵ In its response to our public consultation, UKIP rejected the premise of electoral reform until the question of

⁵⁰ Ibid., para 16.23

⁵¹ Ibid., paras 16.20 and 16.28

⁵² Professor Awan-Scully, [RoP \[paras 3-4 and 7\]](#), 16 March 2020

⁵³ [ESB01 Professor Mollison](#); [ESB07 Electoral Reform Society Cymru](#)

⁵⁴ [Written submission from Dr Clark](#), May 2020

⁵⁵ [ESB07 Electoral Reform Society Cymru](#)

the size of the Senedd had been settled, but proposed that the central considerations for any future reform should be simplicity for voters and equivalent status for Members and that no weight should be given to diversity or to sustainability and adaptability.⁵⁶

Political perspectives

60. The purpose of the Senedd’s electoral system is to translate the views of voters into seats within the legislature, and thereby determine which political party or parties are able to implement their policy, legislative, taxation and spending visions for Wales. The number of seats in the legislature is finite: the gain of a seat for one party means a loss of that seat by another. It is not surprising, therefore, that it is challenging for political parties to reach consensus on the electoral system that should be used to elect Members of the Senedd. However, as Professor Awan-Scully explained, a Member-in-charge⁵⁷ of reform legislation:

“...will have to get endorsement of that reform by people within the Chamber who have been elected under the current system. [...] people who are, by definition, pretty much beneficiaries of the current system have to vote to change it. And there’s always something of a leap into the unknown.

[...]

But if we actually want this place to be a serious law-making Parliament, then we have to do something about the size of the Assembly. If we have to do something about the size of the Assembly, we have to do something about the electoral system”.⁵⁸

61. The publicly-stated policy positions of political parties and groups represented in the Senedd on their preferred electoral systems for Senedd elections are summarised in Table 4.

⁵⁶ [ESB08.UKIP](#)

⁵⁷ The Member-in-charge of reform legislation (as defined by Standing Order 24) may be a member of the Welsh Government in respect of Government Bills, a member of the Senedd Commission in respect of Senedd Commission Bills, a member of the relevant committee in respect of committee Bills, or an individual Member selected by a ballot under Standing Order 26.87. We explore further in chapter 10 of this report who might be the Member-in-charge of Senedd reform legislation.

⁵⁸ Professor Awan-Scully, [RoP \[paras 60 and 145\]](#), 16 March 2020

Table 4 Publicly-stated policy positions of political parties and groups represented in the Senedd on the system by which Members should be elected⁵⁹

| Policy position | Political parties and groups represented in the Senedd |
|---|--|
| Abolition of the Senedd | Abolish the Assembly Party UKIP |
| Electoral system at least as proportional as the current system | Welsh Conservative group |
| No publicly-stated position on a preferred electoral system | Brexit Party group ⁶⁰ Welsh Labour |
| Single Transferable Vote | Plaid Cymru Welsh Liberal Democrat Party |

62. The Llywydd told us that there should be broad political agreement from the Senedd on a preferred electoral system before any legislation is introduced. Her view was that while the detailed operation of any system would be subject to amendment during the scrutiny process, it would be undesirable for the overarching electoral system itself to be changed by amendment.⁶¹

Potential electoral outcomes

63. The Expert Panel commissioned modelling of potential electoral outcomes under each of its recommended electoral systems from Professor Awan-Scully and Dr Jac Larnier of Cardiff University's Wales Governance Centre. They used actual election results from 2011 and 2016, and polling data on voting intentions from 2017, to simulate electoral outcomes for a legislature of 80 Members using each of the electoral systems considered by the Expert Panel.⁶²

⁵⁹ [ESB08 UKIP; NDM7118: opposition motion for debate on 10 July 2019](#); Plenary, [RoP](#), 10 July 2019; Welsh Liberal Democrat Party, *Electing a proportional and representative Welsh Parliament*, September 2017

⁶⁰ The leader of the Brexit Party group in the Senedd has proposed that the First Minister should be directly-elected and scrutinised by MPs. See, for example, BBC News, *Brexit Party's election campaign to scrap the Senedd*, 12 July 2020.

⁶¹ Llywydd, [RoP \[para 125\]](#), 2 December 2019. Standing Order 26.61 provides that amendments are only admissible if they are relevant to the Bill to which they are tabled and if they are consistent with the general principles agreed by the Senedd at Stage 1 of the scrutiny process. It would be a matter for the Llywydd in office at the time to determine whether any amendments which sought to change the overarching electoral system set out in a reform Bill would be admissible.

⁶² Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, pp.245-246

64. Professor Awan-Scully and Dr Larner calculated the Gallagher index of disproportionality for each simulated electoral outcome. The Expert Panel noted that this modelling must necessarily be treated with a degree of caution, as it is based on historical voting data, hypothetical electoral systems and boundaries, and a number of other assumptions set out by the Expert Panel in its report. However, as Figure 1 shows, the modelling for a Senedd of 80 Members indicates that all of the three electoral systems recommended by the Expert Panel could be expected to result in more proportional outcomes than the outcomes which have resulted for a Senedd of 60 Members under the current electoral arrangements.

Figure 1 Calculations of Gallagher indices of disproportionality for the Expert Panel’s recommended electoral systems⁶³



⁶³ Adapted from Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, pp.245-246. The Gallagher index is used to calculate the disproportionality of electoral outcomes. The lower the index, the more proportional the outcome.

Mixed Member Proportional/Additional Member system

Background

65. A Mixed Member Proportional or Additional Member system (“MMP/AMS”) has been used to elect Members of the Senedd since 1999. Under this system, 40 constituency Members are elected by First Past the Post and 20 regional Members are elected by Closed List PR. The Expert Panel concluded that the current system could be adapted to elect a larger Senedd. However, it emphasised that this was its least preferred option on the basis that:

- Voter choice is constrained by the use of closed regional lists.
- Having two routes to election puts at risk the extent to which all Members are perceived to have equivalent status.⁶⁴

66. In addition, the Expert Panel noted that without a full boundary review the size of the Senedd would be limited to 80 Members as it would be “highly unusual for the ‘compensatory’ or ‘top-up’ list seats to outnumber the First Past the Post constituency seats”.⁶⁵ Highlighting the link between the ratio of constituency to regional seats and the likely proportionality of electoral outcomes, the Expert Panel concluded that:

“In order to meet our principle that the electoral system should be at least as proportional as the current arrangements, and preferably more proportional, without exceeding the general rule that regional seats should not outnumber constituency seats, regional seats should comprise between 33 and 50 per cent of the total number of seats”.⁶⁶

67. During our work, only UKIP defended the current MMP/AMS system.⁶⁷ Other stakeholders raised concerns about the extent to which voters fully understand the way in which the system operates, criticised the inherent disproportionality in the First Past the Post element of the system, and suggested that the system gives too much control to parties rather than voters.⁶⁸ Of 1,330 responses to a question in the Senedd Commission’s *Creating a Parliament for Wales* consultation about

⁶⁴ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, paras 10.14-10.15

⁶⁵ *Ibid.*, para 13.06

⁶⁶ *Ibid.*, para 13.07

⁶⁷ [ESB08.UKIP](#)

⁶⁸ Professor Awan-Scully, [RoP \[paras 20-21\]](#), 16 March 2020; Jess Blair, [RoP \[para 114\]](#), 16 March 2020, [ESB07.Electoral Reform Society Cymru](#); [ESB01.Professor Mollison](#)

the electoral systems recommended by the Expert Panel, just 16 per cent preferred the current MMP/AMS system.⁶⁹

Member accountability and status

68. On Senedd regional ballot papers, voters are asked to choose between the lists put forward by political parties, rather than selecting a specific candidate by name.⁷⁰ Some voters' choices may be influenced by the candidates who appear on the party's list, others may make their choice based on the political party. The result is that some voters and Members may feel that a regional Member has a personal mandate, whereas others may feel that regional Members are accountable to the political party on whose list they stood.⁷¹ In addition, while by-elections are held to fill any constituency casual vacancies which occur between general elections, any regional casual vacancies which emerge are filled by appointing the next eligible candidate on the party's list. This means that a constituency Member has the option of resigning and contesting their seat should they wish to do so, whereas a regional Member who resigns their seat does not.

69. In 2004, the Richard Commission described the "overlapping responsibilities" of constituency and regional Members as one of the main disadvantages of the MMP/AMS electoral system.⁷² GOWA 2006 included a requirement for Standing Orders to include provision for a protocol setting out the roles and responsibilities of constituency and regional Members.⁷³ The requirement, and the key principle that all Members have equal status, were subsequently incorporated into Standing Order 1.10 and the Code of Conduct for Members of the Senedd.⁷⁴

70. Debates over Member accountability and status have been reignited on several occasions during the Fifth Senedd, which has seen an unusually high number of both constituency and regional Members joining, leaving or changing political groups. Decisions by Members to change political group during a Senedd

⁶⁹ Senedd Commission, *Creating a Parliament for Wales: consultation report*, October 2018, p.16

⁷⁰ The names of parties' list candidates did not appear on the regional ballot paper in 2011 following concerns from the Electoral Commission about the size of the ballot papers. The practice of including party list candidates' names was reinstated in 2016. Independent candidates may also stand for election as regional Members as a list of one.

⁷¹ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, para 13.17

⁷² Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, *Report of the Richard Commission*, Spring 2004, p.230

⁷³ [Section 36\(6\) of the Government of Wales Act 2006](#)

⁷⁴ [Standing Order 1.10\(iii\)](#); Senedd Commission, [Code of Conduct for Assembly Members and Associated Documents](#), May 2016

term can have a distorting effect on the extent to which the composition of the Senedd continues to accurately reflect the original electoral outcome, and therefore the extent to which it offers a proportional reflection of the choices made by voters about their representatives. For example:

- Following the 2016 election the Plaid Cymru group was the largest opposition group in the Senedd. However, during the Fifth Senedd two Members (one constituency and one regional) have left the Plaid Cymru group, resulting in the Welsh Conservative group becoming the largest opposition group in its place.
- The Brexit Party was only formed in May 2019, and did not therefore contest the 2016 election. However, four regional Members who had been elected on UKIP regional lists subsequently joined the Brexit Party and formed a political group in the Senedd.
- The Abolish the Assembly Party contested the 2016 election, but did not attract sufficient votes for any of its candidates to win seats. However, the Party secured its first Senedd seat in June 2020 as a result of the decision by a regional Member who had been elected on a UKIP regional list, and who had subsequently sat as an independent Member, to join the Abolish the Assembly Party.

71. Changes in the composition of political groups can result in disruption for the operation or structures of the Senedd. For example, representation on the Senedd Commission and Business Committee, the allocation of committee chairs to political groups, the order of precedence of party leaders during First Minister's Questions, and the level of staffing allowances available to employ political group staff, are all linked to the number of Members who belong to each political group.

72. In 2019, a group of Members proposed to the Business Committee that regional Members should only be allowed to be members of political groups in the name of the party upon whose list they were elected. The Business Committee concluded that such changes would raise issues of fairness and retrospectivity, but that the issue should be considered as part of a wider review of Standing Orders before the end of the Fifth Senedd.⁷⁵ Separately, a petition calling

⁷⁵ Business Committee, *Report on a proposal to amend Standing Orders: Standing Order 1.3 – political groups*, June 2019

for the law to be changed to prevent regional Members from changing parties attracted 1,300 signatures.⁷⁶

Dual candidacy

73. The practice of dual candidacy has also been a matter for debate i.e. whether a person should be able to stand for election in a constituency and on a party's regional list at the same election. The practice was permitted for the 1999 and 2003 elections, prohibited for the 2007 and 2011 elections, and reinstated from the 2016 election onwards. Dual candidacy is held by some, including the Expert Panel, to be a normal practice within MMP/AMS systems to avoid the weakening of fields of candidates and reduce intra-party competition between regional and constituency candidates.⁷⁷ Conversely, in 2005, the then UK Government stated that enabling candidates who lost constituency contests to become regional Members through dual candidacy "both devalues the integrity of the electoral system in the eyes of the public and acts as a disincentive to vote in constituency elections".⁷⁸

Flexible List Proportional Representation

74. List Proportional Representation systems are used widely across the world. However, few contributors to our inquiry focused on the Flexible List Proportional Representation system the Expert Panel outlined. ERS Cymru recognised the potential for the Flexible List system to result in proportional electoral outcomes, but criticised it on the basis that it weakened the constituency link between voters and representatives, and did not offer the same degree of nuanced choice for voters as STV.⁷⁹

Single Transferable Vote

Background

75. The Single Transferable Vote ("STV") electoral system is used within the UK for elections to the Northern Ireland Assembly and local elections in Northern Ireland and Scotland. The *Local Government and Elections (Wales) Bill* will, if passed, give

⁷⁶ Senedd petition, [*P-05-887 Stop regional AMs elected to represent specific parties from defecting*](#)

⁷⁷ Expert Panel on Assembly Electoral Reform, [*A Parliament that Works for Wales*](#), December 2017, para 13.10

⁷⁸ UK Government, [*Better Governance for Wales*](#), June 2005, pp.28-29

⁷⁹ [*ESB07 Electoral Reform Society Cymru*](#); Jess Blair, [*RoP \[paras 87-88 and 90\]*](#), 16 March 2020

local authorities in Wales the option to adopt STV should they wish to do so.⁸⁰ STV is also used in Ireland, Malta and Australia.

76. Giving evidence to the Richard Commission in 2003, Ron Davies—Secretary of State for Wales during the passage of the *Government of Wales Act 1998* which established the Senedd—explained that consideration had been given to using STV. He stated that this had subsequently been ruled out on the basis that the creation of new constituencies would have required a boundary review, creating an obstacle for the intended political timetable.⁸¹ The Richard Commission subsequently recommended in 2004 that STV should be adopted to elect an 80 Member Senedd,⁸² but the proposal was rejected by the then UK Government in 2005.⁸³

77. STV was the clearly-preferred option for many of those who responded to our consultation.⁸⁴ This echoes the Senedd Commission’s *Creating a Parliament for Wales* consultation, which found that of the 1,330 responses to questions about the electoral systems recommended by the Expert Panel, 54 per cent favoured STV.⁸⁵

78. Stakeholders highlighted in particular the potential proportionality of electoral outcomes offered by STV, the potential reduction in ‘wasted’ votes or tactical voting, the degree of nuanced voter choice, and the retention of a clear constituency link between voters and their representatives (often cited as a key advantage of the First Past the Post electoral system).⁸⁶

Impact on political parties

79. ERS Cymru acknowledged that introducing STV would require political parties to adjust their approach to campaigning, but argued that these changes would be positive for voters, candidates and parties.⁸⁷ Campaigning decisions

⁸⁰ [Local Government and Elections \(Wales\) Bill](#)

⁸¹ Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, [Report of the Richard Commission](#), Spring 2004, p.229

⁸² *Ibid.*, p.262

⁸³ UK Government, [Better Governance for Wales](#), June 2005, pp.28-9

⁸⁴ [ESB01 Professor Mollison; ESB03 Peter Varley; ESB07 Electoral Reform Society Cymru; ESB11 Make Votes Matter; Written submission from Dr Clark](#), May 2020

⁸⁵ Senedd Commission, [Creating a Parliament for Wales: consultation report](#), October 2018, p.16

⁸⁶ [ESB01 Professor Mollison; ESB07 Electoral Reform Society Cymru](#)

⁸⁷ [ESB07 Electoral Reform Society Cymru](#). The Electoral Reform Society published [Campaigning under the single transferable vote: a guide for candidates, agents and parties in Scotland](#) in 2006.

taken by political parties can affect electoral outcomes and voters' experience of an electoral system. Analysis of the 2020 general election in Ireland by Dr Stephen Quinlan of the Leibniz Institute for Social Sciences and the Comparative Study of Electoral Systems project found that:

“Sinn Féin had a plethora of substantial surplus votes to transfer and, in most instances, no party running mate [...] There is some evidence that Sinn Féin surplus votes helped put some candidates [standing for other parties or as independents] back into contention, who eventually emerged winners”.⁸⁸

80. Writing in 2012, Dr Clark said that the SNP had been criticised for standing too few candidates in the first STV local elections in Scotland to optimise its electoral outcomes, and that this had also had the effect of limiting the extent of voters' choice between specific candidates standing for the same party.⁸⁹ However, in his submission to us, he noted that there is some evidence that larger parties were starting to put forward more candidates in wards where they expected electoral success.⁹⁰

Voter experiences of STV

81. Those opposed to STV often highlight the complexity involved in counting votes and apportioning seats to candidates.⁹¹ However, Professor Mollison argued that the process of ranking candidates would be straightforward for voters.⁹² Professor Awan-Scully agreed, noting that members of trades unions and political parties, or people who have participated in student elections, may already be familiar with preferential voting systems. He observed that for voters:

“...it's not clear that [STV] is really any more complex than the current system. As long as you can basically count one, two, three, four, five, six, you can engage with STV as a voter. I think there are issues of complexity in terms of the counting and in terms of party strategy, but,

⁸⁸ Quinlan, S., *The Transfers Game in Election 2020: How critical were lower preferences in determining the result?*, 11 February 2020

⁸⁹ Clark, A., *Scottish local elections in 2012 show that voters have understood the STV system and are not put-off by it*, 4 October 2012

⁹⁰ *Written submission from Dr Clark*, May 2020

⁹¹ See, for example, *ESB08 UKIP*; Dunleavy, P., *How democratic is the UK's proportional electoral system: the single transferable vote (STV)?*, July 2018; BBC News, *Why do votes take so long to count in Northern Ireland?*, 26 May 2019

⁹² *ESB01 Professor Mollison*

for the voters, I think it's far from obvious that it's any more complex than what we have now".⁹³

82. Professor Awan-Scully told us that in more proportional electoral systems voters might be more likely to vote for smaller parties which could otherwise be “squeezed” under First Past the Post systems. He also noted that in Scotland STV has resulted in more seats becoming competitive. However, he emphasised the challenges of modelling how voters might share their preferences within or across parties, and noted that as electoral system reform is relatively rare within stable democracies there is limited evidence on how or whether voter behaviour might change.⁹⁴

83. Make Votes Matter argued that more proportional electoral systems are likely to increase voter turnout, on the basis that: “when people feel their votes matter, they are more likely to use them”.⁹⁵ Jess Blair of ERS Cymru suggested that experience in Scotland was that “voters [were] really very quickly adapting to different systems, using them properly and understanding how they work”.⁹⁶ Dr Clark explained that:

“Second and third preferences have been used by increasing numbers of voters. While 78% used a second preference in 2007, this rose to 81% in 2012 and 85% in 2017. More than half have also used a third preference, with 54% doing so in 2007, 53% in 2012 and 60.6% in 2017. After three preferences, however, usage falls sharply, even if a very small number of electors go all the way down to the bottom of their ballot paper. Nonetheless by 2017, the levels of preference usage are generally higher than in the previous two rounds”.⁹⁷

84. Dr Clark suggested that the increasing willingness of voters in successive Scottish local elections since 2007 to express multiple preferences when voting indicated that they were becoming more familiar with the system.⁹⁸ Writing in 2012 he noted that the level of rejected ballots in the 2012 Scottish local election (1.7 per cent) compared favourably with the level of rejected ballots in the 2011 Northern Ireland Assembly and local elections (1.8 per cent and 2.0 per cent

⁹³ Professor Awan-Scully, [RoP \[paras 23 and 94\]](#), 16 March 2020

⁹⁴ Professor Awan-Scully, [RoP \[paras 27-29, 71 and 74\]](#), 16 March 2020

⁹⁵ [ESB11 Make Votes Matter](#)

⁹⁶ Jess Blair, [RoP \[para 18\]](#), 16 March 2020

⁹⁷ [Written submission from Dr Clark](#), May 2020

⁹⁸ *Ibid.*

respectively).⁹⁹ Similarly, Dr Alan Renwick of University College London's Constitution Unit has observed that the level of spoiled ballots in STV elections in Ireland and Malta is consistently around 1 per cent, which he noted is broadly similar to the level of spoiled ballots for elections conducted by First Past the Post in the UK.¹⁰⁰

Our view on how Members of the Senedd should be elected

85. We agree with the Expert Panel that establishing key principles which underpin good electoral systems is a sensible approach to informing decisions about how Members of the Senedd should be elected. We recognise that there may be different perspectives on the precise definition of principles which can be applied in different contexts, but have heard no evidence which has persuaded us that the principles set out by the Expert Panel do not provide a suitable framework upon which to develop proposals for reform of the Senedd's electoral arrangements.

86. We agree with the Expert Panel that the weighting of different principles and subsequent decision on a preferred electoral system is a matter for political judgement. Political parties will each have their own views on these matters, and will each need to reach their own conclusions and policy positions through their own internal decision-making processes before coming together to reach cross-party consensus on how Members should be elected.

87. Our role as a Committee is to examine the Expert Panel's recommendations, and to offer our views to guide and inform political parties, the Welsh Government and the Senedd as they reach decisions on appropriate electoral arrangements for Wales' legislature.

88. Our view is that:

- It should be simple for voters to complete their ballot papers, and voters should be able to express nuanced choices between named candidates. This will provide a clear constituency link between constituents and their representatives.
- Votes should be translated into seats fairly, and the electoral system should produce broadly proportional outcomes. This will mean that

⁹⁹ Clark, A., *Scottish local elections in 2012 show that voters have understood the STV system and are not put-off by it*, October 2012

¹⁰⁰ Renwick, A., *A citizen's guide to electoral reform*, London, Biteback Publishing Ltd., 2011, p.129

voters will be able to see how their choices determine who represents them.

- All Members should be elected by the same route in order to bring to an end the recurrent debate over whether regional Members are accountable to voters or parties. While many distinguished, diligent and capable Members have been elected via regional lists, and have ably and effectively served their constituents as backbenchers or as Ministers, we believe that the number of Members currently representing parties other than those on whose regional lists they were elected clearly undermines the principle of proportionality that the electoral system was introduced to deliver.
- The Senedd's electoral system should operate on the basis of multimember constituencies. In addition to offering more choice to voters, being able to put forward multiple candidates will allow parties to diversify their selection processes and encourage the election of a more diverse Senedd whether or not targeted interventions such as legislative quotas are built into the electoral system.

89. On this basis, we share the Expert Panel's preference that Members of the Senedd should be elected by STV. We believe that the opportunity for voters to express nuanced preferences, the clarity of Member accountability, and the proportionality of electoral outcomes would increase participation and contribute to the revitalisation and reinvigoration of our democratic processes and institutions.

RECOMMENDATION

Recommendation 4. Legislation should be introduced early in the Sixth Senedd to provide that Members of the Senedd are elected by the Single Transferable Vote electoral system with effect from the 2026 election.

Designing an STV system for Senedd elections

90. The operation of an electoral system requires the framework determined by the overarching electoral system to be underpinned by detailed rules for the conduct and administration of elections. For example, the use of the Senedd's current MMP/AMS voting system is specified in Part 1 of GOWA 2006 and

supplemented by detailed provision primarily contained in the *National Assembly for Wales (Representation of the People) Order 2007 (as amended)*.

91. Table 5 summarises the Expert Panel’s views on the detailed operation of STV for Senedd elections.

Table 5 Expert Panel’s preferred STV system for Senedd elections¹⁰¹

| Variable | Expert Panel’s view |
|---|---|
| Ballot papers | <p>Voters should be able to rank as many or as few candidates either within or across political parties as they wish.</p> <p>Candidates on ballot papers should be grouped by the political party for which they are standing and the order of political parties should be determined by lot (but be consistent across all constituencies for each election).</p> |
| Electoral quota | <p>The Droop electoral quota should be used to establish the number of votes a candidate needs to receive in order to be elected. This is the standard formula used in STV systems, and is calculated as:</p> $\frac{\text{Number of valid votes}}{(\text{Number of seats in the constituency}+1)} + 1.$ |
| Counting and vote transfer methodology | <p>If electronic counting were to be introduced for Senedd elections, the Weighted Inclusive Gregory method should be used to transfer second and subsequent preference votes from candidates who have been elected or eliminated. If electronic counting were not introduced, the Basic Gregory method should be used instead.¹⁰²</p> |
| Casual vacancies | <p>Casual vacancies arising between Senedd elections should be filled where possible by countback among the candidates who stood for election for the party represented by the outgoing Member at the time of their election i.e. a recounting of the votes cast at the most recent general election for the party represented by the outgoing Member at the time of their election, but excluding the outgoing Member from the recount.</p> <p>Where it was not possible to fill a vacancy by countback, for example if the outgoing Member were elected as an independent or there were no remaining eligible or willing candidates, the vacancy should be filled by a by-election.</p> |
| Diversity quotas | <p>A 50 per cent ±1 candidate gender quota should apply at a constituency level (whether a legislative requirement or voluntary action by parties), and parties should also have due regard both to the gender balance of their candidates across Wales and to the diversity of their candidates in respect of other protected characteristics.¹⁰³</p> |

¹⁰¹ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, paras 13.18-13.31 and 13.54-13.55

¹⁰² Annex G of the Expert Panel’s report provides an overview of the operation of different STV vote transfer methodologies.

¹⁰³ We explore issues relating to diversity quotas further in chapter 7 of this report.

Our work on the design and operation of STV for Senedd elections

92. The COVID-19 pandemic and the decision of the Brexit Party group to withdraw from our work have limited the extent to which we have been able to examine the detailed design of STV for use in Senedd elections. However, two key issues have emerged from the evidence we have heard:

- The interaction between the methodology by which votes are transferred between candidates and the way in which votes are counted.
- The design and organisation of ballot papers.

Vote transfer methodologies and the use of electronic counting

Vote transfer methodologies

93. Within STV systems, the methodology by which surplus votes are transferred from elected and eliminated candidates in accordance with voters' second and subsequent preferences can affect the overall electoral outcome. For example, Ireland uses the simplest method for STV elections to the Dáil: transferring a random sample of ballot papers on the basis of the preferences specified on them. However, this introduces an element of randomness into the count, and therefore into the result, as the second and subsequent preferences on ballot papers which are not transferred are not taken into account.¹⁰⁴ The Expert Panel noted that:

“If there is a close contest between two or more candidates, the particular pattern of preferences which happens to be transferred can have a significant impact on the eventual outcome. While ballot papers have been thoroughly mixed during the counting process, and the ballots which are transferred could therefore be expected to be a random sample, there is a risk that the pattern of preferences in the parcel of ballots which is transferred may not be representative of the overall pattern of preferences”.¹⁰⁵

94. Other vote transfer methodologies have been developed to mitigate the potential anomalies which can arise, including:

¹⁰⁴ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, p.240

¹⁰⁵ *Ibid*, p.240.

- **Basic Gregory:** used for elections to the Northern Ireland Assembly and the Irish Seanad.
- **Inclusive Gregory:** used by the Australian Senate.
- **Weighted Inclusive Gregory:** used for Scottish local elections and in some Australian state legislatures.¹⁰⁶
- **Meek:** advocated by Professor Mollison.¹⁰⁷

95. While more complex vote transfer methodologies can increase the extent to which each subsequent stage of the count—and therefore the eventual electoral outcome—reflects the distribution of preferences expressed by all voters, they also limit the extent to which it is possible or practical for votes to be counted manually or whether it is preferable for electronic counting to be used. However, the Expert Panel concluded that while vote transfer methodologies can be complex, “these are neither matters which affect how voters cast their votes, nor which need complicate the system from a voter perspective”.¹⁰⁸

Electronic counting in Scotland

96. The Scottish Government initially intended local elections in Scotland to use the Basic Gregory vote transfer methodology. However, the *Local Governance (Scotland) Act 2004* was amended in line with committee recommendations that the Weighted Inclusive Gregory transfer methodology should be used once electronic counting was available.¹⁰⁹ The *Scottish Local Government Elections Order 2007* subsequently set out Weighted Inclusive Gregory counting rules and authorised the use of electronic counting.¹¹⁰

97. Ballot papers for Scottish local elections are scanned by electronic counting machines which identify and count clear preferences, and refer any uncertain ballots to the Returning Officer for manual review. The counting machines check that the numbers of ballot papers received and processed match, calculate the

¹⁰⁶ Ibid., pp.241-242

¹⁰⁷ [ESB01 Professor Mollison](#)

¹⁰⁸ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, p.242

¹⁰⁹ Scottish Parliament Local Government and Transport Committee, *Stage 1 Report on the Local Governance (Scotland) Bill 2004*, 2004

¹¹⁰ The [2007 Order](#) was subsequently repealed and replaced by the [Scottish Local Government Elections \(Order\) 2011](#).

election result for each ward, and produce reports showing the results.¹¹¹ Initial issues experienced in 2007 were attributed by the Electoral Commission to delays in political decision-making, underdeveloped policy and legislative frameworks, inconsistent assessment of problem ballot papers, some technical operational issues and the combination of the 2007 local elections with the Scottish Parliament election.¹¹²

98. After the 2017 local elections, the Electoral Commission described an improved picture in respect of the consistency and transparency of the count and adjudication processes, including better information for candidates, agents and observers. It recommended a full lessons learned review and cost benefit analysis of the use of electronic counting, and advised that planning and delivery of electronic counting for the 2022 local elections should begin at least three years ahead of the election.¹¹³

Electronic counting in London

99. Electronic counting is used for the London Mayoral and London Assembly elections, which take place by Supplementary Vote and MMP/AMS respectively. London Elects (the body responsible for elections in London), concluded that electronic counting for the 2016 London elections would be approximately £500k more expensive than manual counting, but at least two days quicker. On the basis of speed, proven accuracy for previous elections in London and the additional data electronic counting could provide, it decided to proceed with the use of electronic counting for the 2016 election.¹¹⁴

100. Reporting on the 2016 election, the Electoral Commission raised concerns about the transparency of electronic counting, and recommended that the use of electronic counting should be reviewed in order to assess the “effectiveness, value for money and risks associated with this approach”.¹¹⁵ The London Assembly

¹¹¹ eCounting 2017, Fact Sheet, *Scottish Local Government Elections: 4th May 2017 Electronic Vote Counting Factsheet*, 2017

¹¹² Electoral Commission, *Scottish elections 2007: The independent review of the Scottish Parliamentary and local government elections 3 May 2007*, 2007, pp.50 and 93

¹¹³ Electoral Commission, *Scottish council elections 2017: report on the administration of elections held on 4 May 2017*, September 2017

¹¹⁴ London Elects, *Review of the London Elects Programme for the Greater London Authority Mayoral and Assembly Elections 5 May 2016 [DRAFT]*, July 2016

¹¹⁵ Electoral Commission, *Report on the administration of the Greater London Authority elections held on 5 May 2016*, September 2016

Election Review Panel similarly recommended greater transparency, including random manual sampling.¹¹⁶

Counting STV elections in Northern Ireland

101. Votes are counted manually for the Northern Ireland Assembly STV elections, where the Basic Gregory transfer methodology is used. In 2014 the Electoral Commission reported that the then Chief Electoral Officer for Northern Ireland had recommended that legislative provision should be made to enable the use of electronic counting in Northern Ireland. It noted that the Northern Ireland Office had committed to consulting on electronic counting for elections in Northern Ireland but this had not subsequently been progressed.¹¹⁷

102. In response to criticisms over the time taken to verify and count votes in Northern Ireland, electoral administrators adopted a new approach for the 2016 Assembly election. This included changing the set-up of count venues, revising the approach to verifying and conducting the preliminary sorting of ballot papers, and improving communication on the progress of the count to candidates, parties and the media. Reporting in 2016, the Electoral Commission concluded that the changes had contributed to a more efficient manual count, but that there was scope for further improvement.¹¹⁸

Approach to counting STV elections in Wales

103. Professor Mollison argued that the successful implementation of electronic counting at subsequent local elections in Scotland meant that should STV be introduced in Wales, it would be unnecessary to adopt a vote transfer methodology which could be counted manually. He advocated for the use of the Meek vote transfer methodology which he suggested was simpler to explain to voters and enabled adjustment of the quota once ballot paper preferences had been exhausted.¹¹⁹ Dr Clark also supported the use of electronic counting, which

¹¹⁶ London Assembly Election Review Panel, *The 2016 Mayor and London Assembly Election*, November 2016

¹¹⁷ Electoral Commission, *The European Parliamentary elections and the local government elections in England and Northern Ireland May 2014: Report on the administration of the 22 May 2014 elections*, July 2014, p.44

¹¹⁸ Electoral Commission, *Report on the administration of the 5 May 2016 Northern Ireland Assembly election*, September 2016

¹¹⁹ [ESB01 Professor Mollison](#)

he suggested had helped to meet public expectations for the swift reporting of election results.¹²⁰

104. The Association of Electoral Administrators (“AEA”) suggested that the introduction of STV would “fundamentally change the administration of the verification and count process”, requiring, for example, consideration to be given to conducting counts the day after the poll rather than overnight and to using electronic counting. It suggested that lessons should be learned from the use of electronic counting elsewhere in the UK, for example by observing the use of electronic counting for the May 2021 London Assembly election.¹²¹

105. Giving evidence to the Equality, Local Government and Communities (“ELGC”) Committee on the *Local Government and Elections (Wales) Bill*, SOLACE suggested that counting any local authority STV elections manually would be “extremely difficult and would significantly lengthen the counting process over days”.¹²² In evidence to the ELGC Committee, the Minister for Housing and Local Government observed that while having an electronic counting system in place for local authorities which adopted STV would be “optimal”, electronic counting was not necessary:

“It’s perfectly possible to do it manually. It’s not optimal, because it takes much longer. [...] There are several manual systems that work perfectly adequately. What they are is slow, and so the politicians are obviously in a state of anxiety, because they have to wait a lot longer for the count to come, but it’s accurate—it’s just slow. So I wouldn’t want to stop it because we haven’t got a tested electronic voting system.

Optimally, you’d have an electronic voting system in place as well, but it’s not the end of the world if you haven’t got one”.¹²³

106. Responding in 2007 to public debate about the decisions of some constituency returning officers to count the votes the day after the Senedd

¹²⁰ [Written submission from Dr Clark](#), May 2020

¹²¹ [Written submission from the Association of Electoral Administrators](#), 6 July 2020. Electronic counting is used for London Assembly elections which take place on the basis of a form of MMP/AMS (which includes an electoral threshold which provides that parties can only win regional seats if they secure at least 5 per cent of the vote), and for London Mayoral elections which take place on the basis of the Supplementary Vote system.

¹²² SOLACE, ELGC Committee, [RoP \[para 374\]](#), 23 January 2020

¹²³ Minister for Housing and Local Government, ELGC Committee, [RoP \[paras 48-49\]](#), 29 January 2020

election rather than overnight, the Electoral Commission similarly argued that “it is important for election counts to be accurate and acceptable rather than fast”.¹²⁴

Ballot paper design

107. The design and parameters for ballot papers for Senedd elections are specified in the *National Assembly for Wales (Representation of the People) Order 2007 (as amended)*. Section 7 of the *Political Parties, Elections and Referendums Act 2000* provides that the Welsh Ministers, when making an order prescribing the design of ballot papers, must consult the Electoral Commission. The Expert Panel recommended that before the Welsh Ministers made any order in relation to ballot papers for Senedd elections they should also consult more widely to “ensure that the information included and the layout of the ballot paper is appropriate for the electoral system and for Wales”.¹²⁵

Ballot paper size and accessibility

108. The size of the ballot paper for Senedd elections—driven both by the number of parties that contest Senedd elections and the potential for regional lists to comprise up to 12 candidates per party—has been a consistent concern for the Electoral Commission. It stated that in 2007 this had:

“...caused problems for voters, who found the ballot papers awkward to complete, fold and put in polling station ballot boxes and difficult to fold and insert into postal ballot packs. At the election count, the ballot papers were equally awkward for count staff to open and flatten out again, slowing the count process”.¹²⁶

109. It therefore recommended that the number of regional candidates on parties’ lists should be limited to six on the basis that dual candidacy was then prohibited, and that the design of the ballot paper should be reviewed with a view to reducing its size. As there was no political consensus for a reduction in the limit on the length of parties’ regional lists, the then Secretary of State decided instead that with effect from 2011 the names of parties’ regional candidates should be excluded from the ballot paper (but displayed on posters in polling

¹²⁴ Electoral Commission, *The National Assembly for Wales elections 2007: the official report of the National Assembly for Wales elections 3 May 2007, July 2007*, p.44

¹²⁵ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, p.150

¹²⁶ Electoral Commission, *Report on the National Assembly for Wales general election: 5 May 2011*, October 2011, p.28

stations).¹²⁷ There were significant problems with this approach on polling day in 2011, and the Electoral Commission undertook a further consultation in 2014. It concluded that regional candidates' names should continue to be excluded. However, the then Secretary of State took a different view, and regional candidates' names were reinstated on ballot papers with effect from the 2016 election. The Electoral Commission emphasised its continuing concerns about the size of the ballot paper in its report on the 2016 Senedd election.¹²⁸

110. The AEA suggested that more proportional electoral systems would be likely to encourage more minority parties to stand, and suggested that this could further increase the length of ballot papers as well as the associated administrative work associated with dealing with candidates and their agents.¹²⁹ Dr Renwick has similarly noted that STV systems which operate on the basis of very large multimember constituencies can lead to ballot papers becoming impractically long.¹³⁰

Candidate ordering

111. Different STV systems take varying approaches to the ordering of candidates on ballot papers (Table 6).

Table 6 Approaches to candidate ordering on STV ballot papers

| Approach to ordering candidates on ballot papers | Used in |
|--|-------------------------------------|
| Candidates listed from A to Z by surname | Scotland, Ireland, Northern Ireland |
| Political parties listed from A to Z, with candidates for each party then listed from A to Z by surname | Malta |
| “Robson Rotation”: names of candidates are rotated on ballot papers in different parts of each constituency so that the “favoured positions” at the top and bottom of the ballot paper are shared equally between candidates. ¹³¹ | Tasmania |

¹²⁷ Ibid., pp.28-29

¹²⁸ Electoral Commission, *The National Assembly for Wales General Election: report on the administration of the 5 May 2016 elections to the National Assembly for Wales*, September 2016, pp.32-33

¹²⁹ *Written submission from the Association of Electoral Administrators*, 6 July 2020

¹³⁰ Renwick, A., *A citizen's guide to electoral reform*, London, Biteback Publishing Ltd., 2011, p.123

¹³¹ Tasmanian Electoral Commission, *Voting systems in Tasmania: a summary* [accessed May 2020]

112. The Expert Panel suggested that the ballot paper for STV elections in Wales should be organised on the basis of:

“...grouping candidates by the political party for which they are standing, the determination of the ordering of parties by lot, and clarity of the instructions on the ballot paper to ensure voters understand they may rank as many or as few candidates as they wish, and that they may do so across different parties”.¹³²

113. Professor Mollison noted that there was debate in Scotland over the ordering of candidates on ballot papers on the basis of potential “bias between candidates of the same party favouring whoever’s name appears first”.¹³³ In 2019, the Electoral Commission was tasked by the Scottish Government with assessing the impact on voters of any changes to the ordering of candidates on the ballot papers for local elections in Scotland. It tested two different approaches: listing candidates by A to Z and Z to A on alternating ballot papers, and drawing the order of candidates by lot. It found that:

- Test voters generally did not notice the order of candidates, and the order in which names were printed had no effect on voters’ ability to find and vote for their preferred candidates.
- There were some concerns over whether different orders of candidates on different papers could affect accessibility.
- Electoral administrators wanted clear rules to be in place for the administration of changes to the ballot to ensure transparency, and had concerns about increased costs and potential voter confusion.
- There was no clear consensus among political parties on a preferred approach to candidate ordering.¹³⁴

114. Acknowledging the research and the ongoing debate in Scotland over the ordering of candidates on the ballot paper, Dr Clark argued that alphabetical effects are common to most electoral systems and that randomisation could risk voter confusion or reduce the accessibility of the election. He therefore concluded

¹³² Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, para 13.54

¹³³ [ESB01 Professor Mollison](#)

¹³⁴ Electoral Commission, *Ballot paper ordering at Scottish council elections*, 26 November 2019

that a compelling case had not yet been made for moving away from listing candidates in A to Z order by surname.¹³⁵

Our view on the design and operation of STV for Senedd elections

115. As the issues we have explored in relation to vote transfer methodologies, the approach to counting, and the design of ballot papers illustrate, the design and operation of electoral systems is complex and requires a series of politically sensitive and technical choices to be made. Political consensus would need to be reached on these issues in order for primary and subordinate reform legislation to be passed by the Senedd.

116. Some of these variables would need to be specified in primary legislation, other matters would be more appropriately addressed in subordinate legislation or in guidance. However, the detailed design of the electoral system could have significant implications for its operation and for the electoral outcomes which resulted. It is likely, therefore, that even once broad consensus on the overarching electoral system has been achieved, the detailed design and operation of the electoral arrangements could be the subject of amendments brought forward during the scrutiny of any Bill, or of debates during the scrutiny of any subordinate legislation.

117. The detailed technical design of the electoral system could also affect the scope, scale and cost of the reforms to be implemented and the extent of the impact on stakeholders. Therefore, while some of the details will be on the face of the Bill and others will be set out at a later date in subordinate legislation, the Member-in-charge will nevertheless need to ensure that sufficient information about the intended operation of the electoral system and the associated financial implications is available during the Senedd's scrutiny of the primary legislation. We also believe that the operation of the electoral system and its detailed design elements should be reviewed by the Senedd after the first election at which new arrangements have taken effect, in order to ensure that the electoral system has operated as intended.

RECOMMENDATIONS

Recommendation 5. The Member-in-charge of developing primary and subordinate legislation to introduce STV for Senedd elections should ensure that information about the detailed technical design and operation of the electoral

¹³⁵ [Written submission from Dr Clark](#), May 2020

system, and any associated financial or other impacts, is available to inform the scrutiny of any Senedd reform Bill.

Recommendation 6. Following the first election conducted by STV, the relevant Senedd committee should undertake post-legislative scrutiny of the primary and subordinate legislation, and any associated guidance, to assess whether the new electoral system had operated as intended and consider whether any further reforms were required.

Local authority electoral reform

Local Government and Elections (Wales) Bill

118. Our work, like that of the Expert Panel before us, is focused on the Senedd. Nevertheless, we are mindful that our work is taking place within a context of wider electoral reform. The Welsh Government's *Local Government and Elections (Wales) Bill* will, if passed, enable individual local authorities to agree by a two-thirds majority to adopt STV for their own local elections. The Bill does not specify the detailed operation of STV, rather:

- Sections 5 and 6 provide that there are two systems by which councillors may be elected—simple majority (First Past the Post) or STV—and provide definitions of each system.
- In respect of STV, section 6(2) provides that voters may express one, two or more preferences for candidates; that a quota is to be calculated from the numbers of votes and offices to be filled; that candidates exceeding the quota are elected and their surplus votes redistributed; that if insufficient candidates then achieve the quota the candidate with the fewest votes is eliminated and their votes redistributed; and that the process is repeated until all seats are filled.
- Section 13 of the Bill amends Section 36A of the *Representation of the People Act 1983* to give the Welsh Ministers powers to make rules about how local elections will work under either FPTP or STV.

119. The Trefnydd told us that the Welsh Government intended to publish regulations specifying the local government STV rules in advance of the 2022 local elections:

“These regulations will set out how the system should work in practice and will provide local authorities with sufficient time to consider the system in detail before implementing any changes the authority may wish. Welsh Government officials have commissioned research into different models of STV and will be consulting on possible options before implementing the necessary legislation in 2021. The model adopted by the Welsh Government will be driven by this research and the feedback from consultees”.¹³⁶

120. The AEA noted that administering multiple different electoral systems, particularly if elections are combined and take place on the same day, can be challenging.¹³⁷ The Expert Panel acknowledged that the Welsh Government was, at the time it reported, consulting on the potential for STV to be adopted for local government in Wales. It recommended that to ensure simplicity for electoral administrators and voters, any consideration of local government electoral reform should take account of the Expert Panel’s recommendations for the design and operation of STV.¹³⁸

Our view on local authority electoral reform

121. As things stand, it will be a matter for local authorities to decide whether they make use of the powers in the *Local Government and Elections (Wales) Bill* to adopt STV for their elections. However, should any do so, our view is that there would be less additional complexity or bureaucracy for political parties and the electoral community if STV is also used for Senedd elections.

122. The potential benefits for simplicity would be enhanced if the detailed rules which applied to local and Senedd elections were broadly consistent with one another. This would also be in line with the recommendations of the Law Commissions that electoral law should be consistent across elections, subject to any differentiation required by the particular voting system, or other justifiable principle or policy difference.¹³⁹

¹³⁶ [Letter from the Minister for Finance and Trefnydd](#), 11 August 2020

¹³⁷ [Written submission from the Association of Electoral Administrators](#), 6 July 2020

¹³⁸ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, para 11.12 and recommendation 8

¹³⁹ The Law Commission of England and Wales and the Scottish Law Commission, *Election Law: a joint final report*, March 2020

RECOMMENDATION

Recommendation 7. Unless there are compelling policy or legal reasons for any divergence, there should be consistency between the STV rules used to elect Members of the Senedd and those used to elect councillors to any local authorities that have chosen to adopt STV.

4. Electoral boundaries and boundary review

In this chapter, we explore issues relating to the Senedd's electoral boundaries and boundary review.

Recommendations of the Expert Panel

123. The Expert Panel was tasked with recommending reforms which could be implemented for the 2021 election. It concluded that there was insufficient time for a full boundary review to be conducted before this date and that basing Senedd boundaries on existing electoral and administrative boundaries would, in any case, offer the advantage of familiarity and simplicity for voters and electoral administrators. The Expert Panel also recommended that to encourage proportional outcomes, diversity of representation and the equivalence of Members' mandates, multimember constituencies should each return "no fewer than four and ideally no more than six Members".¹⁴⁰

124. On this basis, the Expert Panel identified two boundary models which it believed could be used to elect a larger Senedd from 2021 on the basis of its proposed STV or Flexible List PR electoral systems:

- **A preferred option:** 20 constituencies formed by pairing the existing 40 Senedd constituencies, each returning between three and five Members for a Senedd of between 80 and 90 Members. On the basis of its preference for the size of the Senedd to be closer to 90 Members, and its view that the minimum number of seats per constituency should ideally be four, the Expert Panel concluded that this boundary model would be best suited to electing a Senedd with 89 or 90 Members.
- **A viable alternative:** 17 constituencies based on local authority areas, formed by combining the smallest areas and splitting the largest. Each constituency would return between three and seven Members. On the basis of its view that the maximum number of seats per constituency should generally be no more than six, the Expert Panel concluded that

¹⁴⁰ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, paras 10.23, 10.26 and 14.03-14.04, and recommendation 5

this boundary model would be best suited to electing a Senedd with 83 or 84 Members.¹⁴¹

125. The Expert Panel also noted that should the Senedd choose to increase the number of regional Members returned under the current MMP/AMS voting system, the current constituency and regional boundaries could continue to be used for 2021.¹⁴²

126. While the Expert Panel's recommended boundary models were designed on the basis that they could feasibly be implemented by 2021 with minimal boundary review or seat apportionment work, the Expert Panel also noted that the Senedd was "anomalous" in not having statutory provisions for the review of its boundaries or seat apportionments. The Expert Panel concluded that "it is not appropriate that such ossification of the boundaries should continue", and recommended:

"Recommendation 13: Legislative action must be taken to put in place boundary or seat apportionment review mechanisms which provide for a full review before the 2026 election, whether or not our proposals for reform are implemented. Such mechanisms must take account of any changes to the Assembly franchise, as well as other demographic or population changes".¹⁴³

127. The Expert Panel further noted that reviewing the Senedd's boundaries should be the responsibility of "an independent boundary commission wholly within the legislative competence of the Assembly".¹⁴⁴ In practice, this means either the Local Democracy and Boundary Commission for Wales or the establishment of a new boundary review body.

Our work on the Senedd's electoral boundaries

128. The Expert Panel's recommended boundary models were shaped by its conclusion that a full boundary review was not possible before the 2021 election. However, as the earliest any reforms could be implemented at a scheduled Senedd election is now 2026, there may now be scope for a full boundary review to take place before the first election at which any electoral reforms come into effect. Our intention, therefore, was for our work on these matters to build on the

¹⁴¹ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, paras 14.17-14.18 and 14.23-14.24

¹⁴² *Ibid.*, para 14.10

¹⁴³ *Ibid.*, para 14.30 and recommendation 13

¹⁴⁴ *Ibid.*, para 14.31

Expert Panel's conclusions by considering further the issues which would need to be determined in the design of Senedd boundaries and boundary review arrangements.

129. The impact of the COVID-19 pandemic on our work programme, and later the Brexit Party group's decision to withdraw from the Committee, have unfortunately curtailed the extent to which we have been able to gather evidence or reach firm conclusions in this regard. Nevertheless, we have identified some key themes and issues which would need to be considered by the Member-in-charge of any reform legislation.

Boundary and seat apportionment reviews

130. The Council of Europe's European Commission for Democracy Through Law recommends that, in order to ensure that all voters have equal voting power, there should be intervals of no more than ten years between reviews of a legislature's boundaries or the distribution of seats between its electoral areas.¹⁴⁵ This helps to ensure that the equality of voting power and representation is not eroded over time as a result of any geographic or demographic changes, or of any changes to the electoral franchise.

Reviewing boundaries or seat apportionments

131. Across the UK, for example in respect of Westminster constituencies, local authority areas in Wales or Scottish Parliament constituencies, boundary and seat apportionment review arrangements are specified in primary legislation.¹⁴⁶ The legislation includes provision for reviews to be carried out by independent boundary review commissions, and specifies the parameters which apply to the reviews, the methodology by which they are undertaken, and the mechanisms by which they are given effect.

132. For single-member constituencies, minimising variation in the ratio of electors to representatives requires adjustment of the constituency boundaries. However, an alternative approach used in a number of countries is to adjust the

¹⁴⁵ The Council of Europe's European Commission for Democracy Through Law, *Code of Good Practice in Electoral Matters: guidelines and explanatory report*, 2002, p.6

¹⁴⁶ For example, provision for reviews of Westminster constituencies is specified in the *Parliamentary Constituencies Act 1986 (as amended)*, provision for reviews of Scottish Parliament constituencies is specified in the *Scottish Parliament (Constituencies) Act 2004*, and provision for the review of local authority boundaries in Wales is specified in the *Local Government (Democracy) (Wales) Act 2013*.

number of Members elected to represent each constituency.¹⁴⁷ This approach is used in Norway, for example, where the distribution of 150 Members across the 19 multimember constituencies is calculated every eight years on the basis of an electoral formula which is weighted to take account of the population and geographical area of each constituency.¹⁴⁸

133. Reviewing seat apportionments rather than constituency boundaries may be particularly appropriate in very proportional electoral systems which operate on the basis of multimember constituencies which each return large numbers of Members. However, where the district magnitudes of multimember constituencies are lower—such as within the range of four to six Members recommended by the Expert Panel—it may be difficult to take account of smaller, but nonetheless potentially significant, changes in population or franchise.¹⁴⁹ In any case, were the Senedd to adopt such an approach, initial boundary review arrangements would still be required to establish appropriate multimember constituencies.

Reviewing the Senedd's boundaries and seat apportionments

134. There are currently no legislative provisions or mechanisms in place for reviewing either the Senedd's boundaries or the apportionment of seats to Senedd constituencies and regions. Prior to 2011, the Senedd's boundaries were automatically linked to Westminster boundaries i.e. any changes made to the Westminster boundaries were automatically replicated in the Senedd's boundaries. However, the *Parliamentary Voting System and Constituencies Act 2011* severed this automatic link. The UK Government's 2012 *Green Paper on the future electoral arrangements for the Assembly* subsequently proposed two

¹⁴⁷ Delimitation Equity Project, *Resource Guide*, 2006, pp.16-17

¹⁴⁸ Norwegian Government, *The main features of the Norwegian electoral system*, 2017; Hylland, A., *Elections in Norway: Notes on the electoral system*, pp.3-7. One additional Member is also elected for each of the 19 constituencies to serve as 'Members at large' rather than constituency representatives.

¹⁴⁹ Consider, for example, two neighbouring four seat constituencies which have very similar populations, and therefore the same ratio of electors to representatives. If people moved from one constituency to the other, the ratio of electors to representatives would decrease in one constituency and increase in the other, leading to variation in representation. Fully re-equalising the ratio of electors to representatives in the two constituencies, by reducing the number of Members for the smaller constituency to three, and increasing the number of Members for the larger constituency to five, would only be possible if 25 per cent of the population of the first constituency moved to the second.

approaches to reflecting what was then an anticipated reduction in the number of Westminster seats in Wales from 40 to 30:

- Retain the current Senedd boundaries, putting mechanisms in place for periodic reviews of the boundaries.
- Retain co-terminosity between Westminster and Senedd constituency boundaries i.e. reduce the number of Senedd constituencies to 30 and increase the number of regional seats to 30 (five regions each returning six regional Members). This was the UK Government's preferred option.¹⁵⁰

135. The Green Paper acknowledged that the anticipated reduction from 40 to 30 Westminster seats was based on draft Boundary Commission for Wales proposals, and that the actual number of Westminster constituencies could be a number other than 30. During the 2018 boundary review, the Boundary Commission for Wales subsequently recommended 29 constituencies for Wales.¹⁵¹ The Green Paper's favoured option in such a circumstance would be for the Boundary Commission for Wales to allocate the new constituencies to five regions, recognising that there might be a different number of constituencies in each region. Sufficient regional seats to result in a Senedd of 60 Members would then be allocated to regions using the Sainte-Laguë electoral formula.¹⁵² Other options mentioned in the Green Paper were: fixing regional boundaries regardless of changes to constituency boundaries, relinquishing co-terminosity between constituency boundaries for Westminster and Senedd elections, and replacing electoral regions with a single all-Wales national list.¹⁵³

136. Following the consultation, the then Secretary of State for Wales concluded:

“As a result of the *Electoral Registration and Administration Act 2013*, the four UK Boundary Commissions will now report in 2018 on their

¹⁵⁰ UK Government, *A Green Paper on Future Electoral Arrangements for the National Assembly for Wales*, May 2012

¹⁵¹ Boundary Commission for Wales, *2018 Review of Parliamentary constituencies: report on the 2018 review of Parliamentary constituencies in Wales*, September 2018

¹⁵² This arrangement could have resulted in there being more regional Members than constituency Members. For example, the 2018 boundary review recommended 29 Westminster constituencies. To retain a 60 Member Senedd, there would then have had to be 31 regional seats. The Expert Panel noted in paragraph 13.06 of its report that voter choice would be curtailed if more than 50 per cent of Members were elected through a closed list, and stated that it would be: “highly unusual for the ‘compensatory’ or ‘top-up’ list seats to outnumber the First Past the Post constituency seats. Indeed, in no other MMP system does this arise”.

¹⁵³ UK Government, *A Green Paper on Future Electoral Arrangements for the National Assembly for Wales*, May 2012

recommendations for new parliamentary constituencies. The boundaries of parliamentary and Assembly constituencies will remain the same until then, and there is no longer an immediate need to re-establish the link between the two sets of constituencies. The Government does not therefore intend to proceed with the changes to Assembly constituencies proposed in the Green Paper”.¹⁵⁴

137. Most of the evidence we have heard has supported the establishment of arrangements for reviewing the Senedd’s boundaries.¹⁵⁵ Only UKIP, which has stated that it opposes all aspects of electoral reform until the question of the size and capacity of the Senedd has been resolved, has argued against the establishment of a mechanism for the ongoing review of the Senedd’s electoral boundaries.¹⁵⁶

Developing boundary review arrangements

138. Elsewhere in the UK, the detail of boundary review arrangements, including the establishment and configuration of the independent boundary commissions which undertake reviews, is specified in primary legislation. Primary legislation is subject to detailed scrutiny, ensuring that the legislature has control over the rules which apply to boundary reviews and the parameters on which they are based. The reviews are then carried out in accordance with those rules by independent boundary commissions, thereby limiting the extent to which political parties can either directly influence, or be perceived to influence, the recommendations which result.

139. The complexity, technicality and political sensitivity of boundary review arrangements may mean that the relevant provisions in a reform Bill would be particularly susceptible to amendments during the legislative process. The Member-in-charge of reform legislation would need to ensure that they secured and maintained broad political consensus for the proposals within the Bill following the amending stages, as section 111A of GOWA 2006 provides that Bills including provisions which relate to the specification or number of electoral areas, or the number of Members to be returned for each electoral area, require a

¹⁵⁴ Wales Office, *Future electoral arrangements for the National Assembly for Wales* [accessed July 2020]

¹⁵⁵ See, for example, [ESB06 Association of Electoral Administrators](#); [ESB07 Electoral Reform Society Cymru](#)

¹⁵⁶ [ESB08 UKIP](#)

supermajority of 40 Members voting in favour at the final stage of the legislative process.

140. On the basis of the Expert Panel's work, the evidence we have gathered, and consideration of existing boundary review legislation elsewhere in the UK, we have identified a range of issues which may need to be addressed in primary legislation (see Table 7). Decisions taken in respect of these matters would shape the development of the Senedd's boundaries, and thereby the operation, public understanding and perception of its electoral arrangements. For example:

- Boundary review arrangements that resulted in a large number of constituencies which each returned a small number of Members could constrain the proportionality or diversity of electoral outcomes, whereas arrangements which resulted in a small number of constituencies which each returned a large number of Members could result in hyper-proportionality or necessitate the introduction of electoral thresholds.¹⁵⁷
- Arrangements that delivered consistent ratios of electors to representatives across constituencies, but which, as a result of there being different numbers of electors in each constituency, meant that each constituency returned significantly different numbers of Members, could undermine the extent to which voters felt they were being equally represented or that their votes counted equally in determining the composition of the Senedd.
- The application of parameters significantly different to those in use for local authority or Westminster constituencies could result in significantly different boundary models emerging. This could be exacerbated by the different franchises which apply for Senedd and Westminster elections.

¹⁵⁷ Electoral thresholds are criteria a party must meet before it is eligible to win list seats, for example a specific number or proportion of votes, or a specific number or proportion of constituency seats in an MMP/AMS voting system.

Table 7 Issues to consider in respect of establishing arrangements for the review of Senedd boundaries and seat apportionments¹⁵⁸

| Issue | Considerations |
|--|--|
| Who carries out reviews | Whether a new boundary review body should be established, or whether responsibility for carrying out reviews should be given to the existing boundary review body within the Senedd’s legislative competence: the Local Democracy and Boundary Commission for Wales. In either case, consideration would need to be given to the configuration, governance, staffing and financial resourcing of the boundary review body. |
| Timing and frequency of reviews | Appropriate frequency of reviews of boundaries and/or seat apportionments, the flexibility of the review cycle to respond to unscheduled electoral events, and the interaction of the review cycle with reviews of local authority and Westminster boundaries. |
| Review methodology | The extent to which the methodology is specified in legislation or at the discretion of the boundary review body. Elsewhere in the UK primary legislation includes provision setting out required consultation approaches and durations. |
| Data | Dataset(s) upon which reviews should be based, including, for example: whether reviews should be based on population, electorate or another criteria; the data source; and the enumeration date (the point in time from which the data should be taken). |
| Naming conventions | How Wales’ two official languages are to be taken into account in the naming of constituencies, regions and electoral areas. |
| Implementation | The legislative mechanisms by which boundary or seat apportionment reviews would be given effect, including the applicable scrutiny processes and the respective roles of the boundary review body, the Welsh Government and the Senedd. |

¹⁵⁸ See, for example, [ESB02 Boundary Commission for Wales](#); [ESB05 Local Democracy and Boundary Commission for Wales](#)

| Issue | Considerations |
|--------------------------|---|
| Review parameters | <p>The extent to which different parameters could conflict with one another—for example the balance between consistent ratios of electors to representatives across constituencies, consistency in the number of elected representatives for each constituency, and reflecting natural communities, geographies or other demographic factors—how parameters should be prioritised to resolve any conflicts, and the extent to which parameters, and the order of priority to be given to them, are specified in legislation or at the discretion of the boundary review body.</p> <p>Potential parameters might include, for example:</p> <ul style="list-style-type: none"> ▪ The overall number of Members to be returned to the Senedd, including whether the number is fixed, or could vary as a result of other parameters, and, if so, any minimum or maximum limits. ▪ The number of constituencies, regions or other electoral areas, including whether the number is fixed, or could vary as a result of other parameters, and, if so, any minimum or maximum limits. ▪ The tolerable variation in the number of Members to be returned per electoral area, and/or any minimum or maximum limits. ▪ The tolerable variation in the number of electors or population per electoral area, and/or any minimum or maximum limits. ▪ The tolerable variation in the geographic size of electoral areas, and/or any minimum or maximum limits. ▪ Whether any special arrangements applied to particular geographic areas or communities, for example on the basis of their geographic situation, their distance from Cardiff Bay, deprivation, rurality, or any other factors. ▪ The ‘building blocks’ on which Senedd constituencies should be based, for example electoral wards or communities, and the extent to which account could be taken of changes to the building blocks as a result of local authority or Westminster boundary reviews which were pending but not yet implemented. ▪ The extent to which co-terminosity with local authority or Westminster boundaries should be taken into account, including whether account could be taken of changes to those boundaries which were pending but not yet implemented. |

Co-terminosity

Electoral boundaries in Wales

141. The Senedd's constituency and regional boundaries were established in 1999 on the basis of the constituency boundaries in use for Westminster elections and the five regional boundaries then in place for European Parliament elections.¹⁵⁹

Unlike Scotland, where the 2005 Westminster boundary review ended co-terminosity by reducing the number of Westminster constituencies from 72 to 59, the Senedd's constituencies have remained broadly co-terminous with Westminster constituencies.¹⁶⁰

142. There are, however, different electoral boundaries in use in Wales which overlap and intersect with one another to greater or lesser degrees. These include, for example, the 40 Westminster constituencies; the 40 Senedd constituencies and five Senedd regions; the 22 local authority areas; and the four Police and Crime Commissioner areas. Political parties and electoral administrators have always, therefore, had to manage a degree of integrated and coordinated working across electoral boundaries. However, the co-terminosity of Westminster and Senedd boundaries has offered opportunities for political parties to organise their internal and campaigning structures around a single set of parliamentary constituency boundaries, and provided a degree of simplicity for electoral administrators.

143. Senedd and Westminster constituency boundaries were formally severed by the *Parliamentary Voting System and Constituencies Act 2011*. They have remained broadly aligned because the 2012 and 2018 Westminster boundary reviews were not implemented, and because no action has been taken to establish separate Senedd boundary review arrangements. However, co-terminosity between Senedd and Westminster constituency boundaries has been eroded since 2011. Minor changes have been made to some Westminster and local authority boundaries in this time that have not been reflected in the equivalent Senedd boundaries because there has been no mechanism to do so.

¹⁵⁹ [Schedule 1, Government of Wales Act 1998](#). The European Parliamentary constituencies ceased to be used for European Parliament elections in 1999, when Wales began instead to elect its MEPs on an all-Wales basis under Closed List PR.

¹⁶⁰ House of Commons Library, [Briefing note 5929: Constituency boundary reviews and the number of MPs](#), 18 June 2020. There are 73 Scottish Parliament constituencies, as Orkney and Shetland are separate constituencies for Scottish Parliament elections, but were a combined constituency for Westminster elections.

144. In June 2020 the UK Government introduced the *Parliamentary Constituencies Bill 2019-21*. The Bill reverses the planned reduction in the size of the House of Commons, and provides for a review of the current 650 Westminster constituencies by 2023. While the Bill was amended during its committee stage to grant protected status for Ynys Môn as a single constituency,¹⁶¹ the parameters of the review—in particular the ± 5 per cent tolerable variance from the average number of electors per constituency across the UK—still mean that from 2023 there are likely to be fewer than the current 40 Westminster constituencies in Wales.¹⁶² The Bill also provides that the recommendations brought forward by the Boundary Commissions will be implemented automatically, rather than leaving implementation to the discretion of the UK Government. If the Bill is passed in its current form, therefore, it will fully bring to an end in 2023 the alignment of Senedd and Westminster constituencies. The scheduled 2024 Westminster election will take place on the basis of the new boundaries, while, unless any legislative action is taken to reform the Senedd’s boundaries in the interim, the scheduled 2026 Senedd election will take place on the basis of the existing 40 Senedd constituencies.

Co-terminosity: risks and benefits

145. The issue of co-terminosity of the Senedd’s boundaries with either local authority boundaries or Westminster constituencies has been raised by a number of stakeholders throughout our work. The AEA argued that divergent boundaries would “inevitably create administrative difficulties and voter confusion”,¹⁶³ and described itself as:

“...extremely concerned about the impact of any cross-boundary proposals following the [2023 Westminster boundary] review, and the likely increase in complexity across the UK at the next scheduled UK Parliamentary General Election”.¹⁶⁴

146. Jess Blair of ERS Cymru recognised the benefits of co-terminous constituencies for the Senedd and Westminster, but told us:

“...I just think, realistically, it might lead to a situation where the Senedd chooses boundaries just on that basis that are, perhaps, less good for

¹⁶¹ House of Commons Library, *Briefing paper 8921: the Parliamentary Constituencies Bill 2019-21*, 3 July 2020

¹⁶² Johnston, R., Rossiter, D. and Pattie, C., *The Parliamentary Constituencies Bill: no fewer MPs but a very different constituency map*, 22 June 2020

¹⁶³ *ESB06 Association of Electoral Administrators*

¹⁶⁴ *Written submission from the Association of Electoral Administrators*, 6 July 2020

itself, and then Westminster might reform their own boundaries. So it's very much a game of balance and pragmatism, and judging what is the most likely scenario to happen".¹⁶⁵

147. Professor Mollison advocated co-terminosity of Senedd boundaries with local authority boundaries, on the basis of "minimising overlaps of responsibility for communities and public services", although he acknowledged that the varying size of local authority areas in Wales could lead to variation in the number of Members representing each area.¹⁶⁶ Professor Awan-Scully agreed that aligning Senedd boundaries with local authority areas would offer simplicity, but noted that "local government boundaries are not necessarily set in stone either". He said:

"So, it may just be that we have to move to a completely different set of boundaries for the Assembly, which means a little bit more complexity. But, overall, that's not a major deal. It would be good if it could be avoided, but maybe it can't, and as we've seen in Scotland, that is perfectly workable and doable".¹⁶⁷

148. The Expert Panel, following its assessment of the risks and benefits associated with co-terminosity, or the lack thereof, concluded that the advantages of continuing co-terminosity with Westminster constituencies were outweighed by the disadvantages of the Senedd's boundaries being determined by a body not within the Senedd's legislative competence, and whose decisions could be driven by factors not relevant to Wales.¹⁶⁸ Such risks might include, for example:

- Variation in the ratio of electors to representatives resulting from the differing franchises for Senedd and Westminster elections as a consequence of the *Senedd and Elections (Wales) Act 2020*.
- Risks to the effective operation of the Senedd's current electoral system if the number of Westminster constituencies were to change significantly. A reduction in the number of Westminster (and therefore Senedd) constituencies would result in a reduction in the size of the Senedd unless there were to be a corresponding increase in the number of regional Members. Changing the balance between regional and constituency Members has implications for the potential proportionality

¹⁶⁵ Jess Blair, [RoP \[para 138\]](#), 16 March 2020

¹⁶⁶ [ESB01 Professor Mollison](#)

¹⁶⁷ Professor Awan-Scully, [RoP \[para 127\]](#), 16 March 2020

¹⁶⁸ Expert Panel on Assembly Electoral Reform, [A Parliament that Works for Wales](#), December 2017, para 14.07

of electoral outcomes and the degree of voter choice over their individual representatives.

Our view on the Senedd's electoral boundaries and boundary review

149. We agree with the Expert Panel that it is anomalous and unsustainable that there is no legislative mechanism in place for reviewing the Senedd's boundaries. The absence of boundary review arrangements means there is no mechanism by which the equality of representation and votes for people across Wales can be maintained in response to population, demographic or franchise changes. It also represents an ongoing barrier to any broader reform of the Senedd's size and electoral arrangements, hindering, for example, either the introduction of a more proportional electoral system operating on the basis of multimember constituencies, or the use of the current MMP/AMS voting system to elect a Senedd of more than 80 Members without creating an imbalance between regional and constituency Members.

150. We therefore agree with the Expert Panel that regardless of whether any other reforms are introduced, legislative proposals should be brought forward early in the Sixth Senedd to establish review arrangements for the Senedd's electoral boundaries. We also agree with the Expert Panel that it would be appropriate for responsibility for reviewing the Senedd's electoral boundaries to rest with an independent boundary review body within the Senedd's legislative competence, although we recognise that further work is required to determine the detailed design, methodology and parameters which would apply. We do not underestimate the inherent technicality, complexity and political sensitivity of electoral boundaries, including boundary review parameters and methodologies. It will therefore be important for a Member-in-charge of reform legislation to secure broad political consensus on these matters at the earliest opportunity.

151. We acknowledge the risks and benefits associated with the alignment or divergence of the Senedd's boundaries with those used for either Westminster or local authority elections. This will be an important consideration for the Member-in-charge of any reform legislation as they develop proposals for the boundaries to be used for Senedd elections and for the ongoing review of those boundaries. The circumstances under which we have concluded our work mean that we have not reached a firm view on this matter. However, we note that the *Parliamentary Constituencies Bill 2019-21* is likely to bring to an end the current alignment of Westminster and Senedd constituencies with effect from 2023. Unless any legislative action were to be taken in the meantime which restored the automatic link (and which also addressed the consequential implications for the Senedd's

size and electoral arrangements), we believe that there would be no alternative for voters, electoral administrators and political parties other than to adapt to a divergence in the boundaries.

RECOMMENDATION

Recommendation 8. Regardless of whether any other reforms are brought forward, legislation should be introduced early in the Sixth Senedd to establish review arrangements for the Senedd's boundaries.

5. Diverse and inclusive legislatures

In this chapter we explore what diversity means in the context of legislatures, and consider who is responsible for ensuring that the Senedd is diverse, inclusive and representative.

Recommendations of the Expert Panel

152. The Expert Panel was tasked with recommending how Members of the Senedd should be elected. It argued that diversity enhances the way legislatures operate and represent their communities, and identified diversity as one of its ten principles for electoral system design:

“**Diversity:** the system should encourage and support the election of a body of representatives which broadly reflects the population”.¹⁶⁹

Why diversity matters in the context of legislatures

153. It is sometimes argued that the diversity of elected Members within a legislature is unimportant, on the basis that Members are responsible for representing the interests of all of their constituents:

“A man, or a woman, or someone from an ethnic minority, or a single parent, may perhaps be thought to have a better understanding of the outlook of men, of women, of ethnic minorities, or of single parents. Nevertheless, the MP’s job is to represent the diversity of the people in the constituency in a conscientious and professional way. Understanding your constituents is part of doing the job well, whether or not you have a particular affinity with one group or another”.¹⁷⁰

154. However, throughout our inquiry, we have repeatedly heard persuasive arguments about the benefits of diversity among elected representatives:

¹⁶⁹ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, paras 10.02 and 12.07

¹⁷⁰ Rogers, R. and Walters, R., *How Parliament Works (7th edition)*, Routledge, London, p.30

- Better decision-making and outcomes as a result of greater variety of opinion, experience and perspectives.¹⁷¹
- Better outcomes as a result of improved scrutiny of policy, spending and legislation informed directly by a range of authentic lived experiences without having to rely solely on consultation or engagement with groups or communities who are underrepresented among elected Members.¹⁷²
- Members' agenda-setting role may be more likely to encompass issues of interest and relevance to a wider range of groups and communities, taking account also of the range of political parties they represent.¹⁷³
- Greater confidence in the extent to which the legislature represents all the people and communities it serves equitably and fairly, and an indicator of a just society, in which people from different backgrounds are able to participate.¹⁷⁴
- People may feel more comfortable approaching a Member for help if the Member shares similar characteristics to themselves.¹⁷⁵

155. While we heard different perspectives on whether or not any action should be taken to encourage greater diversity within a legislature, and the view that all Members should represent the interests of all of their constituents,¹⁷⁶ we heard no arguments against legislatures being diverse and inclusive.

Defining diversity

156. Diversity is frequently considered through the lens of the protected characteristics specified in section 4 of the *Equality Act 2010*: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

¹⁷¹ See, for example, Ruth Coombs, [RoP \[para 63\]](#), 13 January 2020; Minister for Finance and Trefnydd, [RoP \[para 4\]](#), 27 January 2020

¹⁷² [DIV05 Women's Equality Network Wales: Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 4

¹⁷³ Dr Martin, [RoP \[para 164\]](#), 13 January 2020; [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 4

¹⁷⁴ Ruth Coombs, [RoP \[paras 37 and 63\]](#), 13 January 2020

¹⁷⁵ Dr Martin, [RoP \[para 165\]](#), 13 January 2020; [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 10

¹⁷⁶ See, for example, [ESB08 UKIP](#)

157. However, many of those who contributed to our work emphasised that identities, and therefore diversity and inclusion, are more complex than this. Groups which share particular identities are not monolithic or homogenous, and some identities can change over time. Professor Sarah Childs of Birkbeck, University of London, cautioned against an understanding of diversity which simply adds up the numbers of elected Members who identify as having particular protected characteristics. She emphasised, for example, that women as a group are diverse: they may or may not be carers or parents, they may or may not have disabilities, and they will come from a variety of ethnic backgrounds. She suggested that this diversity would not necessarily be reflected in the Senedd even if it were to be gender-balanced:

“We know that there are enough women who already fit the candidate profile to go into Parliament, but what about all the others who don’t currently think of themselves as being able to participate? I think that’s a slightly different question. Just counting bodies doesn’t always tell us how lacking in diversity an institution can be”.¹⁷⁷

158. Similarly, Ruth Coombs of the Equality and Human Rights Commission in Wales (“EHRC”) noted that the commencement of the socioeconomic duty would require organisations to consider the impact of strategic decisions on people from socioeconomically deprived circumstances, and stated:

“...if you broadened the base to include more disabled people, more people from ethnic minority backgrounds, you might actually increase people’s socioeconomic diversity as well, because we do know that our ‘Is Wales Fairer?’ report does show a strong link between poverty, socioeconomic disadvantage and disability, ethnicity and single-parent households. So, by broadening the diversity there, you would also be broadening that socioeconomic diversity at the same time”.¹⁷⁸

159. We also heard suggestions that other relevant considerations might include language, class, professional background, neurodiversity, or parental or other caring responsibilities.¹⁷⁹

¹⁷⁷ Professor Childs, [RoP \[paras 181-182\]](#), 3 February 2020

¹⁷⁸ Ruth Coombs, [RoP \[para 74\]](#), 13 January 2020

¹⁷⁹ See, for example, [DIV03 Individual](#); [DIV04 Centenary Action Group](#); [DIV07 Ethnic Minorities and Youth Support Team](#); Ruth Coombs, [RoP \[para 74\]](#), 13 January 2020; Dr Watt, [RoP \[paras 56 and 58\]](#), 3 February 2020; Professor Childs, [RoP \[paras 181-182\]](#), 3 February 2020; [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 25

Barriers to participation

160. Participants in our stakeholder discussion event on the diversity of the Senedd told us that there are significant barriers for anyone who seeks to enter party politics or stand for election to the Senedd, but that there may be additional barriers which affect people from underrepresented groups.¹⁸⁰ Such barriers might include, for example:

- The costs of seeking selection and election, particularly for people with disabilities who may face additional costs in respect of access requirements.
- The Senedd's ways of working, procedures and culture, and the time commitment and flexibility required from Members, candidates and potential candidates, particularly when taking into account other paid or unpaid work, ongoing professional or qualification requirements or caring responsibilities.
- Restricted access to personal and political networks or mentoring relationships, or overreliance on personal patronage or 'insider knowledge'.
- Varying levels of understanding or awareness of the role of the Senedd and its Members or of the political process and institutions more widely, driven in part by lack of experience of, or exposure to, public office, and insufficient engagement by political parties or institutions with people from different groups or communities.
- Stereotypes, unconscious bias, lack of role models and the perception of 'the ideal candidate', with implications both for people's self-confidence and for selection and election processes.
- Abuse, harassment, bullying and disproportionate scrutiny of people from minority groups, both online and offline, from the media, the public and from within political parties.
- Institutional, cultural and structural racism, sexism, ableism and other forms of discrimination or bias within public institutions and political parties, and a lack of clear, visible commitment to concrete action to address these issues. This was thought to contribute to negative or hostile political cultures and a lack of willingness to adapt ways of

¹⁸⁰ [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 11

working to facilitate participation by people from different backgrounds or people with disabilities.

- Varying levels of understanding within political institutions, political parties and the wider public about disability or other equality issues, including for example in respect of hidden disabilities, mental health and neurodiversity.¹⁸¹

161. Aspects of an individual's identity can affect the way in which they experience the barriers or privileges associated with other aspects of their identity.¹⁸² For example, a woman from an ethnic minority background who wants to engage in politics may experience different barriers to participation than those that might face a white woman. Similarly, both women might experience different barriers from those facing men from their respective ethnic backgrounds. The Ethnic Minorities and Youth Support Team ("EYST") explained that if we are to achieve diversity and inclusion within our political spaces and institutions, "focus must be paid with a shifting lens through various characteristics to achieve an equitable intersectional approach".¹⁸³

162. Dr Nicole Martin of the University of Manchester suggested that measures targeted at alleviating barriers which affected particular groups could also result in consequential benefits for other groups or communities:

"So, a gender quota will help ethnic minority women just as much as it might help white women, especially if there are targeted schemes towards potential ethnic minority candidates as well that will address that element of disadvantage and protected characteristics".¹⁸⁴

163. However, Professor Rosie Campbell of King's College London suggested that without broader changes in the way that decision-makers within political parties' selection processes approached their responsibilities, individual interventions might be limited in their effect:

¹⁸¹ See, for example, [DIV03 Individual](#); [DIV04 Centenary Action Group](#); [DIV05 Women's Equality Network Wales](#); [DIV06 Leonard Cheshire Cymru](#); [DIV07 Ethnic Minorities and Youth Support Team](#); Professor Campbell, [RoP \[paras 150-151\]](#), 13 January 2020; Dr Martin, [RoP \[paras 154-155\]](#), 13 January 2020; Professor Stirbu, [RoP \[paras 71-72\]](#), 20 January 2020; Dame Dawn Primarolo, [RoP \[para 195\]](#), 20 January 2020; [Diversity of the Senedd: note of discussion event](#), 10 February 2020

¹⁸² Dr Martin, [RoP \[para 200\]](#), 13 January 2020

¹⁸³ [DIV07 Ethnic Minorities and Youth Support Team](#)

¹⁸⁴ Dr Martin, [RoP \[para 157\]](#), 13 January 2020

“There’s no reason, really, to think that the women who are elected through quotas are any different from the men who are elected. So, what we tend to get is middle-class, professional women joining middle-class, professional men.

[...]

...if you have efforts to try to bring in more ethnic minority Assembly Members but you haven’t got a gender quota, then there might be a tendency to default to ethnic minority men, whereas, when you’ve got a gender quota, then you actually start to think differently”.¹⁸⁵

The diversity of the Senedd

Composition

164. The Expert Panel suggested that diversity of representation had been “one of the hallmarks of the Assembly since its establishment”, and particularly described the Senedd’s reputation for gender representation as “strong and commendable”. However, noting that this reputation was “vulnerable”, it suggested that “reform of the Assembly’s electoral system provides an opportunity to embed equality into the future political life of Wales and its national institutions”.¹⁸⁶

165. There is limited robust information available about the diversity of Members of the Senedd as this is not routinely monitored or published. Professor Campbell described to us the challenges of assessing the diversity of legislatures:

“...it’s quite difficult when it’s not publicly available, and sometimes that’s not a reliable way. For example, ethnicity—I’ve been involved in looking at pictures of people, which is a rather crude way to work out what your ethnic diversity is”.¹⁸⁷

166. Nevertheless, we heard from many who have contributed to our work that the Senedd has performed relatively strongly in respect of gender-balanced representation—largely due to the voluntary actions and electoral success of particular political parties—but that there has consistently been a lack of visible diversity in terms of ethnicity and disability. Several stakeholders emphasised in

¹⁸⁵ Professor Campbell, [RoP \[paras 146 and 158\]](#), 13 January 2020

¹⁸⁶ Expert Panel on Assembly Electoral Reform, [A Parliament that Works for Wales](#), December 2017, paras 12.01, 12.14 and 16.22

¹⁸⁷ Professor Campbell, [RoP \[para 98\]](#), 13 January 2020

particular that there has never been a female Member of the Senedd from an ethnic minority background.¹⁸⁸

Culture and ways of working

167. Participants at our stakeholder event on the diversity of the Senedd highlighted the proactive approach taken by the Senedd and its committees to engaging with underrepresented groups.¹⁸⁹ However, we also heard calls for further improvements in the diversity of voices which influence the work of the Senedd and its Members, including, for example:

- Greater commitment to engaging proactively and meaningfully with underrepresented groups, including: explaining how and why the views of such groups have or have not been taken into account or influenced decisions about policy, spending, legislation or the conduct of Senedd business; or co-producing work in partnership with underrepresented groups to ensure that their voices are clearly heard and show where their views have had an impact.
- Acknowledging the barriers to participating in Senedd business faced by underrepresented groups, and actively diversifying the range of groups, organisations and individuals who are invited to provide evidence or respond to consultations. This might include reaching out to different organisations, finding ways to make giving evidence to Senedd committees less intimidating, making greater use of rapporteurs to facilitate engagement within communities and directly with service users, making use of citizens' assemblies, or more consistently providing consultation and other documents in accessible formats such as Easy Read or Braille.
- Continuing the use of remote working and virtual meetings adopted in response to the COVID-19 pandemic to facilitate participation by witnesses or Members who may be unable to travel or attend meetings in person.
- Establishing advisory groups or engaging paid consultants who are connected to or embedded within underrepresented groups or

¹⁸⁸ For example, [DIV01 Electoral Reform Society Cymru](#); [DIV04 Centenary Action Group](#); [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 1

¹⁸⁹ [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 5

communities to identify the best ways to engage effectively and increase participation.

- Ensuring that underrepresented people with whom the Senedd seeks to engage during the course of its work are given parity of respect and remuneration for their expertise with people who are engaged on the basis of academic, technical or other expertise.
- Bringing about a change in the Senedd's culture by ensuring that codes of conduct for Members of the Senedd are sufficiently strong and are robustly upheld.¹⁹⁰

Capacity of the Senedd and how Members are elected

168. Our work on the diversity of the Senedd cannot be considered in isolation from our examination of the legislature's size and capacity. Stakeholders suggested that the size of the Senedd may be a constraining factor on its diversity, as within an institution of 60 Members it may be difficult for all minority groups to be represented. This was felt to translate even more acutely into Senedd committees, particularly those with small memberships.¹⁹¹

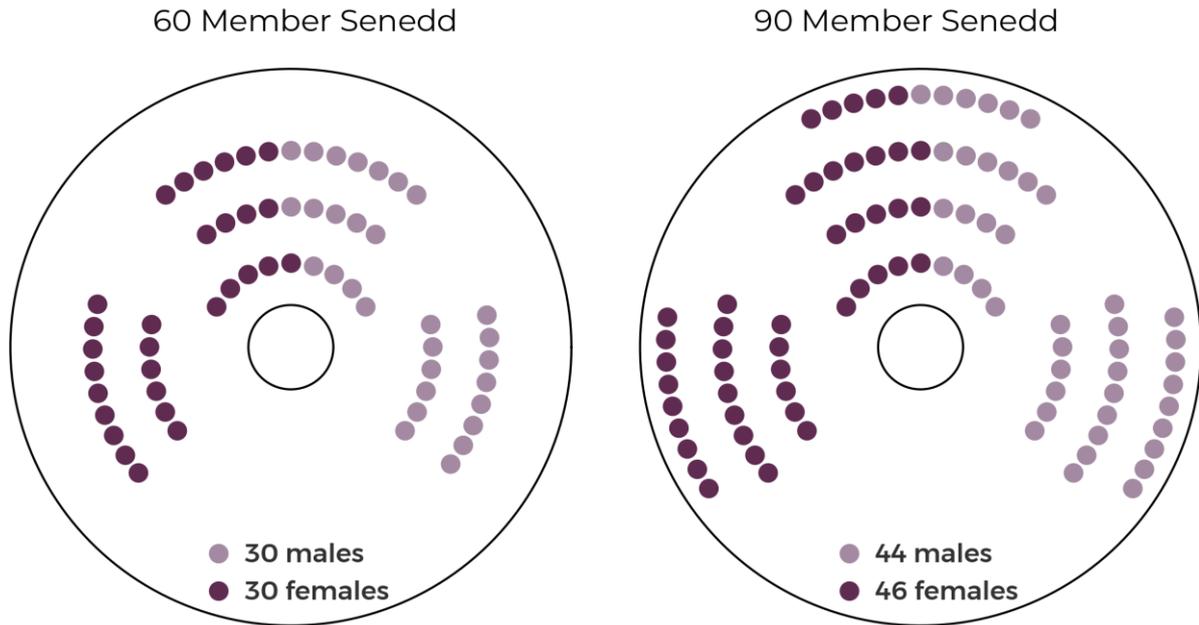
169. Figure 2 illustrates the number of seats which would be held by people with different protected characteristics in a 60 or 90 Member Senedd which exactly reflected the demographic makeup of Wales.

¹⁹⁰ See, for example, [DIV05 Women's Equality Network Wales](#); [DIV06 Leonard Cheshire](#); [DIV07 Ethnic Minorities and Youth Support Team](#)

¹⁹¹ [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 5

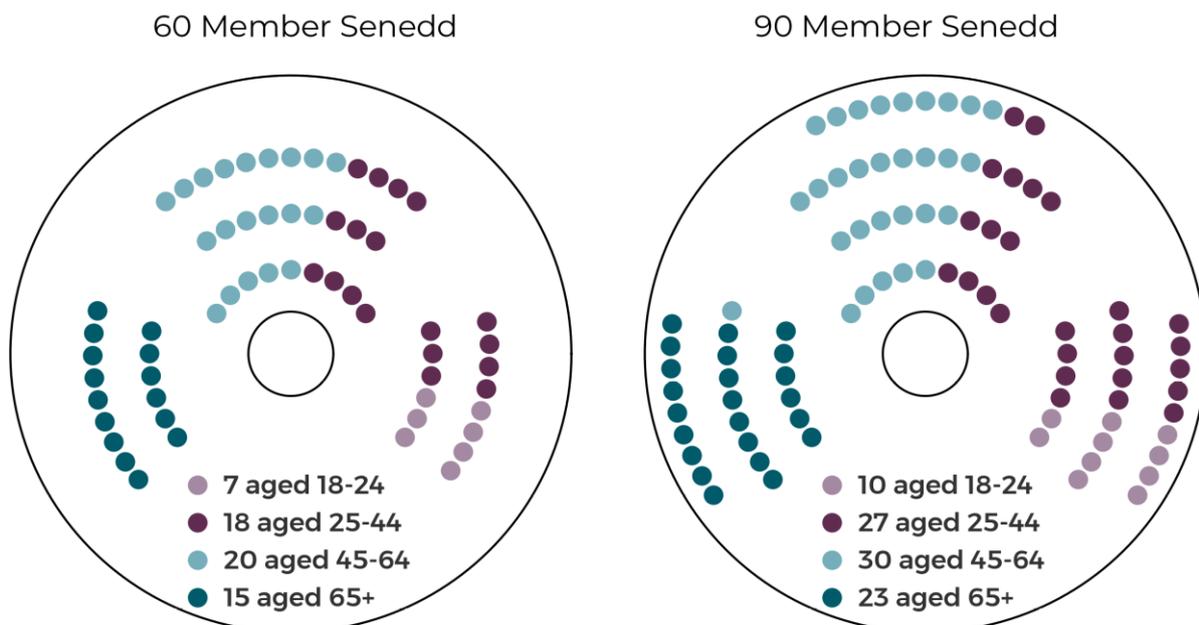
Figure 2 Demographic makeup of a 60 or 90 Member Senedd which reflected the population of Wales¹⁹²

Seats by sex



Source: ONS, 2019 mid-year population estimates

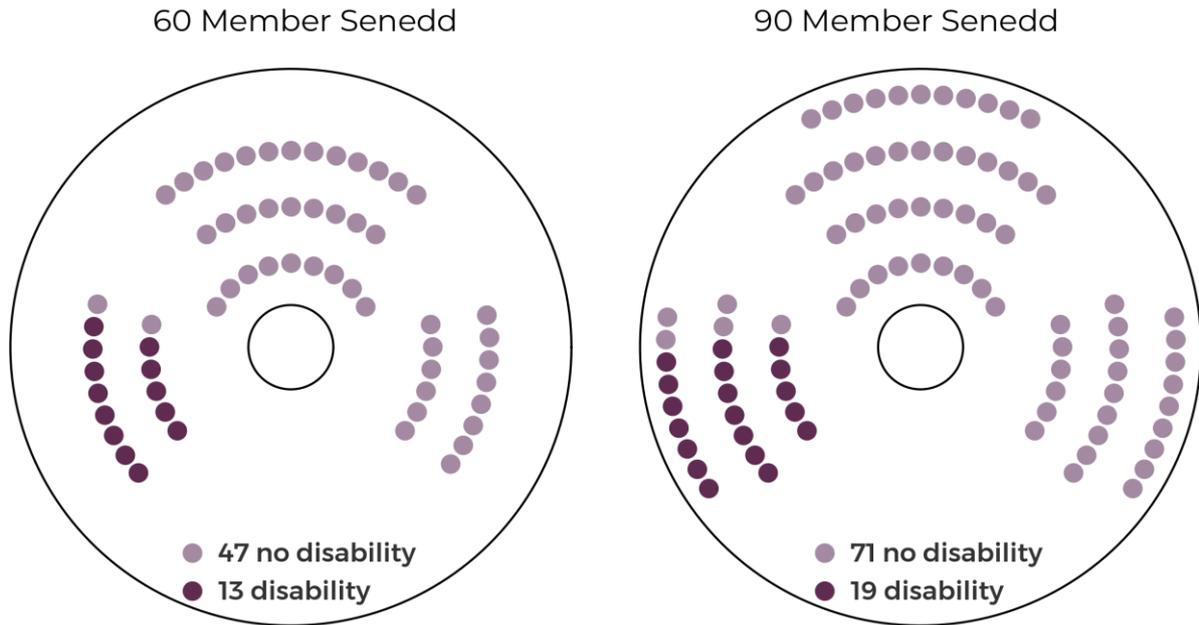
Seats by age



Source: ONS, 2019 mid-year population estimates

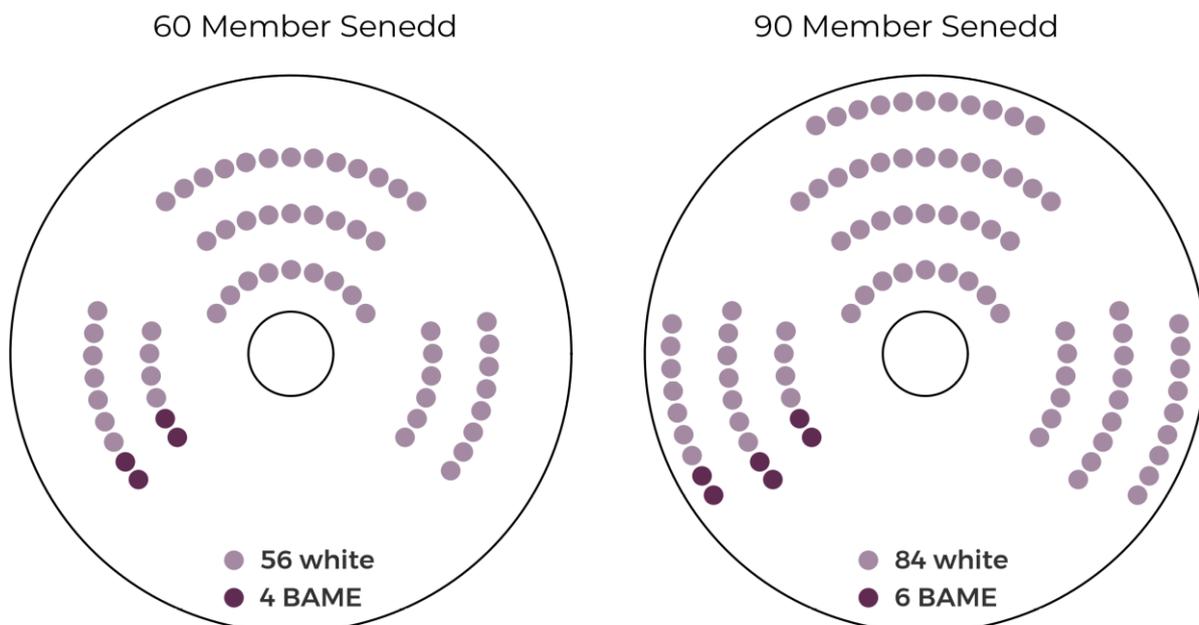
¹⁹² In each diagram, the share of seats allocated to a demographic group is proportional to the fraction of the general population that are in that group.

Seats by disability



Source: ONS, Annual Population Survey (2015-17)

Seats by ethnicity



Source: ONS, Annual Population Survey (2020)

170. EYST queried the extent to which a legislature which strictly matched the demographic composition of Wales would “automatically translate into influence and power in obtaining progressive policies for those groups”, and cautioned that without wider cultural, procedural and operational change within the Senedd minority voices could still be dismissed.¹⁹³ The Senedd Commission’s 2019 citizens’ assembly illustrates this issue. The 2011 census reported that 4.4 per cent of the population of Wales identify as being from BAME backgrounds. Modelling carried out as part of the process of recruiting participants for the citizens’ assembly found that reflecting this demographic composition would result in just three of the 60 participants identifying as BAME. The Senedd Commission subsequently decided to “overrepresent” people from BAME backgrounds within its stratified random sample.¹⁹⁴

171. In addition some of the suggestions we have heard for ways in which the Senedd could diversify the range of voices that influence its work echo concerns from stakeholders that the Senedd’s small size limits the extent to which committees are able to innovate and the flexibility with which they are able to discharge their responsibilities.¹⁹⁵ Professor McAllister also warned that measures which could be adopted to maximise the capacity of a 60 Member Sixth Senedd could have detrimental implications for the diversity of the institution:

“The irony is that, if we were to push ahead with a change to the electoral system that built in gender quotas, but, by 2026, women, people with caring responsibilities, disabled people, were put off by what they saw operating here, we’re going to have a big struggle to get those types of individuals to stand for elected office”.¹⁹⁶

172. Similarly, there is overlap between the diversity of the Senedd and the way in which Members are elected. As Professor Campbell explained, concerns raised about barriers to participation as a result of stereotypes, unconscious bias and assumed behavioural norms can be exacerbated by majoritarian electoral systems such as the First Past the Post element of the Senedd’s MMP/AMS voting system:

“...one of the reasons that just asking people to stand doesn’t work on its own is that, although we all think we’re very fair minded, we all have grown up in a society where we tend to think that—. We’ve seen more

¹⁹³ [DIV07 Ethnic Minorities and Youth Support Team](#)

¹⁹⁴ Senedd Commission, [Citizens’ assembly: full report](#), July 2019

¹⁹⁵ For example, [Capacity of the Assembly: note of discussion event](#), 6 January 2020. See chapter 2 for further discussion of the impact of the Senedd’s size on the operation of Senedd committees.

¹⁹⁶ Professor McAllister, [RoP \[para 73\]](#), 20 January 2020

men as politicians, and we tend to think politicians are more likely to be men. And so, if given a choice of two—. Which is why, in majoritarian systems versus the PR list, you're more likely to make those choices; if you've got a choice of a man or a woman and you can only choose one, you'll tend to choose the man".¹⁹⁷

Responsibility for the diversity of the Senedd

173. Responsibility for membership of the Senedd, and thereby for its diversity and any proactive legislative or voluntary interventions, is shared between a range of organisations and individuals (see Table 8).

Table 8 Responsibility for the diversity of the Senedd

| Organisation | Responsibilities |
|--|---|
| Political parties | The majority of candidates are selected by, and stand for election on behalf of, political parties. Parties are responsible for their own culture, processes and ways of working, including compliance with any statutory requirements and the development and implementation of any voluntary interventions. Parties are also responsible for contributing to the working environment and culture in the Senedd and in politics more widely. |
| The Senedd | The Senedd is responsible for its working practices and procedures, including how it engages the people of Wales in its work. The Senedd Commission has a legal duty to exercise its functions with regard to the principle of equality of opportunity for all people. |
| Remuneration Board | The Board's remit requires it to ensure that the financial support and remuneration available to Members does not deter people with the necessary commitment and ability from standing for election. It has commissioned research on the barriers that could prevent people from particular communities or groups from standing for election, and has increased the flexibility with which Members can make use of the financial support available to them. |
| Welsh Government | The Welsh Government has wider responsibilities in respect of the diversity of representation at all levels of governance in Wales, within public bodies and across all public appointments. |
| UK Government | "Equal opportunities" is a reserved matter under Schedule 7A of GOWA 2006, meaning that some responsibility for the diversity of the Senedd rests with the UK Government. |
| Equality and Human Rights Commission in Wales | The EHRC does not have any formal responsibility for the diversity of legislatures. However, it does provide guidance for electoral administrators, returning officers, political parties and candidates in relation to the legal framework for equality and human rights. |
| Individuals | Individuals have responsibility for deciding how and when to engage in politics, including whether to put themselves forward for election. People's decisions may be affected by a range of factors, including structural inequalities or barriers which may constrain participation. |

¹⁹⁷ Professor Campbell, [RoP \[para 150\]](#), 13 January 2020

| Organisation | Responsibilities |
|---------------|---|
| Voters | Voters are able to express choices (within the constraints of the relevant electoral system) for their preferred candidate or candidates. It is a matter for individual voters to determine the factors on which they base their choices. |

Our view on the diversity of the Senedd

174. We believe that a broad definition of diversity is appropriate when considering what it means for a legislature to be diverse, inclusive and representative. Scrutiny, representation and decision-making are better when undertaken from a variety of different perspectives, and when a range of lived experiences can be brought directly to bear. In our view, legislatures should be inclusive spaces in which the people and communities they serve can see themselves reflected. We want everybody in Wales to be able to feel that they could stand for election without facing disproportionate barriers as a result of their own intersectional identity.

175. Neither diverse identities nor the associated barriers to participation or representation can be reduced to a series of categories or to the simple addition or subtraction of protected characteristics. Reducing and removing barriers to participation will require a range of different measures and approaches. While measures taken to overcome barriers facing one group may have consequential benefits for others as well, there is no neat ‘one size fits all’ approach to achieving diversity and inclusion within the political sphere.

176. Overcoming institutional inertia and challenging the status quo is not easy. The range of different actors with responsibility for the diversity of the Senedd offers opportunities for flexibility and targeting specific interventions where particular issues are identified. However, within a wider context of structural and societal inequality it can also make collective or coordinated action challenging, constrain the pace of change, and limit the extent to which any single actor can take effective action to encourage the election of a more diverse Senedd.

177. The increased awareness of structural racism and discrimination following the Black Lives Matter protests and the significant changes to ways of working adopted in response to the COVID-19 pandemic have shown that radical progress can be made when there is a clear driver and a common purpose. Our shared responsibility now is to channel that momentum and willingness to innovate into ensuring that everyone in Wales feels able to engage with and participate in our democratic processes and institutions.

178. We believe that overcoming the barriers that stand in the way of a diverse and inclusive Senedd is the responsibility of a range of actors, including political parties, the Remuneration Board, the Welsh and UK Governments, and the Senedd itself. It should not be left to chance, treated as an afterthought, or be seen as the responsibility only of groups and communities who have historically been marginalised and underrepresented. We must all acknowledge the structural and cultural bias and discrimination embedded within our public and political spaces and institutions, and take action where and when it is needed to ensure our legislature is truly inclusive, fully representative, and genuinely shared and shaped by all of Wales' people and communities. During our work we have heard a range of suggestions about how this could be done, and we explore those in the next chapters of this report.

6. Electing a more diverse Senedd

In this chapter we explore interventions recommended by the Expert Panel and other stakeholders which could encourage the election of a more diverse Senedd, and consider the Senedd's legislative competence to act in this regard.

Recommendations of the Expert Panel

179. The Expert Panel made three recommendations for legislative interventions it believed would encourage the election of a more diverse Senedd:

- **Recommendation 9:** The Assembly should request that the Secretary of State commences section 106 of the *Equality Act 2010* in relation to Assembly elections, or transfers the power to do so to the Welsh Ministers. Otherwise, legislation to reform the Assembly's electoral arrangements should include provision that would secure the availability of information regarding diversity.
- **Recommendation 10:** In order to safeguard the achievements of the Assembly and political parties in Wales in relation to gender-balanced representation, we recommend that a gender quota is integrated within the electoral system put in place for 2021. If this does not happen—whether through lack of political consensus or the limits of the Assembly's legislative competence—we propose that political parties be expected to take steps to ensure their candidate selection processes support and encourage the election of a gender-balanced parliament for Wales. This should include voluntary adoption by parties of the quotas we have outlined.¹⁹⁸
- **Recommendation 11:** Electoral law, Assembly procedures and the Remuneration Board's Determination on Members' Pay and Allowances should be changed to enable candidates to stand for election on the basis of transparent job sharing arrangements. The guiding principles of such arrangements should be that candidates clearly articulate the basis of their job sharing agreement to voters, that job sharing partners are treated as if they are one person, and that job sharing Members

¹⁹⁸ We consider issues relating to diversity quotas in chapter 7 of this report.

should give rise to no additional costs beyond those of a single Assembly Member.¹⁹⁹

Publication of anonymised candidate diversity information

Background

180. There is currently no requirement to collect or publish information about the diversity of candidates for Senedd elections, although parties could do so voluntarily if they wished. Similarly, there is no formal equality monitoring of Members of the Senedd. The Expert Panel argued that:

“The lack of such information presents a barrier for parties and for campaigners who seek to encourage and support the selection and election of diverse candidates and representatives”.²⁰⁰

181. Section 106 of the *Equality Act 2010* would, if commenced, require political parties to report on the diversity of their electoral candidates. It specifies that candidates could not be compelled to provide their information, and that information could not be published in a form which would allow any individual to be identified. Regulations to be made under section 106 must specify how the duty applies, including the people about whom data must be reported. For example, this might include people who apply to be candidates but are not selected; who are selected as candidates but not elected; or who are successfully elected. Regulations may also specify the protected characteristics on which parties would have to report, and the parties to which the requirement would apply, for example those contesting more than a specified number of constituencies or regions.

182. Despite ongoing campaigning by stakeholders, section 106 has not been commenced. The Expert Panel recommended that section 106 should be commenced, or that equivalent provision should be included in Welsh legislation, in order to require political parties to publish anonymised information about the diversity of their candidates for Senedd elections.

183. In its report on diversity in local government the ELGC Committee called on the Welsh Government to make representations to the UK Government to

¹⁹⁹ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, recommendations 9, 10 and 11

²⁰⁰ *Ibid.*, para 12.05

commence section 106 in respect of local elections in Wales.²⁰¹ The Welsh Government accepted this recommendation in May 2019.²⁰² The Trefnydd told us in January 2020 that the Minister for Housing and Local Government had planned to make such representations in November 2019, but that the UK general election had prevented any progress being made.²⁰³ However, in March 2020, the UK Government stated in response to a written Parliamentary question:

“We will keep section 106 under review, as we do with other uncommenced provisions in the Equality Act 2010. The government can play a role in supporting political parties to take action, but ultimately it is for parties to ensure that they select a diverse range of candidates and they should lead the way in improving diverse representation”.²⁰⁴

Principle of collecting and publishing candidate diversity data

184. We heard some concerns that reporting on candidates’ protected characteristics could result in candidate selection on the basis of identity rather than merit.²⁰⁵ Nevertheless, the majority of those who have contributed to our work agreed with the Expert Panel that political parties should be required to publish information about the diversity of their candidates.

185. Participants in our stakeholder discussion event described the assumptions which currently underpin understanding of the diversity of the Senedd, and suggested that accurate recording of diversity data relating to Members could be “a relatively ‘quick win’ in terms of establishing how diverse or otherwise the Senedd really is”.²⁰⁶ However, EYST queried the extent to which data alone would be sufficient to drive change unless it were part of a package of measures:

“Producing data without narratives or targets is not an incentive to select diverse candidates. Political parties should consider what actions

²⁰¹ Equality, Local Government and Communities Committee, *Diversity in local government*, April 2019, p.70

²⁰² [Letter from the Minister for Housing and Local Government to the ELGC Committee](#), 23 May 2019

²⁰³ Minister for Finance and Trefnydd, [RoP \[paras 49 and 51\]](#), 27 January 2020

²⁰⁴ UK Government, [Response to WQ24999 Candidates: equality](#), 9 March 2020

²⁰⁵ [Summary of evidence provided in confidence by political parties](#)

²⁰⁶ [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 33

they are taking to improve behaviours and attitudes before any real difference can be made”.²⁰⁷

186. The Centenary Action Group described political parties as “gatekeepers to political representation”, and argued that publicly available information which was comparable across parties would enable benchmarking, encourage action and allow progress to be tracked. It noted that increased transparency and improved data has been shown to drive change in other sectors, including the NHS, the Police, trades unions and universities, as well as through initiatives such as gender pay gap reporting.²⁰⁸ Similarly, stakeholders at our discussion event on the diversity of the Senedd told us that the availability of data, in addition to allowing progress to be tracked, could result in an “embarrassment factor” which could drive parties to select a more diverse candidate group.²⁰⁹

187. The EHRC noted that organisations which collect and publish diversity data tend to have better records on diversity and inclusion, and suggested that parties would be able to target their own interventions if they understood the diversity or otherwise of their candidates.²¹⁰ Professor Campbell also observed that greater availability of data would improve research into equality and diversity in the context of legislatures and representative politics, as researchers could focus their time and energies on analysis and identifying potential solutions rather than data gathering.²¹¹

Practical implications

Provision of data

188. The Welsh Government is required by the *Local Government (Wales) Measure 2011* to conduct a survey of councillors and candidates for election to local authorities which includes equality monitoring questions. Lisa James, Deputy Director of Local Government Democracy for the Welsh Government (“the Deputy Director”), told us that the response rates for the surveys conducted in 2012 and 2017 had been disappointingly low: 35 per cent and 20 per cent respectively.²¹²

189. We heard some concerns that not all candidates for Senedd elections would want to provide their personal information. Ruth Coombs of the EHRC

²⁰⁷ [DIV07 Ethnic Minorities and Youth Support Team](#)

²⁰⁸ [DIV04 Centenary Action Group](#)

²⁰⁹ [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 34

²¹⁰ Ruth Coombs, [RoP \[paras 29 and 34-35\]](#), 13 January 2020

²¹¹ Professor Campbell, [RoP \[paras 98 and 100\]](#), 13 January 2020

²¹² Lisa James, [RoP \[paras 13-14\]](#), 27 January 2020

acknowledged this, but suggested that widespread unwillingness among candidates for a particular political party to provide data could itself be an indication of a diversity or inclusion issue within that party.²¹³ Professor Campbell agreed, noting that the businesses which have been able to collect good data to inform BAME pay gap reporting are those which have explained clearly to their employees why the data was being collected and how it would be used to improve equality within the workplace.²¹⁴

190. In its response to our public consultation, Welsh Labour suggested that self-reporting by political parties could lead to inconsistent returns and reduce the validity of comparisons between political parties unless there was an agreed set of categories and definitions.²¹⁵

Data protection and administrative issues

191. Some contributors to our work have highlighted the need for any arrangements for the collection, processing and publication of data to comply with relevant data protection legislation, although none have suggested that there would be any insurmountable barriers. Within a relatively small cohort of 60 Members overall, and fewer Members representing each political party, it may be challenging to report data on a party basis without risking individuals' anonymity. However, reporting anonymised data in respect of relatively small groups can be achieved, as evidenced by the approach taken by the Commissioner for Public Appointments to the reporting of information about the diversity among the 76 public appointments made by the Welsh Government in 2018-19.²¹⁶

192. Others raised concerns about the potential administrative burden that collecting and publishing data could place on political parties. Political parties varied in their assessments of the potential implications. Some parties suggested that the administrative burdens would be significant, while others were of the view that there would either be no implications, or that the implications would be minimal and could be overcome without too much difficulty.²¹⁷

²¹³ Ruth Coombs, [RoP \[para 32\]](#), 13 January 2020

²¹⁴ Professor Campbell, [RoP \[para 177\]](#), 13 January 2020

²¹⁵ [DIV02 Welsh Labour](#)

²¹⁶ For example, see pages 76-78 of the [Commissioner for Public Appointments' annual report 2018-19](#) for information about the diversity of Welsh Government public appointments and re-appointments in 2018-19.

²¹⁷ [Summary of evidence provided in confidence by political parties](#)

193. Professor Campbell told us that parties could already publish data voluntarily if there was sufficient political will, but explained that:

“...political parties are underfunded and overstretched, and, if you don’t make them do it, they’ve got a lot of other things to be doing”.²¹⁸

194. The Centenary Action Group suggested that smaller parties might need some additional support to assist them with equality monitoring of their candidates, although it also noted that for many organisations such monitoring is already routine.²¹⁹ Conversely, ERS Cymru argued that the additional administrative burden on political parties would be relatively low, as political parties already require their candidates to complete a series of forms to which the relevant questions could be added.²²⁰

Our view on the publication of anonymised candidate diversity data

195. Transparency drives change. We therefore believe that anonymised data about the diversity of candidates for Senedd elections should be published. Our preference would be for this to be achieved through legislative means: either by the commencement of section 106 of the *Equality Act 2010* in respect of Senedd elections or by the inclusion of equivalent provision in an Act of the Senedd. However, we recognise that neither the Senedd nor the Welsh Ministers have powers to commence section 106, and that the legal advice we have received is that separate Welsh provision would be outside the Senedd’s legislative competence. There are, of course, mechanisms by which the Senedd’s legislative competence can be extended—and we explore these in chapter 10 of this report—but pursuing such avenues could take considerable time and could not, for example, result in a legislative requirement being in place for the 2021 Senedd election.

196. We do not believe that the absence of legislative requirements for the publication of candidate diversity information should be a barrier to improving the availability of data in the meantime. Political parties can already collect, collate, anonymise and publish data about the diversity of their candidates voluntarily, and our view is that they should do so.

197. We believe that data should be collected and published in a consistent format across political parties, to ensure that the public, stakeholders and

²¹⁸ Professor Campbell, [RoP \[paras 173 and 179\]](#), 13 January 2020

²¹⁹ [DIV04 Centenary Action Group](#)

²²⁰ [DIV01 Electoral Reform Society Cymru](#)

academics are able to track progress in the diversity of parties' candidates over time as well as draw comparisons between political parties. It is also vital that equality monitoring data is treated sensitively to make sure that individuals cannot be identified and to ensure compliance with all relevant data protection legislation. It may, therefore, be appropriate for political parties to coordinate this activity through existing forums such as the Electoral Commission's Political Parties Panel, and to take advice from the Equalities and Human Rights Commission and the Information Commissioner.

RECOMMENDATIONS

Recommendation 9. We endorse the recommendation of the Equality, Local Government and Communities Committee that the Welsh Government should make representations to the UK Government for the commencement of section 106 of the *Equality Act 2010* in respect of elections in Wales.

Recommendation 10. In the absence of legislative provision requiring political parties to collect, anonymise and publish data about the diversity of their candidates for Senedd elections, political parties should do so on a voluntary basis with effect from the 2021 Senedd election.

Job sharing for Members of the Senedd

Background

198. The Fawcett Society defined job sharing in 2017 as:

“...a way of working which usually involves two people sharing what is normally a full-time job. A key feature is the shared responsibility for the job role. If a previously full-time job is split into two separate job descriptions, this is not a job-share, but a job-split. Job-shares enable jobs which cannot be carried out on a part-time basis to be accessible on a reduced hours basis”.²²¹

²²¹ Fawcett Society, *Open House? Reflections on the possibility and practice of MPs job-sharing*, September 2017, p.12

199. The Expert Panel recommended that job sharing should be introduced for Members of the Senedd. In the context of legislatures, there are potentially two types of job sharing:

- a. **Non-executive job sharing:** where two (or more) individuals are elected together to share the position of a single elected office.
- b. **Executive job sharing:** where the responsibilities of an executive post, such as a cabinet position, are shared between two (or more) elected representatives.

200. In a Written Statement to the Senedd in July 2018, the Llywydd noted that introducing non-executive job sharing without also enabling executive job sharing would result in the emergence of two tiers of Members: those who could serve in the Welsh Government and those who could not.²²² We share the Llywydd's concern about undermining the equal status of all Members of the Senedd, and our consideration of job sharing within the Senedd therefore encompasses both non-executive and executive job sharing.

Principle of enabling job sharing

201. We are not aware of any examples of non-executive job sharing in the context of elected representatives. However, executive job sharing is beginning to emerge in local authorities in Wales, and provision to facilitate wider uptake is included in the *Local Government and Elections (Wales) Bill*. The Trefnydd told us that the Welsh Government's intention in enabling executive job sharing at local government level was to open up leadership roles to councillors who would otherwise be unable to take on such positions, but that it had not yet reached a view on whether executive job sharing would be appropriate within the Welsh Government itself.²²³ Executive job sharing is also an emerging practice internationally. For example, the coalition agreement between Fianna Fáil, Fine Gael and the Green Party following the 2020 Irish general election includes a rotating job share of the role of Taoiseach.²²⁴

202. Many of those who contributed to our work argued that enabling job sharing would reduce barriers which might otherwise prevent people from standing for election to the Senedd. In particular, we heard that it would be beneficial for

²²² Senedd Commission, *Written statement: the Commission's Assembly reform priorities following the outcome of the public consultation "Creating a Parliament for Wales"*, 18 July 2018

²²³ Minister for Finance and Trefnydd, *RoP [paras 78 and 91]*, 27 January 2020

²²⁴ See, for example, BBC News, *Irish government: deal reached to form coalition*, 15 June 2020; BBC News, *Micéál Martin becomes new Irish PM after historic coalition deal*, 27 June 2020

women, people with disabilities, people with parental and other caring responsibilities, or people who wished to maintain their professions or other commitments while still having something to offer within the political sphere.²²⁵ It was suggested to us that job sharing would also provide benefits for the legislature and constituents, including:

- Bringing into the Senedd the experience, skills and ideas of two individuals in return for one salary.
- Enabling Members to retain their connections to their professions, work spaces and life experiences, and bring them to bear in their scrutiny and representative roles.²²⁶

203. Writing in 2017, Emily Brothers, the first blind woman to stand for election to the House of Commons and Labour’s first transgender Parliamentary candidate, argued that in addition to making politics more accessible to disabled people, job sharing could help to combat what she described as the narrowing of the “pathways into politics” brought about by Parliament becoming more professionalised and, consequently, more distant to many people.²²⁷ Professor Childs agreed that job sharing could help to counter perceptions that “the professional class has become more elite and more homogenous” or that elected representatives have to be career politicians.²²⁸

204. However, Professor Philip Cowley of Queen Mary University London suggested in 2013 that job sharing for Members would offer “at best marginal gain and will be a distraction from more effective means of dealing with the issue”.²²⁹ EYST also warned that:

“Like most measures, job sharing will not be a panacea leading to diversity amongst elected Members”.²³⁰

²²⁵ See, for example, [DIV01 Electoral Reform Society Cymru](#); [DIV05 Women’s Equality Network Wales](#); Professor Campbell, [RoP \[paras 106-107\]](#), 13 January 2020

²²⁶ [DIV06 Leonard Cheshire Cymru](#); [DIV07 Ethnic Minorities and Youth Support Team](#); Professor McAllister, [RoP \[para 76\]](#), 20 January 2020; Councillor Sherwood, [RoP \[para 61\]](#), 3 February 2020

²²⁷ Fawcett Society, [Open House? Reflections on the possibility and practice of MPs job-sharing](#), September 2017, p.31

²²⁸ Professor Childs, [RoP \[paras 67 and 93\]](#), 3 February 2020

²²⁹ Campbell, R. & Cowley, P., [The Public Will Never Stand For It. Or Maybe They Will: Attitudes to Job Sharing Parliamentarians](#), September 2013, p.3 (footnote 4)

²³⁰ [DIV07 Ethnic Minorities and Youth Support Team](#)

205. We heard mixed views from political parties, both on the principle and in respect of how the arrangements might work in practice.²³¹ Acknowledging that there were challenges associated with implementing job sharing, Councillor Mary Sherwood (who was part of the first executive job sharing partnership in Swansea Council) highlighted the risks of not increasing the range of voices in politics:

“We can’t say that bad things are never going to happen that are associated with job sharing, but we’re already seeing pretty bad things happening because of the lack of diversity in politics. [...] most consumers of public services are those on low incomes and with disabilities, and yet they’re not the ones around the table saying how things should be run. It’s left to middle-class advocates with a sense of noblesse oblige to speak on their behalf, and this needs to change”.²³²

Managing political differences

206. Among the concerns put forward about how job sharing would operate in practice, especially election on the basis of job sharing, were how fundamental political differences between job sharing partners could be addressed and the impact of job sharing on democratic accountability. Responding to the Senedd Commission’s *Creating a Parliament for Wales* consultation, the Hansard Society noted that the role of a Member gives rise to issues of “constitutional propriety and representation that are important in the parliamentary context but which do not apply in other sectors”, but concluded that the challenges should not be insurmountable.²³³

207. Professor Campbell argued that reconciling differences within a job share would not be significantly different to reconciling differences within a political party, and suggested that similar mechanisms of discussion, negotiation and whipping would apply.²³⁴ In respect of matters of conscience, Dr bob Watt, retired professor of election law, observed that before entering into a job sharing arrangement, people would be likely to discuss their views on a range of matters to work out whether they could work together effectively. He suggested that where job sharing partners disagreed on matters of conscience they could abstain, and potentially make a statement to record the reasons for this.²³⁵ Councillor Sherwood questioned the extent to which representatives of political

²³¹ [Summary of evidence provided in confidence by political parties](#)

²³² Councillor Sherwood, [RoP \[para 206\]](#), 3 February 2020

²³³ Senedd Commission, [Creating a Parliament for Wales: Consultation report](#), October 2018, p.30

²³⁴ Professor Campbell, [RoP \[para 109\]](#), 3 February 2020

²³⁵ Dr Watt, [RoP \[paras 153 and 158\]](#), 3 February 2020

parties act independently in the majority of circumstances rather than following the party line. Her view was that within multimember local government wards, councillors essentially already stand on a joint ticket and are used to resolving their differences privately while presenting a united front.²³⁶ Professor Childs agreed that achieving consistent political positions was not a problem unique to job sharing. She argued that electoral accountability rarely depends on the vote of a Member on a single issue, but suggested that if needed the Senedd could develop procedural mechanisms to facilitate formal abstention or enable job sharing Members to record different positions in a Plenary vote.²³⁷

Parameters for job sharing

208. Councillor Sherwood described her experience of executive job sharing in local government, emphasising in particular issues relating to establishing boundaries within the role, political relationships and working with officials. She suggested it was important to establish principles and boundaries for job sharing, and to provide clarity on the roles, responsibilities and ways of working of job share partners. She noted that the reality was that political roles can easily expand to fill the time available.²³⁸ This echoes what we have heard during our work on capacity about the lack of clarity and wider understanding about what Members' roles entail, and the range of different pressures Members face in their formal Senedd roles, their roles as representatives and their roles as political campaigners.

209. We have also heard concerns that a job share could be seen by parties or others as a way to increase capacity by having two individuals work together to deliver more than 100 per cent of the role and its workload. It was felt that this could particularly be the case for political roles, because they are poorly-defined and not well-understood.²³⁹ Leonard Cheshire Cymru suggested that job sharing could, in itself, "be an effective way to redefine roles in public life and make them more accessible for disabled candidates".²⁴⁰ Similarly, Professor Childs argued that the flexibility of political roles may offer opportunities for job sharing partnerships to develop job sharing agreements tailored to their particular needs as well as their constituents' expectations.²⁴¹ Writing in 2017, she suggested that job sharing

²³⁶ Councillor Sherwood, [RoP \[paras 38-39 and 145-146\]](#), 3 February 2020

²³⁷ Professor Childs, [RoP \[paras 150-151\]](#), 3 February 2020

²³⁸ Councillor Sherwood, [RoP \[para 61\]](#), 3 February 2020

²³⁹ [Diversity of the Senedd: note of discussion event](#), para 36; Councillor Sherwood, [RoP \[para 61\]](#), 3 February 2020

²⁴⁰ [DIV06 Leonard Cheshire Cymru](#)

²⁴¹ Professor Childs, [RoP \[paras 110-111 and 116-118\]](#), 3 February 2020

approaches could take a range of forms, including working on different days, carrying out different roles, or even working for different periods of the year. She emphasised that the crucial point was for job sharers to be open and honest with colleagues, fellow parliamentarians and the electorate, and ensure that their work was carried out in a manner consistent with the arrangements they had presented to their party and the electorate.²⁴²

Public opinion

210. The Senedd Commission's *Creating a Parliament for Wales* consultation asked whether people should be able to stand for election on the basis of job sharing. Of the 1,300 responses to the question, 34 per cent agreed, 52 per cent disagreed and 14 per cent responded 'don't know'.²⁴³ The Trefnydd told us that there would be a need to fully test the public's views on job sharing before any decisions could be taken.²⁴⁴ Professor Childs agreed, noting that a survey of parliamentary candidates undertaken in 2015 had shown significant divisions in support for job sharing along gender and political party lines. She suggested that a public campaign was needed in order ensure "that people understood why this was being done, and that it was worth it".²⁴⁵

211. Sam Smethers of the Fawcett Society asserted in 2017 that parliaments could become less accessible to the electorate if they appear to be 'different' or 'other'. She suggested that this could be exacerbated if practices such as job sharing, which are common in other sectors, were rejected on the basis that the role of elected Member is too different to other roles. She stated:

"...what makes you [MPs] so different? And why in the current climate would you want to perpetuate the impression that you are? What is it about you and your role which really means that this is so impossible when it is a frequently employed practice elsewhere?"²⁴⁶

212. Professor Campbell told us that her research had shown that while there were firm advocates for job sharing and firm opponents, there was a very large group of people who did not have a view, suggesting that there has not yet been sufficient public debate. She suggested that the issue was politically controversial

²⁴² Fawcett Society, *Open House? Reflections on the possibility and practice of MPs job-sharing*, September 2017, p.33

²⁴³ Senedd Commission, *Creating a Parliament for Wales: consultation report*, October 2018, p.16

²⁴⁴ Minister for Finance and Trefnydd, *RoP [para 80]*, 27 January 2020

²⁴⁵ Professor Childs, *RoP [para 194]*, 3 February 2020

²⁴⁶ Fawcett Society, *Open House? Reflections on the possibility and practice of MPs job-sharing*, September 2017, p.39

because of preconceptions about “what political representation is” and a lack of a clear understanding of “the difference [job sharing] might make or what the purpose is”.²⁴⁷

Practicalities

213. Writing in 2017 in the context of the House of Commons, Dr Watt acknowledged the legislative and practical challenges, but argued that:

“...if there was the necessary political will, the introduction of MP job-sharing is feasible in a straightforward legislative way. It is hoped that a group in Parliament, not necessarily contiguous with a political party, will decide to promote a fully articulated bill permitting job-sharing. This bill could then be debated in a proper fashion and the pros and cons placed in the public sphere”.²⁴⁸

214. ERS Cymru suggested that the Electoral Commission and Senedd Commission would need to provide clear public guidance in advance of an election on how job sharing would work in practice.²⁴⁹ Many of those who gave evidence told us that job sharing partners should be treated as a single entity. For example, Professor Childs stated that if one job sharing partner died or was suspended from participating in public life, the other partner would also lose their elected office. She acknowledged that consideration would need to be given to the mechanism for filling the resulting casual vacancy.²⁵⁰ Electoral systems which fill casual vacancies through by-elections would provide an opportunity for the remaining job share partner to stand for election again (either on their own or with a new job share partner). However, systems which fill casual vacancies by countback (as recommended by the Expert Panel for STV) or appointment from the list (as in the regional element of the Senedd’s current MMP/AMS voting system) would not allow the remaining job share partner to contest their seat.

215. The Expert Panel recommended that job sharing partners should be treated as a single entity for the purposes of remuneration and financial support.²⁵¹ Consideration would be needed as to whether this could realistically apply across the full range of support available to Members, for example in respect of home

²⁴⁷ Professor Campbell, [RoP \[para 120\]](#), 13 January 2020

²⁴⁸ Fawcett Society, [Open House? Reflections on the possibility and practice of MPs job-sharing](#), September 2017, p.29

²⁴⁹ [DIV01 Electoral Reform Society Cymru](#)

²⁵⁰ Professor Childs, [RoP \[para 125 and 129\]](#), 3 February 2020

²⁵¹ Expert Panel on Assembly Electoral Reform, [A Parliament that Works for Wales](#), December 2017, para 12.26

broadband connections or residential support allowance for Members representing constituencies in the outer area. In addition to access to financial support, consideration would need to be given to the governance arrangements which would apply to claims, as well as to how such costs would be published. Professor Childs acknowledged that job sharing could give rise to some additional costs:

“...if we want a diverse institution, and I think we should, then there will be some additional costs. But I don’t think (a) the numbers of job share will be enormous necessarily, and (b) the additional costs will be so huge that they would not be a price worth paying for a better democracy. And I know that sounds very glib, but it seems to me that the principle is more important at this point than the cost”.²⁵²

216. Members are employers of staff, and consideration would need to be given to how this would operate for job sharing Members.²⁵³ Particular issues might include, for example any additional legal obligations which would result if such Members had to form formal partnerships in order to employ staff jointly, or issues relating to accountability if only one job sharing partner had responsibility for employing staff. Arrangements of this nature are common in some sectors, for example where GPs share staff to support their collective work in a surgery,²⁵⁴ or in the Scottish Parliament where members of political groups operate joint employment arrangements.²⁵⁵

217. We also heard some concerns about the process by which job sharing partners would be brought together as candidates, including risks relating to political patronage, opportunism or manipulation. Councillor Sherwood acknowledged these risks, but stated:

“Well, what you currently have is people who would like to enter politics and can’t, because they face many barriers, being told by parties and, indeed, the entire system that they can’t. So, there are always going to be glitches and negatives, and the forces of darkness are always going

²⁵² Professor Childs, [RoP \[para 170\]](#), 3 February 2020

²⁵³ Dame Dawn Primarolo, [RoP \[para 171\]](#), 20 January 2020

²⁵⁴ BMA, [Joint employment for shared staff](#), December 2018

²⁵⁵ See paragraphs 9.2 to 9.7 of Scottish Parliament, [Guidance on the Reimbursement of Members’ Expenses Scheme](#) [accessed January 2020]. In the Senedd, political group staff are employed by the group leader rather than by all members of the political group.

to find those and use them to their advantage. That doesn't mean that we should block off those opportunities".²⁵⁶

Our view on job sharing for Members of the Senedd

218. While job sharing in many professions is becoming more common, and job sharing in executive political roles is beginning to emerge at a local authority level in Wales, election on the basis of job sharing would be novel. It may, therefore, be appropriate for consideration to be given to trialling job sharing on the basis of pilot schemes either at Senedd, local authority or community council level.

219. We recognise that there are legal, practical and public communication and engagement issues that would need to be resolved before any legislative proposals could be brought forward to enable Members to stand for election on the basis of job sharing or to enable executive job sharing for members of the Welsh Government or Senedd office holders. We do not believe that these issues are insurmountable, and we are persuaded by the evidence we have heard that job sharing could help to remove barriers which might otherwise prevent some people from standing for election or serving as a Member of the Senedd.

RECOMMENDATIONS

Recommendation 11. A cross-party working group should be established early in the Sixth Senedd to explore in detail the feasibility of enabling election on the basis of job sharing and/or executive job sharing within the Welsh Government or other Senedd offices such as Llywydd, Commissioner, committee chair, or business manager. The role of the working group should be to consider in detail and make recommendations to the Senedd on:

- How any political or public concerns relating to democratic accountability or transparency might be addressed.
- How practical issues and obstacles might be overcome.
- Developing a pilot scheme at Senedd, local authority or community council level.
- The approach to engaging the public in respect of these issues.

Recommendation 12. In undertaking its work, the cross-party working group on job sharing should take account of a wide range of perspectives, including:

²⁵⁶ Councillor Sherwood, [RoP \[para 172\]](#), 3 February 2020

Members of the Senedd, political party officials, Senedd Commission and Welsh Government officials, the Remuneration Board, electoral administrators, the Electoral Commission and relevant stakeholders.

Addressing financial barriers to standing for election

Access to elected office fund for people with disabilities

220. Undertaking research on behalf of the Remuneration Board, Cardiff University recommended the establishment of an access to politics fund to support disabled candidates and candidates from other underrepresented groups.²⁵⁷ The ELGC Committee noted in its 2019 report that similar funds already exist in England and Scotland:

“In England, grants of between £250 and £40,000 are provided to help disabled individuals put themselves forward for election, while Scotland provides financial support to pay for the additional impairment related costs that disabled people face when running for elected office”.²⁵⁸

221. The ELGC Committee recommended that an access to elected office fund should be established in Wales to assist people with disabilities to put themselves forward for election.²⁵⁹ This proposal was supported by many of the contributors to our work, including stakeholders at our discussion event, the Centenary Action Group, the Women’s Equality Network Wales (“WEN Wales”) and Leonard Cheshire Cymru.²⁶⁰ Ruth Coombs of the EHRC explained the difference a fund could make:

“If you’re somebody who is disabled with mobility concerns—you may be a wheelchair user, you may be an ambulatory wheelchair user—actually doing the doorstep-to-doorstep approach is really difficult. If you were campaigning where I live in north Cardiff, you wouldn’t actually get to the doorstep because most of them have got steps. So,

²⁵⁷ Cardiff University, *Unpacking Diversity: Barriers and incentives to standing for election to the National Assembly for Wales*, July 2018

²⁵⁸ ELGC Committee, *Diversity in local government*, April 2019, p.61

²⁵⁹ *Ibid.*, p.63

²⁶⁰ See, for example, *Diversity of the Senedd: note of discussion event*, 10 February 2020, para 14; *DIV04 Centenary Action Group*; *DIV05 Women’s Equality Network Wales*; *DIV06 Leonard Cheshire Cymru*

it's about looking at doing things differently, but supporting people to do that. And then, for some disabled candidates, for example, it's not just the funding to get them to stand and get them elected, it's also that ongoing support and being able to access ongoing support that doesn't appear to inflate expenses claims. Because if you need a British sign language interpreter every time that you go to a meeting, you need a BSL interpreter. That's going to cost money, but that's what you should have".²⁶¹

222. In its response to the ELGC Committee's report, the Welsh Government committed to the establishment of a fund as part of phase 2 of its Diversity in Democracy project.²⁶² The Trefnydd confirmed this commitment in January 2020. The Deputy Director explained that the Welsh Government had sought to learn from the establishment of similar funds in Scotland and England, but that the complexity of the legal frameworks underpinning the Senedd's legislative competence and electoral arrangements had made the development of the fund "challenging".²⁶³ The Trefnydd explained that the fund was unlikely to be in place for the 2021 Senedd election, but that the intention was for it to be in operation for the 2022 local elections.²⁶⁴ In a letter to us in August 2020, the Trefnydd indicated the Welsh Government's intention to:

"...consult on arrangements for the fund and its operation later this year. This will be important in ensuring the approach delivers the broadest range of support possible".²⁶⁵

Exemption of disability-related expenses from campaign spending limits

223. In its report on the 2016 Senedd election, the Electoral Commission recommended that:

"Governments with legislative competence over elections within the UK should amend the definitions of political party and candidate spending

²⁶¹ Ruth Coombs, [RoP \[para 49\]](#), 13 January 2020

²⁶² [Letter from the Minister for Housing and Local Government to the ELGC Committee](#), 23 May 2019

²⁶³ Lisa James, [RoP \[paras 37-38\]](#), 27 January 2020

²⁶⁴ Minister for Finance and Trefnydd and Lisa James, [RoP \[paras 31-32 and 34\]](#), 27 January 2020

²⁶⁵ [Letter from the Minister for Finance and Trefnydd](#), 11 August 2020

so that reasonable expenses that can be attributed to an individual's disability are exempt".²⁶⁶

224. This proposal was supported by 86 per cent of the 700 responses to a question on this matter which was included in the Senedd Commission's *Creating a Parliament for Wales* consultation.²⁶⁷ The Explanatory Memorandum to the *Senedd and Elections (Wales) Bill* stated that the issue was not addressed in the Bill on the basis that the Welsh Government intended to bring forward subordinate legislation instead.²⁶⁸

225. Leonard Cheshire Cymru explained the importance of progressing this matter, noting that the current arrangements result in:

"...a perverse disincentive in our electoral system for political parties to select disabled candidates. This is because if a party spends money on equipment or other reasonable adjustments for the candidate, their limit for spending money on actual campaigning is reduced. For example: if a candidate needs to take taxis due to inaccessible stations, they cannot do so without compromising the amount they have remaining for promotional materials and canvassing. These barriers are only emphasised for those who live in rural areas of Wales where inaccessible stations and reliable public transport are even more common.

Financial barriers also exist regarding the lack of budget for personal assistants, communications support, equipment and assistive technology for those who may require it. These financial barriers are only exacerbated when coupled with the lower attainment rates of disabled individuals".²⁶⁹

226. The Deputy Director explained that the exemption of disability-related expenses from campaign spending limits was a necessary complement to the establishment of an access to elected office fund for people with disabilities, to ensure that any grants a person received did not count against their campaign spending.²⁷⁰ The Welsh Government's consultation on the draft *Senedd Cymru*

²⁶⁶ Electoral Commission, *The National Assembly for Wales General Election*, September 2016, p.10

²⁶⁷ Senedd Commission, *Creating a Parliament for Wales: Consultation report*, October 2018, p.68

²⁶⁸ Senedd Commission, *Senedd and Elections (Wales) Bill – Explanatory Memorandum: Incorporating the Regulatory Impact Assessment and Explanatory Notes*, February 2019

²⁶⁹ [DIV06 Leonard Cheshire Cymru](#)

²⁷⁰ Lisa James, [RoP \[para 34\]](#), 27 January 2020

(Representation of the People) (Amendment) Order 2020 notes that the Welsh Government intends to bring forward subordinate legislation to exempt disability-related expenditure from campaigning limits “ahead of the 2021 Senedd elections”.²⁷¹ The Trefnydd confirmed in a letter to us in August 2020 that while the COVID-19 pandemic had affected the timescales, the Welsh Government’s intention was for the subordinate legislation to be in place before the end of 2020.²⁷²

227. Leonard Cheshire Cymru also recommended that disability-related expenditure incurred by candidates in respect of engaging people with disabilities should be exempt from campaign spending limits, suggesting that this might include “the cost of producing the content for an Easy Read version or a Braille version of a party’s manifesto”. It argued that without such exemptions candidates or parties might be disincentivised from engaging effectively with people with disabilities.²⁷³

Financial barriers facing other underrepresented groups

228. We also heard evidence about the need to reduce the financial barriers facing people from other underrepresented groups who might wish to stand for election. For example, while welcoming the establishment of a fund for disabled candidates, WEN Wales stated:

“We recommend that more underrepresented groups are also financially supported: BAME women, women from low income households, women needing assistance with childcare costs, LGBT+ women etc”.²⁷⁴

229. The ELGC Committee recommended that consideration should be given to extending the access to elected office fund to support other underrepresented groups.²⁷⁵

Financial support for elected Members

230. The ELGC Committee suggested that public negativity in respect of financial support for elected members affects the take-up of carers’ allowances among

²⁷¹ Welsh Government, *Consultation document: The draft Senedd Cymru (Representation of the People) (Amendment) Order 2020*, 15 June 2020

²⁷² [Letter from the Minister for Finance and Trefnydd](#), 11 August 2020

²⁷³ [DIV06 Leonard Cheshire Cymru](#)

²⁷⁴ [DIV05 Women’s Equality Network Wales](#)

²⁷⁵ ELGC Committee, *Diversity in local government*, April 2019, p.63

councillors in Wales. It recommended that such allowances should be reported on a collective rather than individual basis, and that more work should be undertaken to understand how many councillors were eligible to claim support and how many did so.²⁷⁶

231. The Remuneration Board's *Determination on Members' Pay and Allowances in the Sixth Senedd* includes a new chapter 3A which sets out arrangements for additional financial support for Members with disabilities, childcare or other caring responsibilities, who are on parental leave, or who are engaging with constituents who have disabilities. It specifies that claims made in respect of these matters will be "published annually on an anonymised, aggregated basis".²⁷⁷

232. We heard from WEN Wales that the availability of funding for the purposes of reasonable adjustments for disabled Members of the Senedd was not "widely communicated".²⁷⁸ The Remuneration Board told us that it was "committed to publishing its revised Determination in sufficient time prior to the next Senedd election so as to provide clarity for potential candidates on the full package of pay and support that will be available to them". It noted that while the publication of the Determination for the Fifth Senedd in 2015 had received extensive media attention, the publication in June 2020 of the Determination for the Sixth Senedd had not received any coverage.²⁷⁹

Our view on addressing financial barriers

233. We strongly support the establishment of an access to elected office fund to support people with disabilities to become candidates for Senedd elections. The provision of financial support at candidate level would complement the financial support available to elected Members through the Remuneration Board's Determination. However, we share the disappointment of stakeholders that the access to elected office fund will not be in place in time to support candidates for the 2021 Senedd election.

234. We also strongly support the proposed exemption from campaign spending limits of expenses relating to a person's disability to ensure that disabled candidates are not placed at an unfair disadvantage. However, in order to remove any potential disincentive from engaging fully with people with disabilities during

²⁷⁶ Ibid., p.47

²⁷⁷ Remuneration Board, *Determination on Members' Pay and Allowances in the Sixth Senedd*, June 2020

²⁷⁸ [DIV05 Women's Equality Network Wales](#)

²⁷⁹ [Letter from the Chair of the Remuneration Board](#), 22 June 2020

an election campaign, we believe consideration should also be given to exempting from campaign spending limits any disability-related expenditure which arises in respect of engaging with people with disabilities, for example the costs associated with providing campaign materials in pan-disability formats.

235. We recognise that other underrepresented groups may also face considerable financial barriers which could prevent them from standing for election, in particular people with childcare or other caring responsibilities. We therefore agree with the ELGC Committee that consideration should be given to extending the access to elected office fund to other underrepresented groups. We also believe that expenses relating to childcare or other caring responsibilities should be exempt from campaign spending limits to avoid placing candidates with such caring responsibilities at a disadvantage compared to other candidates.

236. It is important that there are arrangements in place to alleviate financial barriers facing candidates and Members, but it is equally important that potential candidates and political parties are aware of these arrangements and the rules which apply to them. A lack of such awareness and understanding could result in perceived financial barriers continuing to act as a disincentive for people with disabilities from putting themselves forward for selection and election or for political parties to select them. For this reason, while we welcome the commitment from the Welsh Government for the exemption of disability-related expenses to take effect for the 2021 Senedd election, we share Leonard Cheshire Cymru's disappointment that the required subordinate legislation is not yet in place with less than a year to go before the election. Political parties' selection processes can begin significantly in advance of election periods, and it is only fair that potential candidates should have clarity about the rules which will apply to them before they decide whether to put themselves forward for selection.

237. Similarly, we welcome the steps taken by the Remuneration Board to clarify the financial support available to Members and to ensure that expenses relating to disability, childcare and parental leave are not attributable to individual Members. However, if such measures are to be effective in reducing the barriers which might otherwise prevent people from standing for election, potential candidates need to know what support would be in place for them if they were elected. We believe that the Remuneration Board could be more proactive in its approach to ensuring that potential candidates are aware of the support which would be available to them if they were elected, rather than relying solely on the media to communicate its work.

RECOMMENDATIONS

Recommendation 13. We endorse the recommendation of the Equality, Local Government and Communities Committee that the Welsh Government should establish, as a matter of priority, an access to elected office fund to support people with disabilities to stand for election, and that consideration should also be given to extending eligibility for funding to other underrepresented groups.

Recommendation 14. The Welsh Government and the Electoral Commission should consider whether disability-related expenditure arising in respect of engaging with people with disabilities during election campaigns should be exempt from election campaign spending limits.

Recommendation 15. The Welsh Government should bring forward subordinate legislation to exempt expenses relating to the costs of a candidate's childcare or other caring responsibilities from election campaign spending limits.

Recommendation 16. The Remuneration Board should work with political parties, the Electoral Commission and stakeholder groups who represent the interests of people with disabilities to develop and implement effective communication to ensure that potential candidates can easily access clear information in appropriate formats about the financial support available to candidates and elected Members in respect of disability-related expenses.

Mentoring and networking

Benefits of mentoring and networking schemes

238. Participants in our diversity stakeholder discussion event highlighted the role of mentoring in giving potential candidates the knowledge, tools and confidence they needed to put themselves forward for election. They suggested that this might be particularly helpful for women from BAME communities.²⁸⁰ Dr Martin agreed that schemes which could provide people with political experience and help them develop networks were beneficial on the basis that people from ethnic minority backgrounds may have less exposure to political networks, as:

²⁸⁰ [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 23

“...there are fewer ethnic minorities in the traditional routes into politics—so, working for parties, working in legislatures as advisers, that kind of thing”.²⁸¹

239. Professor Stirbu suggested that consideration needed to be given to both non-political and party political mentoring for candidates or people who might be interested in becoming candidates.²⁸² In its response to our consultation, Welsh Labour suggested that grants should be made available to political parties wishing to support or mentor people from underrepresented groups with a view to increasing participation in party politics or candidate diversity.²⁸³ The Trefnydd agreed that political parties have a role in relation to mentoring, suggesting that they can give mentees an insight into key parts of the role of an elected Member that other organisations cannot.²⁸⁴ She also highlighted the significant levels of abuse and harassment experienced by elected Members and candidates, and suggested that mentoring schemes could include helping people to be “prepared and resilient”.²⁸⁵

Understanding of diversity issues and reverse mentoring

240. Stakeholders have also highlighted the risk that a lack of public understanding of certain conditions could subject disabled candidates or those with mental health conditions to unfair criticism or result in people having to disclose personal information. They suggested that education about different groups, communities or disabilities would be an important way to challenge views of that kind.²⁸⁶ The Trefnydd emphasised that awareness raising should not just be limited to young people, highlighting a general lack of understanding of diversity issues amongst the wider public.²⁸⁷ Similarly, EYST suggested that training should be provided to potential candidates and elected Members in respect of equality, diversity and inclusion, including cultural competency and anti-oppression training.²⁸⁸

241. While acknowledging the importance of mentoring schemes for potential candidates, EYST also highlighted the need for elected Members to become more

²⁸¹ Dr Martin, [RoP \[para 154\]](#), 13 January 2020

²⁸² Professor Stirbu, [RoP \[para 72\]](#), 20 January 2020

²⁸³ [DIV02 Welsh Labour](#)

²⁸⁴ Minister for Finance and Trefnydd, [RoP \[para 47\]](#), 27 January 2020

²⁸⁵ Minister for Finance and Trefnydd, [RoP \[para 101\]](#), 27 January 2020

²⁸⁶ [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 16

²⁸⁷ Minister for Finance and Trefnydd, [RoP \[para 24\]](#), 27 January 2020

²⁸⁸ [DIV07 Ethnic Minorities and Youth Support Team](#)

aware and educated about the issues facing people from BAME backgrounds. It suggested that reverse mentoring schemes could assist with this:

“AMs and other agents within the assembly must be more involved in encouraging people to get into political life but also must actively seek to be more educated about experiences of BAME people e.g. through reverse mentoring and unconscious bias training. Recent mentoring programmes such as those by EYST and WEN have made a start, but there must be more and these should [...] become part of the business as usual of the Welsh Assembly rather than discretely funded projects”.²⁸⁹

242. WEN Wales agreed that reverse mentoring could be beneficial, but noted that consideration should be given to meeting childcare costs for participants or remunerating mentors for their time.²⁹⁰

Limitations of mentoring and networking schemes

243. EYST, while supportive of mentoring opportunities to overcome the impact of previous exclusion on participation in politics by people from BAME backgrounds, noted that:

“...political literacy and opportunities to build relationships with AMs is only one aspect of the work that needs to be done; it must be part of a wider effort to address structural inequity in the Assembly and political parties”.²⁹¹

244. We also heard some concerns about the impact and reach of mentoring schemes. WEN Wales noted that some participants in its schemes had subsequently become candidates for Westminster, Senedd and local elections, and that some had been successfully elected. However, it noted that its schemes necessarily focused on relatively small cohorts of participants and were oversubscribed. It proposed the establishment of an “All Wales and All Protected Characteristic Mentoring Scheme”.²⁹²

245. The ELGC Committee recommended in April 2019 that the Welsh Government should carry out a review of all publicly funded mentoring programmes to assess value for money, and that a national leadership

²⁸⁹ Ibid.

²⁹⁰ [DIV05 Women’s Equality Network Wales](#)

²⁹¹ [DIV07 Ethnic Minorities and Youth Support Team](#)

²⁹² [DIV05 Women’s Equality Network Wales](#)

programme should be established to encourage more people from underrepresented groups to stand for election.²⁹³ The Trefnydd acknowledged that improvements could be made to the provision of mentoring, in particular to ensure that mentoring schemes reflect the intersectionality of people’s identities and focus on “the themes and barriers that people face in common, rather than looking at particular strands of diversity in isolation”.²⁹⁴

246. In response to the ELGC Committee’s report, the Welsh Government said that it would consider a national leadership programme as part of Phase 2 of its Diversity in Democracy programme.²⁹⁵ The Trefnydd confirmed that this would include:

“...exploring how to ensure that mentors are given the information and guidance that they need to be good mentors, and then that you’re teamed up with the right person, and that both sides can really make the most of what should be an excellent opportunity”.²⁹⁶

Our views on mentoring and networking

247. Mentoring schemes and political networking provide opportunities to build people’s confidence and equip them with the tools, knowledge, skills and contacts which can help them participate in the political process. It is important that both political and non-political mentoring opportunities are available, reflecting the different aspects of elected Members’ roles.

248. We recognise that mentoring schemes are resource intensive and can be limited in their reach. We therefore welcome the Welsh Government’s response to the ELGC Committee that it intends to consider a national leadership programme focused on overcoming common barriers which might otherwise prevent people from a range of backgrounds from participating in the political process.

249. Members of the Senedd currently provide mentoring opportunities through a range of different schemes, and we would not wish to see that change. However, we are also aware of the severe time pressures many Members face. It is important, therefore, that consideration is given to how we can ensure that there are valuable mentoring opportunities available for people who are interested in standing for election to the Senedd, and that those opportunities are sufficiently

²⁹³ ELGC Committee, *Diversity in local government*, April 2019, pp.58-59

²⁹⁴ Minister for Finance and Trefnydd, *RoP [para 41]*, 27 January 2020

²⁹⁵ *Letter from the Minister for Housing and Local Government to the ELGC Committee*, 23 May 2019

²⁹⁶ Minister for Finance and Trefnydd, *RoP [para 45]*, 27 January 2020

flexible to recognise that people from different backgrounds may experience barriers differently. While the primary focus of the Welsh Government's national leadership programme is on local government, we believe that there may be potential to include opportunities within the programme for people who are interested in standing for election to the Senedd.

RECOMMENDATION

Recommendation 17. The Welsh Government and Senedd Commission should consider whether the national leadership programme for local government could be extended to include mentoring opportunities for people interested in standing for election to the Senedd.

Legislative or voluntary measures

250. Some of the interventions outlined in this report to encourage the election of a more diverse Senedd would require either primary or subordinate legislation. The Expert Panel stated in its report that:

“...we acknowledge that there are significant constraints on [the Assembly's] competence. While we recognise that the question of the Assembly's legislative competence is not one that falls to us to resolve, we urge the Assembly to explore the limits of its authority in order to find innovative ways of encouraging gender-balanced representation”.²⁹⁷

251. Assessing legislative competence is not straightforward, and cannot easily be done in the abstract without consideration of specific legislative proposals. Nevertheless, we have received legal advice which suggests that the Senedd's legislative competence in respect of equality and diversity may be significantly constrained.

252. A Bill which includes provisions which relate to any of the reservations set out in Schedule 7A of GOWA 2006 will not be within the Senedd's legislative competence.²⁹⁸ Whether or not a provision relates to any of the reservations is

²⁹⁷ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, para 12.22

²⁹⁸ To be within legislative competence, each proposed Bill provision must also meet a series of other competence tests in addition to the 'relates to' test.

determined on the basis of the provision's purpose(s) and effect(s). The two reservations likely to be most relevant to any legislative measures to elect a more diverse Senedd are:

- **“The funding of political parties and of their members and officers”**: while there is a specific exception enabling the Senedd to legislate to make payments to political parties for the purpose of assisting Members of the Senedd connected with those parties to perform their duties as Members, providing financial incentives to parties which select or elect diverse slates of candidates would relate to the reservation and would therefore be outside the Senedd's legislative competence.
- **“Equal opportunities”**: the reservation includes “the regulation of [...] discrimination”. While there are some exceptions to the reservation—for example, in respect of encouraging equal opportunities in Wales by means other than legislating for prohibitions or regulation, or legislating about the appointment of people with protected characteristics to non-executive appointments on the boards of devolved Welsh authorities—there is no exception to the reservation in respect of Senedd elections. Legislative proposals which sought to permit behaviour that would otherwise amount to discrimination, such as to require parties to put forward gender-balanced candidate lists, would amount to the regulation of discrimination and would therefore be outside the Senedd's legislative competence.

253. Other legislative interventions to encourage greater diversity in the Senedd, such as enabling job sharing, would be likely to require amendment of GOWA 2006. The Senedd's powers to amend GOWA 2006 are limited, as Schedule 7B of the Act prohibits the Senedd from amending all but a specified list of sections, subsections and Schedules.

Our view on whether measures should be legislative or voluntary

254. It is disappointing to us that the scope the Senedd has to make its own decisions on whether or not to act, and if so how, to encourage greater diversity among its membership, appears to be constrained by the devolution settlement. Senedd elections are devolved, and we believe that decisions in respect of their administration, conduct and other arrangements should be made in Wales. This includes any decisions about measures which seek to encourage the election of a more diverse Senedd.

255. While the constraints on the Senedd’s legislative competence may be a barrier to taking legislative action to encourage the election of a more diverse Senedd, they need not stand in the way of political parties acting voluntarily to increase the diversity of their memberships and candidates. There are actions which all parties could already take to address the lack of diversity in our political institutions—for example we recommended earlier in this chapter that parties should voluntarily publish information about the diversity of their candidates, and have highlighted their role in providing mentoring and networking opportunities and increasing political literacy in Wales. However, political parties may also each have their own specific challenges to face in respect of diversity and inclusion, which will require tailored interventions.

256. To this end, we endorse the suggestion made during our stakeholder event on the diversity of the Senedd that political parties should each prepare and publish their own diversity and inclusion strategies which assess the diversity and inclusivity of their culture, processes, ways of working and representation, and set out the actions they intend to take as a result.

RECOMMENDATIONS

Recommendation 18. The Welsh Government (and the Member-in-charge of any Senedd reform legislation if they are not a member of the Welsh Government) should make representations to the UK Government seeking amendments to Schedules 7A and 7B of the *Government of Wales Act 2006* to ensure that measures to encourage the election of a more diverse Senedd would be within legislative competence should the Senedd wish to legislate in this regard.

Recommendation 19. Political parties which contest Senedd elections should prepare and publish diversity and inclusion strategies which assess the diversity and inclusivity of their culture, processes, ways of working and representation, and set out the actions they intend to take to increase the diversity of their memberships, candidates and elected Members.

7. Diversity quotas

In this chapter, we explore issues relating to diversity quotas, including the Expert Panel’s recommended legislative candidate gender quotas.

Recommendations of the Expert Panel

257. The Expert Panel stated that greater diversity across all protected characteristics would “enhance the operation of the Assembly, and the way it works for and represents the people of Wales”, but argued that:

“...we believe there is a distinction which can be drawn between gender and some other protected characteristics. For example, a specific ethnic group might be marginalised on the basis that they form a very small minority of the population within their constituency or within Wales. Their representation is important though, and barriers to their selection and election should be addressed, for example, through parties’ candidate selection processes. Nevertheless, women constitute 52 per cent of the adult population, and are, therefore, an underrepresented majority”.²⁹⁹

258. It subsequently recommended that candidate gender quotas should be integrated into the Senedd’s electoral arrangements. The Expert Panel’s preference was that the quotas would be set out in legislation. However, it acknowledged that the Senedd’s legislative competence in this respect is limited, and proposed that should legislative candidate gender quotas not be progressed, parties should voluntarily:

“...take steps to ensure their candidate selection processes support and encourage the election of a gender-balanced parliament for Wales. This should include voluntary adoption by parties of the quotas we have outlined”.³⁰⁰

259. In response to the Senedd Commission’s *Creating a Parliament for Wales* consultation, 61 per cent of responses agreed with the Expert Panel’s recommendation that a change to the electoral system should be used to

²⁹⁹ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, para 12.07

³⁰⁰ *Ibid.*, recommendation 10

encourage the election of a Senedd that more accurately reflects the diverse nature of society in Wales. Of that 61 per cent, 47 per cent said that this should be achieved through voluntary measures, whilst 26 per cent said it should be achieved through formal quotas.³⁰¹

Our work on diversity quotas

260. During our work, we heard a range of views on diversity quotas, whether in respect of gender or other protected characteristics. Some stakeholders argued that such quotas should be integrated into the legislative framework underpinning the Senedd’s electoral arrangements, others suggested that the voluntary adoption of quotas should be a matter for political parties, and some contended that quotas should not be used at all.

261. The impact of the COVID-19 pandemic on our work programme, and later the Brexit Party group’s decision to withdraw from the Committee, have unfortunately curtailed the extent to which we have been able to gather evidence or reach firm conclusions in this regard. Nevertheless, we have identified some key themes and issues which we believe should be considered by the Member-in-charge of any reform legislation and by political parties considering voluntary measures.

Legislative diversity quotas

262. Professor Campbell described quotas as a “temporary special measure” which could be appropriate in circumstances where:

“...you can see real evidence of historic injustice and that you have groups that have been not just marginalised but legally marginalised and not counted as whole persons for millennia”.³⁰²

263. Many of those who have contributed to our work have argued in favour of the Expert Panel’s recommendation that candidate gender quotas should be integrated into the Senedd’s electoral arrangements. WEN Wales told us that international evidence showed that legislative gender quotas could be a temporary measure to ‘fast-track’ women’s representation, by counteracting the effects of unconscious bias and structural sexism in political parties and institutions. Its view was that voluntary action alone would not deliver the required pace of change.³⁰³ Professor Childs agreed that international evidence suggested

³⁰¹ Senedd Commission, *Creating a Parliament for Wales: Consultation report*, October 2018, p.23

³⁰² Professor Campbell, *RoP*, [para 125], 13 January 2020

³⁰³ [DIV05 Women’s Equality Network Wales](#)

that legislative quotas could be effective in moving towards gender-balanced representation, but acknowledged that they would not necessarily remove all barriers which hindered the election of a more diverse Senedd. She argued for a “quota-plus policy”, which included gender quotas within a suite of interventions.³⁰⁴

264. Dr Martin suggested that cross-party efforts would be needed to increase ethnic diversity in politics, on the basis that achievements made by a single party would be less secure and would fail to normalise diversity.³⁰⁵ While offering some support for diversity quotas within selection and election processes, EYST nevertheless stated that:

“Quotas are not a panacea. They risk tokenism whereby a selected person is not given credence or power, or they are expected to be a gatekeeper and “end all-be all” representative for their “group”. However, many people who recognised this risk also mentioned that “we need to start somewhere”.”³⁰⁶

265. Ruth Coombs of the EHRC noted that some candidates might be concerned about being labelled or identified differently to other Members if they were elected on the basis of a quota.³⁰⁷ This was echoed by some stakeholders at our discussion event on the diversity of the Senedd, who suggested that distinctions might be drawn for political purposes between Members elected on the basis of a quota and other Members, potentially calling into question the Expert Panel’s principle of equal status for all Members or risking a perception of tokenism.³⁰⁸

266. We also heard some concerns about the extent to which quotas could reflect the intersectionality of people’s identities. ERS Cymru described quotas as “blunt tool[s] that often fail to consider that candidates are people with multiple characteristics and skills”, but nevertheless expressed support for the introduction of diversity quotas on the basis that international evidence shows that they can increase diversity within legislatures.³⁰⁹ EYST argued that gender quotas or other measures focusing on gender in isolation could be “problematic”, and fail to

³⁰⁴ Professor Childs, [RoP \[paras 51 and 53\]](#), 3 February 2020

³⁰⁵ Dr Martin, [RoP \[para 138\]](#), 13 January 2020

³⁰⁶ [DIV07 Ethnic Minorities and Youth Support Team](#)

³⁰⁷ Ruth Coombs, [RoP \[paras 53-54\]](#), 13 January 2020

³⁰⁸ [Diversity of the Senedd: note of discussion event](#), paras 30, 31 and 37

³⁰⁹ [DIV01 Electoral Reform Society Cymru](#)

address wider underrepresentation.³¹⁰ Professor Campbell agreed that gender quotas alone would not necessarily guarantee broader diversity, stating that:

“It does get women’s bodies into Parliament, but it might actually not get single mothers or women who haven’t got the financial resources, but that’s when some of these generalised measures, like job share, like thinking about what are the financial barriers to standing for selection, even, let alone campaigning [...] So, I think if we treat any one of these possible remedial measures as if it’s going to solve the whole problem, that would be a mistake. But, I think gender quotas, in terms of speeding up the pace of change, are proven”.³¹¹

267. The Llywydd was cautious in her assessment of whether political parties would support the introduction of legislative diversity quotas:

“I’d also caution, from my discussions with the political groups here, on the basis of how up for it are the political groups or political parties to support quotas of this nature in their party lists”.³¹²

268. We heard mixed views from political parties, with some being broadly supportive, some firmly opposed to quotas, and others noting that their parties had not yet established policy positions. Particular issues raised by political parties included the view that candidates should be selected and elected “on merit” rather than as a result of their identities, concern that quotas in respect of some characteristics could limit parties’ flexibility to select candidates from other underrepresented groups, and concern that regional quotas would be ineffective as political parties enjoy different levels of electoral support across Wales.³¹³

269. The Llywydd suggested that operationalising diversity quotas at a national level for characteristics other than gender could be challenging, as while gender balance is broadly equal across Wales, the demographic makeup of different parts of Wales in respect of characteristics such as ethnicity is less consistent.³¹⁴ We also heard some suggestions that smaller political parties might struggle to attract sufficient candidates to enable them to comply with quotas, and that for all parties there could be tensions between local party control over selection

³¹⁰ [DIV07.Ethnic Minorities and Youth Support Team](#)

³¹¹ Professor Campbell, [RoP \[para 145\]](#), 13 January 2020

³¹² Llywydd, [RoP \[para 147\]](#), 2 December 2019

³¹³ [Summary of evidence provided in confidence by political parties](#)

³¹⁴ Llywydd, [RoP \[para 153\]](#), 2 December 2019

decisions and the degree of central control required to ensure compliance with quotas.³¹⁵

Voluntary diversity quotas

270. The Senedd’s reputation for gender-balanced representation was attributed by ERS Cymru largely to voluntary actions taken by parties in Wales, including the use of All Women Shortlists and constituency twinning by Welsh Labour and list zipping by Plaid Cymru.³¹⁶ It concluded, however, that voluntary measures taken by parties were likely to be less effective than legislative quotas.³¹⁷ Professor Campbell agreed, noting that the high levels of women’s representation in the Senedd since 1999 were fragile:

“...I think one of the really exciting things about politics in Wales is how progressive gender politics has been historically, but we do know that that isn’t baked in. We’ve seen fallback, we know that a lot of the reason for the real high levels of women’s representation is because of measures that have been taken inside the Labour Party and then, increasingly, inside other parties, but that can slip back”.³¹⁸

271. Table 9 summarises the voluntary gender quotas which have been adopted by political parties in Sweden, Norway and Austria, and the resulting proportion of women Members in their national parliaments between 1997 and 2019.

³¹⁵ See, for example, [Summary of evidence provided in confidence by political parties, DIV03 Individual](#)

³¹⁶ Constituency twinning involves pairing First Past the Post constituencies and selecting a female candidate for one and a male candidate for the other to ensure gender balance across a party’s constituency candidates. List zipping involves alternating male and female candidates on a party’s regional candidate list.

³¹⁷ [DIV01 Electoral Reform Society Cymru](#)

³¹⁸ Professor Campbell, [RoP \[para 126\]](#), 13 January 2020

Table 9 Voluntary gender quotas³¹⁹

| Country | Voluntary quotas | Minimum and maximum percentage of women MPs between 1997 and 2019 |
|----------------|--|---|
| Sweden | Elected by Closed List PR. At least three of the largest political parties have adopted voluntary gender quotas. Two commit to their lists comprising 50 per cent women candidates, and the third to zipping its lists (alternating women and men candidates). The Social Democratic Party and Left Party introduced quotas in 1978. Other parties adopted quotas during the 1980s and 1990s. | 40-47 per cent |
| Norway | Elected by Closed List PR. At least four of the largest political parties have adopted voluntary gender quotas committing to their lists comprising proportions of women candidates ranging from 40 to 50 per cent for different parties. The Socialist Left Party adopted a quota in 1975. Other parties adopted quotas during the 1980s and 1990s. | 36-41 per cent |
| Austria | Elected by Open List PR. At least three of the largest political parties have adopted voluntary gender quotas committing to their lists comprising proportions of women candidates, ranging from 33 per cent to 50 per cent for different parties. The Social Democratic Party of Austria adopted a quota in 1985. Other parties adopted quotas during the 1990s. | 26-39 per cent |

Operation of legislative diversity quotas within STV

272. As set out in chapter 3 of this report, our view is that Members of the Senedd should be elected by STV. We believe that the following issues would therefore be among those which would need to be considered by a Member-in-charge in the development of any legislative proposals.

Voter choice and party influence

273. Parties' control over which of their candidates takes up the seats won by the party is less in an STV system than a list system. For this reason, the Expert Panel

³¹⁹ International Institute for Democracy and Electoral Assistance, *Gender quotas: Sweden: Gender quotas: Norway: Gender quotas: Austria* [accessed July 2020]; The Global Economy; *Sweden: women in parliament: Norway: women in parliament: Austria: women in parliament* [accessed July 2020]

stated that unless its recommendations for encouraging the election of a more diverse Senedd were implemented:

“...we would be concerned about whether STV could be guaranteed to adequately achieve the election of an Assembly which fully reflects the population it represents”.³²⁰

274. Mechanisms used by parties in the past which relate to the formal ordering of candidates—such as regional list zipping or ensuring that at least one of the top two regional candidates on their list is female—would not be possible within STV. This is because it is a matter for voters to determine the order in which they rank candidates within and across parties. However, should they wish to do so, parties could put forward a diverse pool of candidates from which voters could choose, and could seek to encourage their supporters to rank candidates in a particular order.

Multimember constituencies

275. STV operates on the basis of multimember constituencies, enabling political parties to put forward as many candidates as they consider to be appropriate.³²¹ As we explored in chapter 3, factors influencing parties’ decisions about how many candidates to put forward could include the number of seats they might expect to win, the risk of splitting their vote between too many candidates, and the mechanism by which any casual vacancies were to be filled.³²²

276. Professor Campbell suggested that the ability to put forward several candidates to contest a multimember constituency would reduce the perceived risks of selecting candidates from a range of backgrounds, and give parties greater confidence to select candidates who did not necessarily match the stereotype of ‘the ideal candidate’.³²³ It would also enable parties to target measures to increase diversity in their selection processes within individual multimember constituencies, rather than adopt measures such as constituency twinning.

³²⁰ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, para 10.13

³²¹ Subject to any limit built into the electoral arrangements. For example, [section 7\(4\) of GOWA 2006](#) provides that parties’ regional lists may comprise no more than 12 candidates.

³²² If casual vacancies are filled by countback, there is an incentive for parties to put forward more candidates than they might if casual vacancies are filled by by-elections.

³²³ Professor Campbell, [RoP \[para 150\]](#), 13 January 2020

Quota enforcement

277. EYST told us that “quotas are only as good as compliance”.³²⁴ The Expert Panel noted that quotas can be enforced through incentives and/or penalties. The options it considered included the acceptance or rejection of parties’ candidate nominations being contingent on compliance with the quota, and financial incentives or penalties.³²⁵

278. There is currently no national coordination of nomination processes, which are instead administered on a constituency or regional basis by the relevant returning officer. The Expert Panel recommended that a 50 per cent \pm 1 candidate gender quota should be applied to each party’s candidates for each STV multimember constituency. Enforcing a constituency-level quota on the basis of acceptance or rejection by the returning officer would therefore require that for nominations to be held valid, the relevant constituency returning officer would have to be satisfied that the list of candidates complied with the diversity quota. However, the legal advice we have received is that a provision to allow a returning officer to reject a nomination paper on the grounds, for example, of the candidates’ genders not being compliant with a quota, would constitute unlawful discrimination and would also modify section 104 of the *Equality Act 2010*. Such provisions would therefore be outside the Senedd’s legislative competence.

279. The candidate gender quotas which apply in the Irish STV system are enforced through the level of state funding received by political parties. Political parties which failed to meet a national quota of 30 per cent women candidates (rising to 40 per cent with effect from 2023 onwards) would lose 50 per cent of their state funding.³²⁶ While it is, therefore, in parties’ interests to comply with the quota, it is not mandatory for them to do so. This approach to the enforcement of diversity quotas would not be an option in Wales: political parties in the UK do not receive state funding and, in any case, the “funding of political parties and of their members and officers” is reserved by Schedule 7A of GOWA 2006.³²⁷

³²⁴ [DIV07.Ethnic Minorities and Youth Support Team](#)

³²⁵ Expert Panel on Assembly Electoral Reform, [A Parliament that Works for Wales](#), December 2017, paras 12.20-12.21

³²⁶ Buckley, F., [The 2016 Irish election demonstrated how gender quotas can shift the balance on female representation](#), 16 March 2016

³²⁷ There is a specific exception to the reservation which enables the Senedd to legislate to make payments to political parties for the purpose of assisting Members of the Senedd to perform their duties as Members.

Our view on diversity quotas

280. We strongly support the principle that the Senedd should be gender-balanced, and that its membership should be more diverse both in respect of ethnicity, disability and other protected characteristics, and in terms of the broader understanding of diversity we discussed in chapter 5 of this report. However, we acknowledge that there are structural inequalities and biases within our public and political spaces and institutions. We therefore support the principle of positive action to overcome such barriers which might otherwise stand in the way of the election of a diverse and inclusive Senedd in which all Wales' communities can see themselves reflected.

281. The Expert Panel recommended candidate gender quotas as one mechanism by which gender-balanced representation could be achieved. We are persuaded by the clear and compelling evidence that gender quotas, whether legislative requirements or voluntarily adopted by political parties, can increase the diversity of candidates and elected Members. The design of such quotas—including the enforcement arrangements, whether quotas operate at candidate or elected Member level, and the percentage at which they are set—would influence the extent to which they encouraged or ensured the election of a more diverse and representative legislature. However, the Senedd's legislative competence to act in this regard is limited. A Member-in-charge wishing to include provision for legislative candidate gender quotas within a reform Bill would need to consider, for example:

- The extent to which such provisions would be within legislative competence, and any potential implications for the overall legislative timescales if adjustment to the Senedd's legislative competence were to be sought through a section 109 Order.
- The risks associated with including provisions within a Bill if legislative competence considerations were not clear-cut, including any referral of the Bill to the Supreme Court or subsequent legal challenge to a Senedd reform Act.³²⁸

282. The Expert Panel did not make any recommendations in respect of diversity quotas on the basis of characteristics other than gender, although it did note that parties, when selecting candidates, should “have regard to broader issues of

³²⁸ We explore issues relating to legislative competence in chapter 6 of this report and the timescales associated with legislating for reform in chapter 10.

diversity across all the protected characteristics".³²⁹ Diversity quotas can operate in a variety of ways, and the particular quota model recommended by the Expert Panel for an underrepresented majority in respect of gender will not necessarily be appropriate in respect of underrepresented minority groups. We have not, however, been able to gather sufficient evidence on which to reach a firm view as to whether diversity quotas would be an appropriate mechanism by which to achieve greater diversity within the Senedd. We believe that further work should be done on this matter in the Sixth Senedd, informed both by expert advice on the design and operation of diversity quotas and by working closely in partnership with underrepresented groups, including BAME communities in Wales and people with disabilities. It would be helpful to this work if parties were to respond positively to our Recommendation 10 that they should voluntarily publish data about the diversity or otherwise of their candidates for the 2021 Senedd election. Such data could, for example, provide an indication of whether any lack of diversity among the Senedd's membership stems from the selection or election stages of the political process.

RECOMMENDATIONS

Recommendation 20. In reaching a decision on whether to include legislative candidate gender quotas in their reform proposals, the Member-in-charge of any Senedd reform legislation should consider the extent to which such provisions would be within the Senedd's legislative competence, the risks associated with including such provisions if considerations in respect of legislative competence were not clear-cut, and any potential implications for the overall legislative timescales.

Recommendation 21. The relevant Sixth Senedd committee should undertake further work on diversity quotas in respect of characteristics other than gender to inform decisions on whether such quotas would be appropriate mechanisms to encourage the election of a more diverse Senedd. This work should be informed by expert advice on the design and operation of diversity quotas, and by working closely in partnership with underrepresented groups, including BAME communities in Wales and people with disabilities.

³²⁹ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, para 13.15

8. Public awareness and understanding

In this chapter we consider public awareness and understanding of the role of the Senedd and its Members, and of how Members are elected.

The role of the Senedd

Understanding of devolution

283. A consistent theme throughout our work has been a lack of understanding across Wales of the role and responsibilities of the Senedd and the Welsh Government. Stakeholders suggested that contributory factors include, for example, the changing devolution settlement and a relatively weak Welsh media. As stated in the Explanatory Memorandum to the *Senedd and Elections (Wales) Act 2020*:

“...the powers of the National Assembly have grown incrementally since 1999. As the democratically elected body that represents the interests of Wales and its people, the National Assembly’s role is now that of a parliament. It now works in much the same way as the UK Parliament in Westminster and other constitutional structures around the world, by making laws for Wales, agreeing Welsh taxes and holding the Welsh Government to account.

However, all these changes have created a blurred picture about where power and accountability in Wales now lies. [...]

The available evidence indicates both that:

- The people of Wales do not currently grasp the role and the powers of the National Assembly for Wales; and
- The name of the National Assembly for Wales is considered to contribute to this uncertainty”.³³⁰

284. The COVID-19 pandemic has shown that there is some uncertainty over where responsibilities and powers lie within the four nations of the UK, resulting in a degree of confusion about the decisions and key messages emerging from each

³³⁰ Senedd Commission, *Senedd and Elections (Wales) Bill: Explanatory Memorandum: incorporating the regulatory impact assessment and explanatory notes*, February 2019, p.17

of the four governments.³³¹ We heard during our work that a lack of understanding of the role of the legislature can also be a barrier which prevents people from engaging with their representatives and the work of the institution, or participating in political and democratic processes.³³² Stakeholders told us that variable levels of understanding may particularly affect some groups or communities, creating asymmetric structural barriers to participation which subsequently constrain the diversity and inclusivity of the Senedd and its work.³³³

285. It is likely that further changes to the responsibilities and role of the Senedd lie ahead, for example as a result of Brexit. At a UK level, the UK Government has recognised the potential impact of Brexit on parliamentary responsibilities and workloads by introducing legislation to reverse the planned reduction in the number of MPs from 650 to 600.³³⁴ The Cabinet Office's Impact Assessment for the *Parliamentary Constituencies Bill 2019-21* states that reducing the number of MPs would:

“...result in overstretched MPs unable to give sufficient voice to the concerns of a growing UK population or to fully shoulder the work previously covered by MEPs. This increases the opportunities and likelihood for legislation to pass without due diligence and attention, and keeping check on the executive”.³³⁵

286. The distribution of powers post-Brexit is not yet clear, but the evidence suggests that the increases in MPs' workload and responsibilities anticipated by the UK Government will also be reflected in the roles of Members of the Senedd. For example, Members of the Senedd will be responsible for scrutinising newly-devolved matters, considering the implications for Wales of international agreements, and contributing to interparliamentary oversight of intergovernmental working and structures.³³⁶

³³¹ Cushion, S., Soo, N., Kyriakidou, M. and Morani, M., *Different lockdown rules in the four nations are confusing the public*, 22 May 2020

³³² See, for example, Professor Stirbu, *RoP [para 77]*, 20 January 2020; *Diversity of the Senedd: note of discussion event*, 10 February 2020, para 20; *DIV07 Ethnic Minorities and Youth Support Team: Electoral Reform Society Cymru, Missing voices: how do people across Wales feel about politics?*, 11 December 2017

³³³ *Diversity of the Senedd: note of discussion event*, 10 February 2020, paras 12 and 20

³³⁴ Cabinet Office, *Written Statement: Update: Strengthening democracy*, 24 March 2020

³³⁵ Cabinet Office, *Parliamentary Constituencies Bill 2020: impact assessment*, 4 May 2020, p.32

³³⁶ *Written submission from the Wales Environment Link*, January 2020; *Letter from the Chair of the EAAL Committee*, 27 January 2020; *Letter from the Chair of the CLA Committee*, 29 January 2020; EAAL Committee, *Common policy frameworks: Assembly scrutiny*, December 2019, paras

287. The variable level of public understanding of the Senedd’s role was also a recurring theme during the scrutiny of the *Senedd and Elections (Wales) Bill*. This included both what needed to be done to ensure that young people had sufficient understanding to exercise their new right to vote, and whether a change in the legislature’s name could help to raise understanding of its constitutional role and responsibilities.³³⁷ The Senedd Commission’s annual report for 2019-20 outlines the Commission’s work to raise awareness of the changes, including engaging directly with young people and education professionals to co-produce resources, and participating in the Welsh Government’s Democratic Renewal Steering Group to facilitate information exchange with key partners and stakeholders.³³⁸ EYST suggested that the communication and engagement work being undertaken in respect of the extension of the Senedd franchise could also provide opportunities to improve wider understanding of politics and democracy.³³⁹

Assessing and communicating the impact and effectiveness of scrutiny

288. During our discussion event on the capacity of the Senedd, stakeholders suggested that improving levels of understanding of the Senedd’s responsibilities and how its work can have an impact on the lives of the people and communities it serves, would be an important part of explaining any action taken to adjust the legislature’s size:

“It was felt that there was a need to demonstrate how electing more Members would lead to better governance in Wales, for example by increasing the talent pool available for ministerial posts or by improving scrutiny”.³⁴⁰

289. The Expert Panel, like many of those who have given evidence during our work, highlighted the potential for an increase in the capacity of the Senedd to lead to more effective scrutiny, and thereby to better outcomes, financial savings, and improved value for money.³⁴¹ Better scrutiny of the Welsh Government, better debates and better policy and legislation were also among the main reasons

84-85; Professor Stirbu, [RoP \[paras 46-47\]](#), 20 January 2020; [Letter from the Minister for Finance and Trefnydd](#), 10 February 2020

³³⁷ Plenary, [RoP](#), 10 July 2019

³³⁸ Senedd Commission, [Annual report and accounts: 2019-20](#), June 2020, p.106

³³⁹ [DIV07 Ethnic Minorities and Youth Support Team](#)

³⁴⁰ [Capacity of the Assembly: note of discussion event](#), 6 January 2020, para 12

³⁴¹ Expert Panel on Assembly Electoral Reform, [A Parliament that Works for Wales](#), December 2017, paras 16.13 and 16.17

given for supporting an increase in the number of Members by respondents to the Senedd Commission's *Creating a Parliament for Wales* consultation.³⁴²

Impact of effective scrutiny

290. It is widely acknowledged to be very challenging to objectively assess the impact of scrutiny, although Senedd committees did outline some illustrative examples and case studies in correspondence to us. These included, for example:

- Contribution of the ELGC Committee's ongoing follow up work on rough sleeping to a renewed focus on reducing rough sleeping and the establishment of the Welsh Government's Homelessness Action Group.
- Actions taken to address issues with the quality of asylum accommodation as a result of the ELGC Committee's work on refugees and asylum seekers.
- Increased profile for the implications of the Brexit process for Wales at a UK and EU level as a result of the EAAL Committee's scrutiny work and participation in interparliamentary networks.³⁴³

291. Similar case studies were included in the Expert Panel's report, and may also be included in the legacy reports generally produced by Senedd committees at the end of each five-year Senedd term. WEN Wales suggested to us that it would be helpful for case studies demonstrating the impact of different perspectives within scrutiny to be routinely published to highlight how scrutiny has "made a measurable difference to the people of Wales".³⁴⁴

Risks of ineffective scrutiny

292. While there is broad consensus that effective scrutiny can result in positive impacts, it is also true that ineffective scrutiny can give rise to detrimental effects. Stakeholders cautioned that a lack of capacity within the Senedd's scrutiny functions has led to scrutiny opportunities being missed as a result of heavy workloads and competing priorities, a lack of systematic post-legislative scrutiny,

³⁴² Senedd Commission, *Creating a Parliament for Wales: consultation report*, October 2018, pp.9-10

³⁴³ See, for example, [Letter from the Chair of the ELGC Committee](#), 27 January 2020; [Letter from the Chair of the EAAL Committee](#), 27 January 2020

³⁴⁴ [DIV05 Women's Equality Network Wales](#)

and a tendency towards short, sharp inquiries in place of longer term in-depth work.³⁴⁵

293. The Auditor General for Wales told us that he was concerned that “unrealistic cost estimates” in the Welsh Government’s regulatory impact assessments, combined with a lack of clarity about how implementation would be resourced and insufficient scrutiny of the practicalities associated with implementing policy or legislation, was leading to difficulties for the public sector bodies responsible for implementing new legislative frameworks.³⁴⁶ He also highlighted the poorer outcomes and additional costs which can arise from inadequate pre-legislative and legislative scrutiny. Reflecting in particular on the *Public Audit (Wales) Act 2013*, he noted his view that the implications of the Act’s “defects” had included:

- “excessively complex and onerous fee provisions” leading to additional administrative costs of approximately 10 per cent or around £35,000 per year.
- Additional time, resource and money expended by both the Senedd Commission and Audit Wales to “deal with the Act’s rather disjointed appointment and remuneration provisions”.
- Time spent by the Senedd’s Finance Committee developing “proposals for remedial amendments [...] to address accepted weaknesses in the Act”.³⁴⁷

294. These concerns are consistent with those raised by Senedd committees about legislative scrutiny timetables being insufficient, particularly within a context of already heavy committee workloads and the time pressures facing individual Members.³⁴⁸

Impact of an increase in the number of Members

295. Many stakeholders told us that increasing the number of Members could reasonably be expected to lead to improvements in scrutiny, for example by reducing the number of committees each backbench Member sits on, increasing the time and flexibility available to Members and committees to develop alternative policy proposals, or creating space for more innovative and diverse

³⁴⁵ [Capacity of the Assembly: note of discussion event](#), 6 January 2020, para 5

³⁴⁶ [CAP04 Auditor General for Wales](#)

³⁴⁷ Ibid.

³⁴⁸ See, for example, [Letter from the Chair of the ELGC Committee](#), 27 January 2020

evidence gathering, inquiries and engagement work.³⁴⁹ Some stakeholders also argued that if an increase in the size of the Senedd or targeted interventions led to greater diversity among its membership, this could lead to more effective scrutiny as a result of bringing to bear a broader variety of perspectives or more diverse direct lived experiences.³⁵⁰

Our view on public awareness and understanding of the role of the Senedd

296. A lack of understanding and awareness about the Senedd, the role of its Members, political processes in Wales and how the Senedd is elected has been a consistent theme throughout all aspects of our work. This is not surprising or new, but it does pose a risk to the effective operation of our democratic processes and institutions in Wales. Unless steps are taken to increase political literacy, we are unlikely to see a substantial increase in the diversity of political candidates or elected Members, or to be able to explain clearly to the people of Wales the risks associated with the Senedd continuing to be overstretched and undersized.

297. We recognise that the increased profile of devolution and devolved institutions during the COVID-19 pandemic could contribute to increased understanding of the roles and responsibilities of the Senedd and the Welsh Government, at least in the short term. However, we believe that there is an ongoing need for effective communication, engagement and awareness-raising. Activity of this nature must be sufficiently flexible and agile to adapt to the changing constitutional landscape post-Brexit, and any additional powers or responsibilities which may be devolved in the future. When designing and delivering communication and engagement work, account must be taken of the varying levels of understanding among different groups and communities, of the need to reduce barriers by ensuring that communication is accessible, and of the potential to make use of the communication channels and networks which already exist within communities across Wales.

298. We recognise that assessing the impact of scrutiny is not straightforward, and different people, groups or political parties may take different views on whether any outcomes are positive or detrimental. Nevertheless, we believe that it would help to raise public understanding of the institution, and of the need to ensure it has sufficient capacity to carry out its responsibilities, if there were to be more

³⁴⁹ [Capacity of the Assembly: note of discussion event](#), 6 January 2020, paras 13-18

³⁵⁰ [DIV05 Women's Equality Network Wales: Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 4

systematic and proactive assessment and communication of the impact of the Senedd's scrutiny work on the issues which matter to people and communities.

299. We acknowledge that a key driver for the change in the Senedd's name has been to help to raise public understanding of the role and responsibilities of the legislature. It is unfortunate that the formal name change took place during the COVID-19 pandemic, and that the scope and scale of the associated public awareness-raising activity was necessarily curtailed as a result. Nevertheless, the communication, education and information work in respect of the extension of the Senedd franchise, and to encourage people to register and to vote in the Senedd election in May 2021, provides valuable opportunities to raise levels of political literacy, and to help people in Wales understand how they can engage with and influence their democratically-elected legislature.

RECOMMENDATIONS

Recommendation 22. The Senedd Commission and Welsh Government should monitor the impact of their public information and education campaigns in respect of the extension of the Senedd franchise and the name change on levels of public understanding of the Senedd, with a view to assessing what further action might be required to help the people of Wales to understand and engage with their democratic processes and institutions. In particular, they should consider the extent to which the educational resources and awareness-raising activities have reached underrepresented groups, including younger people, ethnic minority communities and people with disabilities, and have been effective in encouraging them to register to vote and to participate in the election.

Recommendation 23. The Business Committee, the Chairs' Forum and the Senedd Commission should work together to develop a systematic and proactive approach to assessing and communicating the impact of the scrutiny and oversight work carried out by the Senedd and its committees. The outcomes of this work should be used to drive continuous improvement in ways of working and procedures, and to help raise public understanding and awareness of the role of the Senedd and its Members.

The roles of Members of the Senedd

300. The Expert Panel explored the role of Members of the Senedd during its work, and concluded that:

“Members’ roles are complex and varied; formal Assembly business is just one element. They are legislators, scrutineers of policy and finance, employers with responsibilities for staff, property and contracts, and, ultimately, elected politicians with important responsibilities to their constituents and to their parties. This includes, for example, representing their constituents by undertaking casework, leading or participating in local or national campaigns, and attending or arranging local events. We believe that such roles cannot and should not be separated from Members’ formal Assembly business roles, as casework or campaigning can provide valuable insight into the operation of policy or legislation on the ground”.³⁵¹

301. However, we heard from stakeholders and academics that the public, including those who could otherwise be potential candidates, do not always have a clear understanding of what the role of a Member of the Senedd entails.³⁵² Participants in our stakeholder discussion event on the capacity of the Senedd recognised that:

“...it is for individual Members and political groups to determine how to carry out their roles and prioritise their responsibilities [...] Nevertheless there was general consensus that the public do not always understand what it is that Members do, and that this may be a barrier to public acceptance of any increase in the size of the Assembly. Some participants suggested that indicative outline job descriptions should be prepared for Members, and also for local councillors and MPs in order to provide clarity on the roles of elected politicians at all levels in Wales”.³⁵³

302. The ELGC Committee’s inquiry into diversity in local government heard similar evidence about the link between a lack of understanding about the role of elected representatives and the level of diversity among candidates. Noting that there was a “general lack of awareness among the public about the role of elected

³⁵¹ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, para 16.07

³⁵² Professor Stirbu, *RoP [para 7]*, 20 January 2020

³⁵³ *Capacity of the Assembly: note of discussion event*, 6 January 2020, para 12

officials”, and that while there is some information available people will not necessarily see it unless they actively look for it, the ELGC Committee concluded that:

“Without simple, clear and accessible information, potential candidates who are not already engaged with political parties will not necessarily understand what the role entails. Neither will they necessarily recognise that it is a role they could do themselves”.³⁵⁴

303. Leonard Cheshire Cymru described a lack of understanding of the political process and what is involved in being a Member of the Senedd as a “principal barrier” preventing disabled people from standing for election. It called for better information to be communicated in schools and public settings to increase awareness and understanding of political roles, and emphasised that this communication should be “pan-disability” with information available in a range of accessible formats.³⁵⁵ WEN Wales suggested that cynicism and negativity about politicians contributed to a lack of understanding of the role, and proposed that non-partisan political education should be compulsory within the new curriculum.³⁵⁶ EYST agreed that political education, particularly with “targeted aspects for underrepresented groups” could help to “demystify the role of an Assembly Member and allow space to challenge conventional notions of the characteristics of leaders and leadership”.³⁵⁷

304. Participants at our discussion event on the diversity of the Senedd emphasised the part role models could play in encouraging a wider range of people to participate in political processes and institutions, suggesting that:

“Only when people see somebody like themselves winning election to the Senedd and working as a Member will some people feel it is a realistic option for them”.³⁵⁸

305. Ruth Coombs of the EHRC agreed that greater diversity of role models within the Senedd could be an important way to encourage people from a wider range of backgrounds to participate in the political process on the basis that “you get more diverse candidates coming through because people want to belong to an organisation that looks a bit more like they do”. She highlighted the example of

³⁵⁴ ELGC Committee, *Diversity in local government*, April 2019, pp.27 and 29-30

³⁵⁵ [DIV06 Leonard Cheshire Cymru](#)

³⁵⁶ [DIV05 Women’s Equality Network Wales](#)

³⁵⁷ [DIV07 Ethnic Minorities and Youth Support Team](#)

³⁵⁸ [Diversity of the Senedd: note of discussion event](#), 10 February 2020, para 22

four cross-party Members standing up together to speak about their experiences of poor mental health.³⁵⁹ An individual who responded to our consultation suggested that information about a “day in the life” or a “week in the life” of a “typical” Member could help to increase political literacy.³⁶⁰ Leonard Cheshire Cymru, in its consultation response, similarly emphasised the potential for personal stories from Members to be a powerful mechanism to help potential candidates think about whether, and if so how, they wished to participate.³⁶¹

306. EYST highlighted the visible diversity within the Welsh Youth Parliament, and suggested that Welsh Youth Parliament Members could play a role as ambassadors in raising awareness and understanding in schools across Wales.³⁶²

Our view on public awareness and understanding of the roles of Members of the Senedd

307. We believe that a key element in building understanding of how the Senedd carries out its work on behalf of the people of Wales, and removing potential barriers which could prevent people from participating in its work or putting themselves forward for election, is providing greater clarity about the role of Member of the Senedd and what it entails.

308. Each Member of the Senedd is a democratically-elected office holder, and it is up to each Member to determine how they choose to fulfil their role. However, our view is that identifying the core tasks and responsibilities that Members hold in common would help to remove barriers that could hinder participation. It could also help people who may be less familiar with the Senedd to understand our conclusion that adopting alternative ways of working, or simply working harder or longer hours, will not be sufficient to ensure that the Senedd has the capacity it needs.

309. We welcome the clarity offered to committees and committee chairs by the core tasks established by the Business Committee,³⁶³ and believe that a similar approach would be helpful in respect of Members’ roles. Members roles are, of course, complex and multifaceted, and it would be important for the responsibilities Members have beyond formal Senedd business to be reflected within the core tasks. Additional approaches to explaining the complexity of

³⁵⁹ Ruth Coombs, [RoP \[paras 36 and 48\]](#), 13 January 2020

³⁶⁰ [DIV03 Individual](#)

³⁶¹ [DIV06 Leonard Cheshire Cymru](#)

³⁶² [DIV07 Ethnic Minorities and Youth Support Team](#)

³⁶³ Business Committee, [Committees in the Fifth Assembly](#), June 2016

Members' roles in engaging and accessible ways should also be considered. For example, written or video 'day/week in the life of' case studies or personal stories from past and present Members of the Senedd could be published on the Senedd's website and social media channels. These personal accounts could explain what Members do on a daily basis, why they put themselves forward for election, and what barriers they have overcome.

RECOMMENDATIONS

Recommendation 24. The Business Committee should develop and publish an overview of the 'core tasks' which make up the role of Member of the Senedd. The core tasks should recognise Members' formal Senedd business responsibilities, and also their wider roles as representatives, campaigners and employers. It would therefore be appropriate for the development of the core tasks to be informed by consultation with Members, political groups, the Remuneration Board and other stakeholders.

Recommendation 25. Working with past and present Members of the Senedd and political groups within the Senedd, the Senedd Commission should prepare and publish on its website and social media channels case studies and personal stories illustrating what the role of Member of the Senedd entails.

Public awareness and understanding of how Members are elected

Understanding of the current electoral arrangements

310. The Electoral Commission undertakes research on the conduct and administration of each Senedd election. Findings in its 2016 report suggest that a large majority of voters (83 per cent) were confident that the election had been well-run and had been satisfied with the processes for registering to vote (91 per cent) and voting (87 per cent). 80 per cent of voters had said that they had sufficient information about how to cast their vote, representing an increase from 2011.³⁶⁴ However, the AEA suggested that the higher level of rejected ballot papers in Senedd elections (5,509 constituency ballots and 6,730 regional ballots in 2016) when compared to Westminster elections (2,776 in Wales in 2017) could be attributed to voter confusion about the two ballot papers. It acknowledged, however, that combining more than one poll—as happened in 2016 when the Senedd and Police and Crime Commissioner elections were held on the same

³⁶⁴ [ESB04 Electoral Commission](#)

day—can exacerbate voter confusion.³⁶⁵ Professor Awan-Scully cautioned that the anticipated combination of the Senedd and Police and Crime Commissioner elections in May 2021 will mean that:

“...for the second successive time, on the same day as the Assembly election, where we have these two votes and voters don’t seem to wholly understand what at least one of those is really for, another simultaneous election also using a sort of two-vote system. So, people are going to be asked to cast, in effect, four votes on the same day, and it’s very unlikely that many people will actually really understand the implications of what all of those four votes are. So, I think we already have significant problems in this regard”.³⁶⁶

311. We have heard from a number of contributors to our work that public understanding of the Senedd’s current electoral arrangements is variable, particularly in respect of the regional element of the electoral system.³⁶⁷ Professor Awan-Scully highlighted research which indicated that voters in Wales have tended to ‘waste’ their regional votes by casting them for parties unlikely to secure seats through the proportional list element because of their substantial constituency support.³⁶⁸ Professor Mollison suggested that this is not unique to Wales, as the MMP/AMS voting system used to elect the Scottish Parliament is similarly poorly understood.³⁶⁹ Conversely, UKIP stated that feedback from its Members and their constituents suggested that: “after many years of experience and practice, the electorate have fully grasped the current electoral system”.³⁷⁰

Introducing a new electoral system

312. There are a number of electoral systems in use in Wales (see Table 10).

³⁶⁵ [Written submission from the Association of Electoral Administrators](#), 6 July 2020

³⁶⁶ Professor Awan-Scully, [RoP \[para 21\]](#), 16 March 2020

³⁶⁷ See, for example, [ESB07 Electoral Reform Society Cymru](#); [ESB09 Carmarthenshire County Council](#); [ESB12 Pembrokeshire County Council](#); Councillor Sherwood, [RoP \[paras 87 and 89\]](#), 3 February 2020

³⁶⁸ Professor Awan-Scully, [RoP \[para 20\]](#), 16 March 2020

³⁶⁹ [ESB01 Professor Mollison](#)

³⁷⁰ [ESB08 UKIP](#)

Table 10 Electoral systems in Wales

| Electoral system | Used for |
|--|---|
| In use | |
| First Past the Post | House of Commons elections (single member constituencies) Local authority elections (single and multimember constituencies) |
| Mixed Member Proportional/Additional Member System | Senedd elections |
| Supplementary Vote | Police and Crime Commissioner elections |
| Pending | |
| Single Transferable Vote | Local authority elections (subject to the passing of the <i>Local Government and Elections (Wales) Bill</i> and a resolution of the relevant local authority on the basis of a two-thirds majority to adopt STV.) |
| Used until recently | |
| Closed List Proportional Representation | European Parliament elections |

313. The AEA warned that introducing a new electoral system for Senedd elections could risk voter confusion, highlighting in particular the increasing take up of postal votes and the associated need for very clear instructions on how to complete ballot papers by post. It acknowledged that electoral systems with a single route to election for Members could be “easier to administer and less confusing for the voter”, but noted that the greater the complexity of the electoral system the greater the risk of voters not understanding or polling station staff giving out wrong information.³⁷¹

314. We have heard consistently from stakeholders that any transition to a new electoral system for Senedd elections would need to be accompanied by a substantial and comprehensive public education campaign to ensure that voters were aware of the new system and understood what they had to do in order to cast their votes.³⁷² ERS Cymru agreed with this, but observed that its research had found:

“...a fundamental lack of understanding about the Senedd as a whole in Wales. Our work on political education through our Missing Voices and Our Voices Heard projects has highlighted a major democratic deficit

³⁷¹ [ESB06 Association of Electoral Administrators](#)

³⁷² See, for example, [ESB04 Electoral Commission](#); [ESB07 Electoral Reform Society Cymru: Written submission from the Association of Electoral Administrators](#), 6 July 2020

in Wales, which is backed up by low turnout at Senedd elections and a low recognition of Wales' political leaders.

[...]

It is also likely that understanding of boundary changes and voting system changes would also be limited until the implementation of a communication campaign closer to the first election using a different system".³⁷³

315. Jess Blair of ERS Cymru suggested that an effective communication campaign about new electoral arrangements could help to improve public understanding of the role of the Senedd itself.³⁷⁴

Introduction of STV for Scottish local elections

316. The introduction of STV in Scotland for the May 2007 local elections was accompanied by a phased programme of awareness-raising activities. Public relations activity began in November 2006 on the basis of cooperation between the Electoral Commission and local authorities. The media campaign started in March 2007, including communications via television, radio, national and local press, the internet and posters. Initially, the focus was on raising awareness of the elections and encouraging people to turn out to vote; later in the communication campaign the emphasis shifted onto how to cast a vote in an STV electoral system. This included sending a leaflet to every household explaining the voting process, and a mobile roadshow visiting town centres to show people what the ballot papers would look like.³⁷⁵ The multi-channel and multi-phased campaign was described by the Electoral Commission as "comprehensive, thoroughly-planned and executed", although tracking surveys suggested that there were still many people unaware of the local elections.³⁷⁶

317. Similar awareness-raising campaigns were run in advance of the 2012 and 2017 local elections in Scotland. The 2017 local elections were the first local elections in which 16 and 17 year olds were eligible to vote. Two campaigns were run, the first focusing on voter registration, and the second addressing how to complete STV ballot papers. Both campaigns made use of TV, radio, press, online

³⁷³ [ESB07 Electoral Reform Society Cymru](#)

³⁷⁴ Jess Blair, [RoP \[para 97\]](#), 16 March 2020

³⁷⁵ Electoral Commission, [Appendix C: 'Vote Scotland' Public Awareness Campaign Evaluation Report](#), 2017, p.1

³⁷⁶ *Ibid*, p.31

and social media advertising, as well as delivering a voting guide to every household, publishing animations on YouTube and working closely with schools.³⁷⁷

318. After the 2017 elections, the Electoral Commission reported that 81 per cent of the public saw one or more of the elements of its campaign, and 94 per cent of those who voted said that they had found it easy to complete their ballot paper. However, on the basis that there was a slight increase in the proportion of rejected ballot papers—the majority of which were rejected because voters had specified more than one first preference—the Electoral Commission also concluded that further work was needed to improve voters’ understanding of STV, particularly in wards where there were greater levels of deprivation and unemployment.³⁷⁸

Our view on public awareness and understanding of how Members are elected

319. We are encouraged that a significant majority of voters have confidence in the way in which elections in Wales are conducted and administered. We believe that this provides a solid foundation for any reforms, although it will be vital to ensure that electoral reforms are developed and implemented in a way that does not undermine existing confidence. Nevertheless, we recognise that the evidence we have received suggests that there is considerable variation in the extent to which voters across Wales fully understand the Senedd’s current electoral system. This is in keeping with the evidence we have heard across our work on the capacity of the Senedd, the diversity of the Senedd and how Members are elected about inconsistent levels of political literacy and understanding. However, it also risks undermining the quality of our democracy. If voters do not understand how they can shape the way in which they are represented, they may be less likely to turn out to vote, or less able or willing to engage with the work the Senedd does on their behalf.

320. We believe that any reform of the electoral system should be accompanied by comprehensive public awareness and information campaigns. Such campaigns should be developed in partnership between bodies with responsibilities in respect of the Senedd and elections in Wales, and should take account of lessons to be learned from other experiences of implementing significant constitutional reforms, for example the extension of the franchise in Wales to include 16 and 17 year olds and all legal residents in Wales regardless of citizenship, or the introduction of STV for local elections in Scotland.

³⁷⁷ Electoral Commission, *Scottish council elections 2017: Report on the administration of the elections held on 4 May 2017*, September 2017, p.12

³⁷⁸ *Ibid.*, pp.12-13

RECOMMENDATIONS

Recommendation 26. The Member-in-charge of any Senedd reform legislation should ensure that any legislative reforms, including of the Senedd's size and electoral arrangements, are accompanied by effective, comprehensive and tailored communication, public information and awareness-raising campaigns to ensure not only that voters know how to participate in Senedd elections, but also that the people of Wales understand the role of their legislature and how they can engage in and shape its work.

Recommendation 27. The relevant Sixth Senedd committee should undertake post-legislative and post-implementation scrutiny of the extension of the franchise for the 2021 Senedd election to examine the impact of the franchise extension on voter engagement and turnout. This work should include identifying any lessons which could be learned from the approach to engaging and informing voters and potential voters about the democratic process, their right to vote and the role of the Senedd, and how such lessons might be applied to increasing awareness and understanding of the current electoral arrangements or of any new electoral arrangements.

9. Developing proposals for reform

In this chapter we consider the potential scope and scale of reform proposals—including the extent to which different issues can, or cannot, be decoupled from one another—and examine issues relating to political support and consensus.

Development of legislative and non-legislative reform proposals

Legislative and non-legislative reforms

321. During our work we have heard suggestions for both legislative and non-legislative reform of the Senedd, for example:

- **Legislative reforms:** including increasing the number of Members, reforming the electoral system and boundaries, establishing boundary review arrangements, introducing legislative diversity quotas, enabling job sharing, and requiring the publication of candidate diversity information.
- **Non-legislative reforms:** including measures to increase the capacity of a 60 Member Senedd, such as provision of additional staff support, changes to procedures or ways of working, or more innovative or deliberative engagement activity; and voluntary measures to encourage the election of a more diverse Senedd, such as voluntary collection and publication of candidate diversity information, provision of mentoring, training or financial support to potential candidates, or voluntary reform of political parties' selection processes.³⁷⁹

322. Responsibility for any non-legislative reforms lies with a range of potential decision-makers, including stakeholders, political parties, the Remuneration Board, the Senedd Commission, the Business Committee, Senedd committees and individual Members. The mechanisms by which any non-legislative reforms were developed, consulted upon, scrutinised and implemented would vary depending on the particular reform proposals, as would the degree and sources of support required for their introduction.

³⁷⁹ Further detail on these reforms is set out in the relevant chapters of our report.

323. The power to introduce legislation lies with the Welsh Government, the Senedd Commission, Senedd committees and individual Members of the Senedd who are selected in a ballot under Standing Order 26.87. We explore issues relating to which legislative mechanism might be most appropriate for reform legislation further in chapter 10. However, whichever legislative mechanism were to be employed, the Member-in-charge would need to clearly define their preferred policy objectives. The scope and scale of the objectives would inform, for example:

- The identification and evaluation of options to achieve the specified objectives, and assessment of the financial and other impacts.
- The development of primary and subordinate legislation to give effect to the proposed reforms.
- The development of political consensus and support for the proposed reforms.
- Consultation with the public and relevant stakeholders to inform policy and legislative development and implementation planning.
- The time and resources required for the development and delivery of the reforms.

Existing legislative framework

324. To some extent, the policy issues within our remit may be considered separately. For example, the Senedd has resolved that more Members are needed, but has not yet reached a collective position on how Members should be elected.³⁸⁰ However, when developing their preferred package of reforms, the Member-in-charge would need to consider the interconnectivity of the policy issues, both in terms of their overall objectives and within the context of the practical realities of the legislative framework which underpins the Senedd's electoral arrangements.

325. The size of the Senedd is currently derived from a series of legislative provisions which, when taken together, provide for a 60 Member Senedd comprised of 40 constituency Members and 20 regional Members (Table 11).

³⁸⁰ Plenary, [RoP](#), 10 July 2019; Senedd Commission, [Senedd reform timeline](#) [accessed July 2020]

Table 11 Principal legislative provisions determining the size of the Senedd and how Members are elected

| Issue | Principal legislative provisions |
|--|--|
| Composition of the Senedd | Section 1(2) of GOWA 2006 provides that the Senedd comprises constituency and regional Members, but does not specify how many of either. |
| Constituency Members: number and boundaries | Section 2(1) of GOWA 2006 provides that the Senedd constituencies are as specified in the <i>Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006 (as amended)</i> (“the 2006 Order”). Article 2A of the 2006 Order provides that the Senedd constituencies are those specified in Schedule 1 of the Order. Schedule 1 specifies 40 constituencies on the basis of their component electoral divisions. Article 1(4) of the 2006 Order freezes the boundaries of the electoral divisions as they stood on 1 December 2010. ³⁸¹ |
| Constituency Members: method of election | Section 6(4) of GOWA 2006 provides that constituency Members are returned under “the simple majority system”. Section 10(3) provides that this system is also used to fill any casual constituency vacancies which arise between general elections. Paragraph 23 of Schedule 5 to the <i>National Assembly for Wales (Representation of the People) Order 2007</i> provides that for each constituency “the candidate to whom the majority of votes has been given shall be declared to have been elected”. |
| Regional Members: number and boundaries | Section 2(2) of GOWA 2006 provides that there are to be five electoral regions, and that the regions are those specified in the 2006 Order. Section 2(4) specifies that there are four seats for each electoral region. Article 3 of the 2006 Order provides that the regions are those specified in Schedule 2 of the Order. Schedule 2 specifies which of the 40 constituencies comprise each of the regions. |
| Regional Members: method of election | Section 6(5) of GOWA 2006 provides that regional Members are returned under the additional member system of proportional representation, as defined in Part 1 of GOWA 2006. Sections 8 and 9 of GOWA 2006 set out the basis on which electoral region figures are calculated and on which regional seats are allocated to candidates. Section 11 makes provision for the appointment of the next eligible person on the relevant party’s list to be appointed as a Member should a casual regional vacancy arise between general elections. |

Implications for the scope and scale of reform proposals

326. The way in which the legislative framework operates means that a Member-in-charge could not bring forward proposals to increase the number of Members without also making decisions as to how Members should be elected and the electoral areas they would represent. For a minimum ‘least change’ option, this

³⁸¹ Article 1(4) was inserted by the *Parliamentary Constituencies and Assembly Electoral Regions (Wales) (Amendment) Order 2011* as a result of the *Parliamentary Voting System and Constituencies Act 2011*.

could be a decision that the current voting system and boundaries would continue to be used, but that the number of regional Members would increase. Or, as we have recommended in chapters 3 and 4 of this report, it could take the form of more substantial reforms, such as the introduction of a new voting system and boundaries.

327. However, decisions on some reforms do not require consideration of others. While the number of Members cannot be changed without reaching a view on the electoral system and boundaries to be used, it could be done without establishing detailed arrangements for ongoing review of the Senedd's electoral boundaries or without putting in place any legislative interventions in respect of the diversity of the Senedd. The reverse is also true. Legislation to reform the Senedd could put in place boundary review arrangements while retaining the current size and electoral system, or (subject to resolving the current constraints on the Senedd's legislative competence) integrated diversity quotas could be applied to the current arrangements for the election of 60 Members.

328. Table 12 summarises some illustrative examples of reform proposals, taking account of the extent to which policy issues can, or cannot, be decoupled from one another. In each case, the Member-in-charge of the legislation would need to consider the Senedd's legislative competence, and any consequential matters which would need to be resolved in either primary or subordinate legislation to ensure that the reforms operated properly within the wider legislative framework to deliver a smooth and well-administered election.

Table 12 Illustrative examples of Senedd reform proposals

| | Number of Members, electoral system, electoral boundaries ³⁸² | Ongoing boundary and seat apportionment review arrangements | Legislative diversity measures ³⁸³ |
|---|--|---|---|
| Increase the size of the Senedd only | ✓ | x | x |
| Establish ongoing boundary review arrangements only | x | ✓ | x |
| Establish legislative diversity measures only | x | x | ✓ |
| Increase the size of the Senedd and establish ongoing boundary review arrangements | ✓ | ✓ | x |
| Increase the number of Members and establish legislative diversity measures | ✓ | x | ✓ |
| Establish ongoing boundary review arrangements and legislative diversity measures for a 60 Member Senedd | x | ✓ | ✓ |
| Full electoral reform | ✓ | ✓ | ✓ |

³⁸² 'Electoral boundaries' here means the identification of specific boundaries and seat apportionments (whether by confirming the use of existing boundaries and seat apportionments, specifying new boundaries or seat apportionments, or specifying the methodology by which a set of new boundaries or seat apportionments would be established for the purpose of electing a larger Senedd). It does not include the establishment of ongoing boundary and seat apportionment review arrangements.

³⁸³ Subject to the constraints on the Senedd's legislative competence outlined in chapter 6, 'legislative diversity measures' here might include some or all of the legislative measures to encourage the election of a more diverse Senedd explored in chapters 6 and 7 of this report, or any other measures the Member-in-charge wished to introduce.

Public, stakeholder and expert opinion

329. Issues relating to the capacity, diversity and electoral arrangements of the Senedd have been considered on a number of occasions from a range of perspectives, including experts, stakeholders and the public. For example, such work has included:

- **Independent commissions and panels:** including the Richard Commission, the Silk Commission and the Expert Panel. The evidence bases from which these expert-led pieces of work drew their conclusions included consultation with the public and stakeholders, as well as academic research and technical expertise.³⁸⁴
- **Senedd-led work:** including the Senedd Commission's 2015 report *The future of the Assembly and its capacity to deliver for Wales*, its 2018 *Creating a Parliament for Wales* public consultation, and the introduction and scrutiny of the *Senedd and Elections (Wales) Bill* in 2019.³⁸⁵
- **Stakeholder-led work:** such as the UK's Changing Union Project and ERS Cymru's 2014 report *Size Matters: making the National Assembly more effective*, the Wales Governance Centre and ERS Cymru's 2016 report on *Reshaping the Senedd: how to elect a more effective Assembly*; or the ERS Cymru-led *Manifesto for democracy* for the 2021 Senedd election.³⁸⁶
- **Opinion polling:** for example a poll commissioned by UKIP in 2018 found that 32 per cent of people supported an increase in the number of Members, 43 per cent did not, and 26 per cent did not know.³⁸⁷ However, in response to a question about attitudes to devolution, the

³⁸⁴ Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, *Report of the Richard Commission*, Spring 2004; Commission on Devolution in Wales, *Empowerment and responsibility: legislative powers to strengthen Wales*, 2014; Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017

³⁸⁵ Senedd Commission, *The future of the Assembly and its capacity to deliver for Wales*, January 2015; Senedd Commission, *Creating a Parliament for Wales: consultation report*, October 2018; *Senedd and Elections (Wales) Bill*

³⁸⁶ UK's Changing Union Project and Electoral Reform Society Cymru, *Size Matters: making the National Assembly more effective*, 2014; Wales Governance Centre and Electoral Reform Society Cymru, *Reshaping the Senedd: how to elect a more effective Assembly*, November 2016; Electoral Reform Society, *A manifesto for democracy*, July 2020

³⁸⁷ Wales Online, *A poll shows just how sceptical people are about increasing the number of AMs*, 19 April 2018

BBC/ICM St David's Day poll published in March 2020 found that 11 per cent of respondents favoured independence for Wales, 43 per cent a Senedd with more powers, 25 per cent the current arrangements, 2 per cent a Senedd with fewer powers and 14 per cent the abolition of the Senedd.³⁸⁸

Mandate for reform

330. During our work we have heard a range of views on the source of a mandate for reform, including:

- **Referendum:** UKIP has argued that no decisions on a change to the Senedd's size should be taken without first holding a national referendum on the issue.³⁸⁹
- **Political decision:** Jess Blair of ERS Cymru described referendums as "rather blunt tools [that] can often be hijacked by other issues". She advocated instead for leadership from political parties represented in the Senedd informed where appropriate by deliberative engagement with the public through a citizens' assembly.³⁹⁰ Similarly, the leader of Plaid Cymru argued in the Siambwr in July 2019 that the Fifth Senedd had a responsibility to act in the public interest to ensure the institution had the capacity it needed to fulfil its responsibilities.
- **Manifesto commitment:** Welsh Labour resolved at its conference in spring 2019 that no reform legislation should be introduced without first being included as a manifesto commitment at a Senedd election.³⁹¹ ERS Cymru, working with partners including Colleges Wales, Oxfam Cymru, WEN Wales, the Institute for Welsh Affairs and Chwarae Teg, called in July 2020 for political parties to include in their manifestos for the 2021 Senedd election a commitment to "full implementation of the Expert Panel on Assembly Electoral Reform's recommendations [...] early in the term of the next Senedd".³⁹²

³⁸⁸ BBC News, [Voting attitudes and Senedd powers quizzed in poll for BBC Wales](#), 1 March 2020

³⁸⁹ [ESB08 UKIP](#)

³⁹⁰ Jess Blair, [RoP \[para 58\]](#), 16 March 2020

³⁹¹ BBC News, [Welsh Assembly: Elin Jones says no extra AMs until 2021](#), 10 June 2019

³⁹² Electoral Reform Society Cymru, [A manifesto for democracy](#), July 2020

Political support and consensus

Required level of political support and consensus

331. Legislative reform of the Senedd would require a significant degree of political consensus to be achieved and maintained, both in respect of the primary and subordinate legislation and during the implementation process. The Llywydd told us that the Member-in-charge of reform legislation should ideally secure a mandate from the Senedd as a whole at a very early stage in the process. She stated that:

“...a Bill to increase the size of the Assembly, with a different electoral system, I think, right from the start, it requires political buy-in by the majority of political groups, because it’s not the kind of Bill to change as the scrutiny process goes through. There’s got to be a very early decision by political groups in the next Assembly, or leading into the next Assembly, as to which model and where they would like the legislation to be created, so that there’s an early decision that leads itself, then, into the legislation and the scrutiny process on the detail of it, but not the in-principle point of what the system should be and the numbers that would be elected”.³⁹³

332. The level of support required by a Member-in-charge for their proposed reforms would be informed by a range of political and procedural factors (see Table 13).

Table 13 Political and procedural factors informing the level of political support required for legislative reform

| Factor | Considerations |
|--------------------------|--|
| Political factors | <p>A Member-in-charge bringing forward legislation of a significant constitutional nature may consider it appropriate to secure broad cross-party support before doing so. This may particularly be the case for legislation which reforms the electoral system or boundaries, if they wish to avoid any perception of seeking electoral advantage for their own political party.</p> <p>If the reform process was led by a Member other than a member of the Welsh Government, the Member-in-charge would nevertheless need to work closely with the Welsh Government as a key stakeholder in the statutory framework and resourcing of Senedd elections, to secure the Bill’s passage through the Senedd, and in respect of the development and making of subordinate legislation.</p> <p>Reflecting on its experience of introducing a committee Bill, the Finance Committee suggested that early engagement with the Welsh</p> |

³⁹³ Llywydd, [RoP \[para 125\]](#), 2 December 2019

| Factor | Considerations |
|---|--|
| | Government could reduce the potential for non-government legislation to be heavily amended as it passed through the Senedd. ³⁹⁴ |
| Procedural factors (primary legislation) | <p>Primary legislation requires simple majorities for the agreement of a Bill's general principles at Stage 1 of the legislative process, for the agreement of financial resolutions, and for the agreement of amendments. A financial resolution may only be moved by a member of the Welsh Government.</p> <p>Bills may be amended during the legislative process, giving Members of the Senedd opportunities to add, remove or change provisions. A Member-in-charge of reform legislation would need to work closely with Members, the Welsh Government and political groups to ensure the Bill's provisions remained workable and continued to attract the degree of political support required at each stage.</p> <p>Where provisions within a Bill touch on protected subject matters, the Bill requires a supermajority of 40 Members voting in favour at the final stage of the legislative process to be passed. Protected subject matters are defined by section 111A of GOWA 2006, and include, for example, the system by which Members of the Senedd are returned; the specification or number of constituencies, regions or any equivalent electoral area; the number of Members to be returned for each constituency, region or equivalent electoral area; and the number of persons who may hold the office of Welsh Minister or Deputy Welsh Minister.</p> |
| Procedural factors (subordinate legislation) | <p>The scrutiny procedures applicable to subordinate legislation are determined by the parent Act from which the subordinate legislation-making powers derive. In bringing forward any proposals, the Member-in-charge of the subordinate legislation³⁹⁵ would need to be confident of securing the degree of political support within the Senedd required by the parent Act.</p> <p>Subordinate legislation is generally subject to scrutiny by the Senedd, but is not amendable. Where scrutiny procedures require votes in the Senedd, these are generally on the basis of simple majorities, although it would be possible for a parent Act to specify a more stringent majority requirement should the Senedd so wish.</p> |

Development of political consensus

333. Reaching political consensus on institutional and electoral reforms is not straightforward. The Senedd Commission has taken various approaches to building and maintaining political consensus around its Senedd reform work and, in particular, the *Senedd and Elections (Wales) Act 2020*. This has included:

- The establishment of the Expert Panel to provide politically neutral, evidence-based advice and recommendations on potential reforms.

³⁹⁴ [Letter from the Chair of the Finance Committee](#), 22 April 2020

³⁹⁵ The Member-in-charge of any subordinate reform legislation would not necessarily be the same person as the Member-in-charge of the primary reform legislation. We explore issues relating to subordinate legislation-making powers further in chapter 10 of this report.

- The establishment and chairing by the Llywydd of a Political Reference Group to shadow the work of the Expert Panel and provide a mechanism for parties represented in the Senedd to share and discuss their views.
- Formal public and stakeholder consultation on the Expert Panel's recommendations and other potential reforms.
- Regular updates via Written Statements by the Llywydd on behalf of the Commission and correspondence with Members about the Commission's decisions and intentions.
- Formal mandates on the basis of resolutions of the Senedd at key stages, including the Commission's intention to consult on the Expert Panel's recommendations and its decision to introduce the *Senedd and Elections (Wales) Bill*.
- Informal discussions with stakeholders, political groups and the Welsh Government throughout the legislative development, introduction, scrutiny and implementation processes.

334. While there is a degree of consensus in the Senedd currently that the number of Members should be increased, political parties will understandably have varying views on the appropriate electoral system, both for reasons of principle and because they may see different advantages and disadvantages for themselves in different electoral systems. Nevertheless, research on electoral reform in Switzerland suggests that there may be benefits for political parties that take an active part in the development of electoral reform proposals. The research suggested that electoral reform tended to take place later in administrative areas where one party was particularly dominant, when compared with areas with less single party dominance. The researchers concluded that this suggested that dominant parties were both willing and able to defend for longer the systems through which their dominance was achieved. However, once reform had taken place, the extent to which reform was driven by the dominant party, rather than their competitors, appeared to have an influence on the detailed design of the electoral system and thereby the electoral outcomes. Electoral systems designed by dominant parties tended to result in fewer losses in seats by the dominant party (and even some gains in seats in some cases) when compared to electoral reforms driven by minority parties.³⁹⁶

³⁹⁶ Walter, A. and Emmenegger, P., *Electoral reform: the fine print matters*, 7 May 2019

Our view on the development of legislative and non-legislative proposals for reform

335. As we have set out throughout our report, we believe that both non-legislative and legislative reforms will be required to strengthen our democracy by ensuring that the Senedd has the capacity it needs and that it both reflects and represents the communities it serves.

336. The limits on the Senedd's legislative competence in respect of equal opportunities, and the breadth of actors with responsibility for the diversity of the Senedd, make it likely that voluntary, non-legislative actions will be part of the approach to encourage the election of a more diverse Senedd. Similarly, if the capacity issues facing the Sixth Senedd are to be mitigated, then non-legislative action will be required to maximise the capacity of a 60 Member Senedd.

337. However, as we explain in chapter 2, we do not believe that non-legislative measures to maximise the capacity of a 60 Member Senedd will be sufficient to fully address the capacity gap the legislature faces. It is for that reason that we have recommended that the size of the Senedd should be increased. We understand that 'more politicians' is an idea likely to receive a mixed reaction from the public, although we also acknowledge Professor McAllister's view that devolution issues which have been controversial in the short term have not necessarily remained widely contentious in the longer term.³⁹⁷

338. We are aware of the potential risks associated with appearing to prioritise what could be characterised as internal or constitutional matters. But we are also persuaded by the stark analysis of the Expert Panel that:

"The Assembly is, without doubt, undersized and overstretched. The Richard Commission emphasised this thirteen years ago. The Silk Commission repeated the message in 2014. The Assembly Commission highlighted it two years ago. We are saying it just as clearly now. This issue will not simply resolve itself. If the Assembly does not take action to address the capacity gap, then it is only a matter of time before it is unable to fulfil its responsibilities to work for and represent the people of Wales effectively".³⁹⁸

³⁹⁷ Professor McAllister, [RoP \[para 82\]](#), 20 January 2020

³⁹⁸ Expert Panel on Assembly Electoral Reform, [A Parliament that Works for Wales](#), December 2017, para 16.43

339. The matters within our remit are of fundamental importance to the effective functioning of democracy in Wales. If the Senedd fulfils its responsibilities effectively, it can make a real, tangible difference to the lives of people in Wales and to the issues they care most about, including health, the environment, the economy, education and housing.³⁹⁹ However, achieving legislative reforms of this nature will require sufficiently broad political consensus across the Senedd to achieve a supermajority of 40 Members voting to pass a reform Bill. Our view is that unless consensus can be built across the political spectrum, the Sixth Senedd will risk failing to ensure that the legislature is properly able to serve the people of Wales now and in the future. Achieving this will require political parties to work with their own members to reach policy positions, and with one another on a cross-party basis to reach compromises and build a shared vision for the future of the legislature.

340. The development and introduction of legislation required to ensure the Senedd is an appropriate size will be a matter for the Member-in-charge of the legislation. The scrutiny and agreement of the legislation will be a matter for the next Senedd. In the meantime, and in addition to working together to reach consensus, we believe that political parties and other stakeholders who support reform of the Senedd have an important role in engaging with the public, their members and their networks to explain:

- The difference a reformed Senedd could make to the governance of Wales, and to improved outcomes for its people and communities.
- The opportunities that reforming the electoral system provides to empower voters by increasing the level of choice and influence they have over who represents them, and by ensuring that the composition of the Senedd more proportionally and fairly reflects the balance of votes cast at Senedd elections.
- The need to establish ongoing arrangements for the review of the boundaries and seat apportionments for multimember Senedd constituencies to ensure that every voter in Wales has equal voice and representation, and that any reforms are sustainable.

341. Our intention was to hold a citizens' assembly, which would have enabled us to engage in a detailed, considered, deliberative way with a representative group to gauge the public's informed views on the matter of the Senedd's capacity. Unfortunately, as a result of the COVID-19 pandemic we were unable to progress

³⁹⁹ [YouGov/Welsh Barometer survey results](#), January 2020

this work as we had hoped to do. While we cannot afford to lose another five years before the capacity of the Senedd is addressed, we continue to believe that the development of legislative proposals, and the Senedd's decisions on them, would usefully be informed by deliberative engagement with the public on the detail of the reform proposals.

RECOMMENDATION

Recommendation 28. The Welsh Government, the Senedd Commission or the Member-in-charge of any Senedd reform legislation should commission a citizens' assembly on the capacity of the Senedd to ensure that the development of legislative reform proposals can take account of the public's informed views on these matters.

10. Legislating for reform

In this chapter we examine issues a Member-in-charge of any Senedd reform legislation would need to consider, including the legislative process and the timescales associated with reform.

Primary legislation

342. Any changes to the number of Members of the Senedd and how they are elected will, in the first instance, require primary legislation. Primary legislation would also be required to deliver some of the measures to encourage the election of a more diverse Senedd that we explored in chapters 6 and 7, for example, requiring the publication of candidate diversity data, enabling job sharing for Members of the Senedd or introducing legislative diversity quotas.

The Member-in-charge of primary legislation

343. Standing Orders provide that Bills may be introduced by the Welsh Government, the Senedd Commission, Senedd committees, or an individual Member of the Senedd selected in a ballot under Standing Order 26.87. However, who may be best placed to introduce legislation of a significant constitutional nature could be influenced by a range of factors, such as:

- **Procedural factors:** for example, Bills whose provisions relate to protected subject matters—including the system by which Members are elected, the number or specification of electoral boundaries, or the size of the Welsh Government—are subject to a supermajority of 40 Members voting in favour at the final stage of the legislative process.
- **Political factors:** the Llywydd suggested to us that the Member in charge of any reform legislation would need to secure a political mandate which represented a supermajority of Members of the Senedd before introducing any legislation.⁴⁰⁰
- **Practical, resource and governance factors:** the Commission-introduced *Senedd and Elections (Wales) Bill* was predominantly developed by the Senedd Commission. However, the Commission

⁴⁰⁰ Llywydd, [RoP \[para 116\]](#), 2 December 2019

worked with the Welsh Government on the basis of a Memorandum of Understanding to deliver the provisions in the Bill which extended the franchise to include 16 and 17 year olds. While the Llywydd told the Constitutional and Legislative Affairs Committee that there had been a “good element of co-operation”,⁴⁰¹ the then First Minister said in a letter to the Llywydd:

“...in my view the arrangements by which the Senedd and Elections (Wales) Bill has been produced have created significant resource and governance challenges and should not be repeated given the likely scale, subject matter and complexity of the second Bill. You may wish therefore to consider what alternative approaches we might take as and when the potential content of any second Bill becomes clearer”.⁴⁰²

In August 2020 the Trefnydd reiterated concerns about the extent to which replicating the arrangements for the *Senedd and Elections (Wales) Bill* would be appropriate for any further reform legislation, stating that:

“...whilst this was workable for a discrete area of policy where there was agreement between the Welsh Government and the Llywydd on the policy, in the Welsh Government’s view it would be unworkable and untenable for more extensive areas of policy and/or longer periods of time to be pursued in that way, as it would potentially put officials and Ministers in conflicting positions”.⁴⁰³

- **Engagement with Welsh Government:** non-government Members-in-charge of Bills also have to consider how and when to engage with the Welsh Government. The Finance Committee noted that only a Welsh Minister can move a financial resolution. Its experience on the *Public Services Ombudsman (Wales) Bill* was that securing Welsh Government agreement to do so had required significant changes to the Bill’s Regulatory Impact Assessment (“RIA”) (presenting challenges to meeting the six month deadline for a financial resolution after Stage 1 has been completed) and resulted in the Bill being substantially amended at

⁴⁰¹ CLA Committee, RoP [para 129], 11 March 2019

⁴⁰² [Letter from the First Minister to the Llywydd](#), 10 December 2018

⁴⁰³ [Letter from the Minister for Finance and Trefnydd](#), 11 August 2020

Stage 2. The Chair strongly advised earlier engagement from the Welsh Government during the development of committee legislation.⁴⁰⁴

344. Professor McAllister suggested that the Commission or a committee would be best placed to introduce reform legislation. She described beginning from a position of cross-Senedd consensus as “ideal”, as it could avoid amendments that might “derail” a Bill. However, in the absence of cross-Senedd consensus, she suggested a Government Bill could be acceptable.⁴⁰⁵ The Llywydd was similarly agnostic on by whom legislation should be introduced, although she suggested that a Commission or committee Bill might be more likely to secure cross-party consensus.⁴⁰⁶ The Trefnydd told us that while “appropriate engagement and consultation with opposition parties would be important from the early stages”, it was the Welsh Government’s “clear view that the Welsh Government of the day should lead on any future reform legislation” on the basis that:

“The Civil Service has a wealth of experience in developing policy and drafting legislation that is well suited to dealing with this complex subject and the Welsh Government has an established group of stakeholders accustomed to being engaged in policy discussions with Welsh Government officials, which are underpinned by strong statutory and intergovernmental machinery and relationships. It would also provide a clear understanding about accountability for the policy in the Bill”.⁴⁰⁷

Development of primary legislation

345. The procedural requirements for a Bill’s introduction to the Senedd are set out in Standing Order 26, including the information to be included in the Explanatory Memorandum and RIA which must be laid before the Senedd alongside the Bill. Generally, a Bill introduced by the Welsh Government is developed in four phases (see Table 14).

⁴⁰⁴ [Letter from the Chair of the Finance Committee](#), 22 April 2020

⁴⁰⁵ [Submission from Professor McAllister](#), May 2020

⁴⁰⁶ Llywydd, [RoP \[paras 123-124\]](#), 2 December 2019

⁴⁰⁷ [Letter from the Minister for Finance and Trefnydd](#), 11 August 2020

Table 14 Phases of a Welsh Government Bill's development⁴⁰⁸

| Phase of work | Activity |
|--|---|
| Development of the policy | Policy goals and implications of legislation are developed and set out. This includes evaluating the impact of the policy and options for delivery, as well as formal and informal consultation with stakeholders. An evaluation is made of whether any of the legislation's provisions may engage any of the restrictions on the Senedd's legislative competence, and whether consent to legislate in those areas is required. |
| Instructing the legislative drafter | In order to inform the legislative drafter, a very detailed policy explanation of what the Bill will need to do is developed, and an analysis is made of the legal implications and any existing legislative framework. |
| Drafting and translation of the Bill and the Explanatory Memorandum | The Bill is drafted in both official languages, and the Explanatory Memorandum, RIA and the Explanatory Notes to the Bill are prepared. Where there are powers in the Bill to make subordinate legislation, a statement of policy intent is prepared. |
| Clearances prior to introduction | Pre-introduction assessment meetings take place, before the Bill and supporting documents are cleared by Ministers. Bill and supporting documents are sent to the Llywydd for her determination prior to introduction. |

346. The timescales for each phase are fluid. The Welsh Government's handbook on Senedd Bills states that Welsh Government Bills can take from eight months to two years to develop, depending on their size and complexity.⁴⁰⁹ There were nearly three years between the Finance Committee's initial work on the *Public Services Ombudsman (Wales) Bill* and the Bill's introduction in October 2017, although this process spanned the 2016 Senedd election.⁴¹⁰ Similarly, while the Senedd Commission consulted on the legislature's name in autumn 2016 and the Expert Panel's recommendations in spring 2018, the *Senedd and Elections (Wales) Bill* was not introduced until February 2019. Nevertheless, the Llywydd, as Member-in-charge of the Bill, announced on the day of the Bill's introduction her intention to bring forward substantive policy amendments at Stage 2.⁴¹¹ Both the CLA Committee and the Finance Committee subsequently criticised the Bill for not being fully developed on introduction.⁴¹²

⁴⁰⁸ Adapted from Welsh Government, *Legislation handbook on Assembly Bills*, May 2019

⁴⁰⁹ Ibid.

⁴¹⁰ [Letter from the Chair of the Finance Committee](#), 22 April 2020

⁴¹¹ [Letter from the Llywydd to the Chair of the CLA Committee](#), 12 February 2019

⁴¹² CLA Committee, *Senedd and Elections (Wales) Bill: Stage 1 Report*, June 2019, p.42; Finance Committee, *Financial implications of the Senedd and Elections (Wales) Bill*, June 2019, p.35

347. The CLA Committee also noted that the *Senedd and Elections (Wales) Bill* was not first published in draft ahead of its introduction. It recommended that:

“...all Bills relating to significant constitutional issues should be published in draft and accordingly, time should be built into the legislative process to enable this to happen”.⁴¹³

348. Professor McAllister was supportive of the publication of draft Bills in principle, but noted three potential downsides to publishing a future reform Bill in draft form before its introduction:

“i. it risks adding time to what has already been a lengthy process in this case, ii. the danger of recycling more arguments over the contents of the Bill after plenty of opportunities to raise these in earlier debates, and iii. therefore, possibly jeopardising whatever degree of consensus may have been achieved”.⁴¹⁴

Subordinate legislation

349. Currently, matters relating to the conduct and administration of Senedd elections are provided for in the *National Assembly for Wales (Representation of the People) Order 2007 (as amended)*. These matters include, for example, detailed counting rules, provision in respect of electoral expenses and reporting, campaigning rules, and the detail of candidate nomination processes. Reform of the Senedd’s electoral arrangements would therefore be likely to require subordinate legislation as well as primary legislation.

350. In developing their reform proposals, a Member-in-charge would need to consider on whom to confer any subordinate legislation-making powers. Senedd Acts generally confer powers to make subordinate legislation on the Welsh Ministers. However, it would also be possible to confer powers on another body—such as an independent boundary review body or the Senedd Commission—should the Member-in-charge consider it appropriate to do so. Factors a Member-in-charge, and the Senedd itself during scrutiny of any proposals, might want to consider could include:

- The degree to which it would be appropriate for the relevant body to take decisions on the matter(s) in question.

⁴¹³ CLA Committee, *Senedd and Elections (Wales) Bill: Stage 1 Report*, June 2019, p.41

⁴¹⁴ *Submission from Professor McAllister*, May 2020

- The mechanisms by which the Senedd could hold the maker of the subordinate legislation to account.
- The expertise and resources available to the relevant body to facilitate the making of good law on the matter in question. Drafting subordinate legislation can be difficult and resource intensive; it also has the same force of law as primary legislation and must be sound.
- Where existing delegated powers sit. For example, the Welsh Ministers already have powers to make provision in respect of the conduct of Senedd elections under GOWA 2006.

Law Commissions' recommendations in relation to electoral law

351. In March 2020, the Law Commission of England and Wales and the Scottish Law Commission published recommendations for reform of electoral law in the UK, which include that:

- Electoral law should be rationalised into a single, consistent legislative framework governing all elections.
- Electoral law should be consistent across elections, subject to differentiation due to the voting system or some other justifiable principle or policy.
- Primary legislation should set out: the functions, duties, and powers of returning officers; the franchises for all elections; the law on electoral residence; and core registration principles.
- Subordinate legislation should set out: the detailed administrative rules in relation to registration and systems for managing registration data.⁴¹⁵

352. They also make recommendations in relation to: the legislative framework for the conduct of elections, the roles of electoral administrators and returning officers; nomination processes, polling, postal and proxy votes, electoral registration, and vote counting. They also provide specimen drafting of combined election rules for different types of polls in England.

353. Although we have not heard specific evidence on how the Law Commissions' recommendations may be applied to Senedd reform legislation, we believe that

⁴¹⁵ The Law Commission of England and Wales and the Scottish Law Commission, *Election Law: a joint final report*, March 2020

the Member-in-charge of such legislation should consider the recommendations as they develop their reform proposals.

Legislative competence

354. The restrictions on the Senedd’s legislative competence to pass primary legislation are set out in Section 108A(2) of Part 4 of GOWA 2006. It would only be possible to determine with any certainty whether any specific proposed Bill provision(s) would be within the Senedd’s legislative competence once the provision(s) had been drafted and assessed against each of the competence tests.

355. Nevertheless, as we note in chapter 6 of this report, the legal advice we have received suggests that the Senedd’s legislative competence as it currently stands constrains the potential for legislative proposals to include compulsory measures to encourage the election of a more diverse Senedd. In particular, we have been advised that provisions in relation to legislating for job sharing by elected Members, diversity quotas, and the mandatory publication of candidate diversity data would be likely to be deemed to ‘relate to’ the reservations in Schedule 7A of GOWA 2006 in respect of the “funding of political parties and of their members and officers” and “equal opportunities”.

356. However, the Senedd’s competence is not necessarily fixed; it may be modified subject to there being political agreement to do so from the UK and Welsh Governments, the UK Parliament and the Senedd itself. The mechanisms by which legislative competence may be modified are summarised in Table 15.

Table 15 Mechanisms for the modification of legislative competence

| Mechanism | Modifies | Initiated by | Scrutiny and approval mechanisms |
|------------------------------------|---|---|---|
| Section 109 Order | Can modify the Senedd's legislative competence. | UK Government, Welsh Government or Senedd committee | A Section 109 Order cannot be made without the agreement of the Senedd and both Houses of the UK Parliament. Arrangements for the scrutiny of proposed and draft Orders by the Senedd are prescribed in Standing Orders. |
| Act of the UK Parliament | Can modify both the Senedd's legislative competence and the executive competence of the Welsh Ministers. | UK Government | An Act of the UK Parliament cannot be made without the agreement of both Houses of Parliament. UK legislation which affects the Senedd's legislative competence will not normally be made without the consent of the Senedd. |
| Transfer of Functions Order | Modifies the executive competence of the Welsh Ministers, and could not therefore be used to give the Senedd legislative competence in respect of diversity measures. | UK Government | A Transfer of Functions order must be agreed by the Welsh Ministers and by both Houses of the UK Parliament. |

Timescales for reform

357. A Member-in-charge of legislation to reform the Senedd would need to consider the timescales for reform. Relevant considerations would need to include:

- When they wanted the reforms to take effect.
- What would need to be done to develop a Bill, guide it through the Senedd's scrutiny processes, and develop and pass the required subordinate legislation.
- What would need to be done to implement the reforms, including, for example, planning for the conduct of an election under the new arrangements, undertaking and implementing a boundary review, and ensuring the appropriate property, staff and services were in place to support a larger legislature.
- The financial and staffing resources available to them and to the stakeholders involved in the legislative or implementation processes.⁴¹⁶

358. Assessing the timescales associated with legislating for reform is not straightforward; the activities required and the timescales associated with them are subject to the scope and scale of reform, the level of political consensus and will behind the reforms, and the procedural and scrutiny arrangements which apply. Nevertheless, on the basis of the evidence we have received and the information available to us, we have identified illustrative outline timescales (see Figure 3). These timescales are a starting point only, and some activities could take more or less time to complete. Key points to note in respect of these timescales include:

- We have assumed that work on the development of a Bill would begin at the start of the Sixth Senedd on the basis of clear decisions on the policy objectives to be delivered, and that the development of the Bill would take around a year. This is towards the lower end of the estimated timescales in the Welsh Government's handbook on Senedd Bills.⁴¹⁷ A particularly complex reform Bill could take longer to develop, a narrower set of reforms could take less time. The time required would also be influenced by the approach the Member-in-charge took to engagement and consultation, for example whether or not they chose to hold a

⁴¹⁶ We explore issues relating to the implementation of electoral reforms further in chapter 11.

⁴¹⁷ Welsh Government, *Legislation handbook on Assembly Bills*, May 2019

citizens' assembly, commission a working group on job sharing or consult on a draft Bill.

- Reflecting the timescales for the *Senedd and Elections (Wales) Bill*, we have assumed that there would be around a year between the introduction of primary legislation and Royal Assent.
- While we recommended in chapter 4 of this report that boundary review arrangements should be established, we have not reached any firm conclusions on the approach which should be taken or the associated timescales. For illustrative purposes we have assumed that any provision required to task a boundary review body with the review of the Senedd's boundaries would be included on the face of the reform Bill, and that the timescales for the review would be broadly similar to the two years and seven months set out in the *Parliamentary Constituencies Bill 2019-21* for the 2023 review of Westminster boundaries.
- Our assumptions reflect the evidence we have heard from the Electoral Commission that all primary and subordinate legislation should be in place "at least six months" before the election at which it takes effect.⁴¹⁸ However, the AEA has indicated that if proposed changes included a new voting system and boundaries, a "significantly longer lead in time" would be required.⁴¹⁹ Similarly, the Trefnydd has told us that the importance of Senedd electoral reforms means that the Welsh Government's view is that legislation should be in place "at least a year before the Senedd election to allow administrators sufficient time to prepare fully for the successful delivery of the election".⁴²⁰
- The Remuneration Board told us that it aims to publish its Determination a year in advance of the election at which it takes effect, and that it could take at least two years to prepare a Determination for a larger Senedd.⁴²¹ Similarly, the Chief Executive and Clerk of the Senedd told us that if an increase in the size of the Senedd required additional

⁴¹⁸ [ESB04 Electoral Commission](#)

⁴¹⁹ [Written submission from the Association of Electoral Administrators](#), 6 July 2020

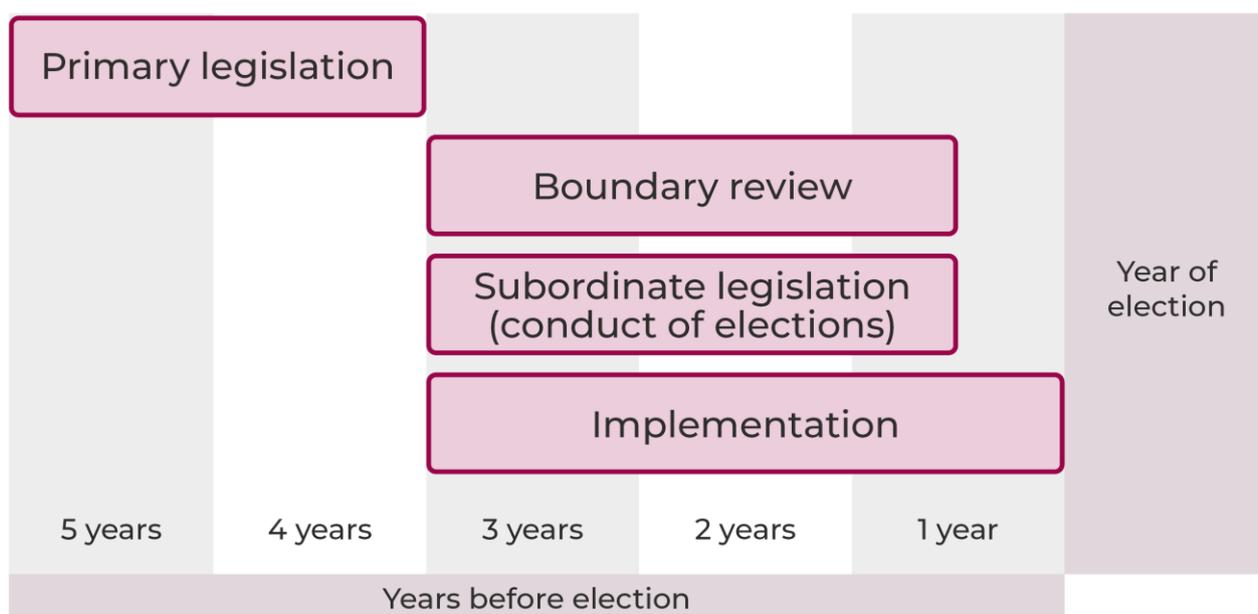
⁴²⁰ [Letter from the Minister for Finance and Trefnydd](#), 11 August 2020

⁴²¹ [Letter from the Chair of the Remuneration Board](#), 22 June 2020

office accommodation to be sourced in Cardiff Bay, it could take two years to put arrangements in place.⁴²²

- There remain some significant unknowns, including the timescales required by political parties to adapt to any electoral reforms, and the timescales which would be associated with any attempts to modify the Senedd’s legislative competence, should the Member-in-charge’s preferred policy objectives require this.

Figure 3 Illustrative outline timescales for reform



Our view on legislating for reform

359. We believe that in order to ensure that the Senedd elected in 2026 has the capacity it needs to fulfil its responsibilities, and that there is sufficient time for the development, introduction, scrutiny and implementation of the required legislation, political consensus on the key policy objectives must be achieved as a matter of urgency following the election in 2021. This includes taking decisions at an early stage on the number of Members, how they should be elected, issues relating to boundary review, and any legislative measures to encourage the election of a more diverse Senedd.

360. While we support in principle the recommendation of the then CLA Committee that Bills relating to significant constitutional matters should be published in draft for consultation, we recognise that a Member-in-charge will

⁴²² Chief Executive and Clerk of the Senedd, [RoP \[para 112\]](#), 2 December 2019

need to balance this principle against ensuring that there is sufficient time available for effective delivery and implementation.

361. We do not believe that it would be appropriate for reform proposals of this nature to be brought forward by an individual Member selected in a ballot under Standing Order 26.87. Whether the legislation is led by the Welsh Government, the Senedd Commission or a Senedd committee, the Member-in-charge will need to build political consensus which represents a supermajority of Members of the Senedd. They will also need to have sufficient resources and political authority to support them in the development of complex and technical primary and subordinate legislative proposals, and the associated consultation, engagement, communication and implementation activity. If the Member-in-charge is not themselves a member of the Welsh Government, they will nevertheless need to work closely with the Welsh Government in the development of the proposals both to secure the required political support, and on the basis that the Welsh Government is a key stakeholder with existing responsibility for the statutory framework and resourcing of Senedd elections.

RECOMMENDATIONS

Recommendation 29. To ensure that electoral reforms can be implemented with effect from the 2026 election, consensus on the reform proposals and whether the legislation will be led by the Welsh Government, the Senedd Commission or a Senedd committee must be established very early in the Sixth Senedd.

Recommendation 30. If the Member-in-charge of any Senedd reform legislation is not a member of the Welsh Government, the Welsh Government should nevertheless, as a key stakeholder with responsibility for the existing statutory framework and resourcing of Senedd elections, work closely with the Member-in-charge.

11. Implementing electoral reforms

In this chapter we examine the practical implications associated with implementing a new electoral system and boundaries, and consider the financial implications of increasing the size of the Senedd.

Responsibility for Senedd elections

362. Responsibility for the conduct and administration of Senedd elections is shared between a range of organisations and office holders (see Table 16), all of whom would need to be involved and engaged in the development and implementation of any reforms.

Table 16 Responsibility for Senedd elections

| Organisation | Responsibilities |
|------------------------------------|---|
| Senedd and Welsh Government | <p>Legislative competence over the Senedd's electoral arrangements was devolved by the <i>Wales Act 2017</i>.</p> <p>The Welsh Government has responsibilities in respect of the resourcing of Senedd elections and powers to make subordinate legislation in respect of the conduct and administration of Senedd elections.</p> <p>The Senedd Commission has statutory powers to promote public understanding of any current or pending system for the election of Members of the Senedd.</p> |
| Electoral Commission | <p>The Electoral Commission is the independent body that oversees elections and regulates political finance in the UK. It has established a number of working groups, panels and boards to facilitate its work, including a panel comprising representatives of political parties which contest Senedd elections and a Wales Electoral Coordination Board.</p> <p>The Electoral Commission provides advice and guidance to returning officers and others on planning and managing their duties and responsibilities in relation to the administration of elections. It also provides resources for use by electoral administrators and others, including timetables, planning and risk register templates, nomination forms, polling station notice templates, checklists and training resources.</p> |
| Returning officers | <p>Constituency and regional returning officers are responsible for the administration of Senedd constituency and regional elections. This includes administering candidate nominations, the poll, the count and the declaration of results.</p> <p>Returning officers are supported by local authority electoral services teams, but are directly accountable as statutory office holders for planning and administering elections. This includes recruiting, training and overseeing polling station presiding officers, clerks and inspectors, and counting staff.</p> |

| Organisation | Responsibilities |
|--|---|
| Electoral registration officers | Electoral registration officers are responsible for maintaining the register of electors and lists of absent voters for their area. |
| Candidates and electoral agents | Candidates are responsible for their own campaigns, and for adhering to electoral rules, for example in respect of campaigning and spending. Electoral agents may act on candidates' behalf in some circumstances, and must also adhere to electoral rules. |
| Political parties | Political parties are responsible for their campaigns and their candidates, and for adhering to electoral rules, for example in respect of campaigning and spending. |
| Police | The police work closely with returning officers and electoral administrators to ensure the smooth conduct of elections and investigate any allegations of activity in breach of electoral rules. |

Financial implications for the electoral community

Implementation activities and timescales

363. Responding to our consultation, local authorities and the electoral community emphasised that the Member-in-charge of any reform legislation would need to consider the impact of reforms on electoral administrators, and engage effectively with them during the planning, development and implementation of any new legislation, mechanisms or processes.⁴²³ The AEA and the Electoral Commission suggested that the Electoral Commission's Wales Electoral Coordination Board could be the appropriate vehicle for such engagement.⁴²⁴

364. Electoral administrators emphasised in particular the need for adequate time to plan, resource and deliver any change without putting at risk the smooth and successful conduct of the election.⁴²⁵ The Electoral Commission has consistently suggested that all legislation should be in place at least six months before it is due to be implemented.⁴²⁶ However, the AEA called for a "significantly longer lead in time" for the implementation of reforms which involve a new voting system or boundaries. It noted that:

"Electoral administrators have been stretched to their limits in recent years with a number of unscheduled national polls, limited resources

⁴²³ See, for example, [ESB06 Association of Electoral Administrators](#); [ESB09 Carmarthenshire County Council](#); [ESB12 Pembrokeshire County Council](#)

⁴²⁴ [ESB04 Electoral Commission](#); [ESB06 Association of Electoral Administrators](#)

⁴²⁵ See, for example, [ESB09 Carmarthenshire County Council](#); [ESB12 Pembrokeshire County Council](#)

⁴²⁶ [ESB04 Electoral Commission](#)

and the introduction of canvass reform. Electoral team capacity is currently stable but remains fragile due to the challenges of canvass reform and the Welsh franchise change. There is also the considerable risk of having to run 2021 elections under socially distanced conditions and the potential for additional waves of COVID-19 and associated local lockdowns”.⁴²⁷

365. The specific timescales, practicalities, resource implications and costs required to implement reforms will depend on the scope and scale of the particular proposals which are brought forward. However, we asked the electoral community to provide an indication of what would need to be done to implement a new electoral system and new constituency boundaries (see Table 17).

⁴²⁷ Written submission from the Association of Electoral Administrators, 6 July 2020

Table 17 Summary of key implementation activities for the electoral community arising from electoral system and boundary reforms⁴²⁸

| Activities required to implement primary and subordinate legislation which provided for a new electoral system | Activities required to implement new constituency boundaries specified in legislation or established through a boundary review process |
|--|--|
| <ul style="list-style-type: none"> ▪ Planning for the administration, conduct and counting of polls under the new electoral arrangements. ▪ Developing materials and guidance, and providing advice and training for political parties, candidates, agents and non-party candidates. ▪ Developing and implementing new counting processes (manual or electronic). Including, if electronic counting were to be used, procuring software and counting machines. ▪ Designing and delivering comprehensive training for returning officers and all staff involved in the administration, conduct and counting of an election. The extent of the training requirements would be influenced by the number of different electoral systems in use in Wales and the extent of the variations in franchises. ▪ Working in partnership to develop, design and deliver public information and awareness-raising campaigns, supported by education and partnership resources. | <ul style="list-style-type: none"> ▪ Establishing new joint working arrangements for administering elections for any Senedd boundaries which cut across local authority areas, including issues relating to ballot paper supply; postal vote registration, issuing and opening; the issue and receipt of ballot boxes; the compatibility of electoral software; and the timeliness and quality of data. ▪ Reviewing polling districts and polling stations for use within the new constituency boundaries, with associated consultation requirements. ▪ Modifying electoral management software systems. ▪ Subject to the timing of the legislation: republishing electoral registers. |

⁴²⁸ See, for example, [ESB04 Electoral Commission: Written submission from the Association of Electoral Administrators](#), 6 July 2020

Financial and resource implications

366. ERS Cymru suggested that the additional costs of electoral system reform would largely be one off costs, relating for example to boundary review work and public education and awareness-raising campaigns. It suggested that such costs should be considered in the context of improvements to scrutiny associated with an increase in the number of Members:

When making the case around incurring additional costs for reform, it is vital we remember that these costs are both relatively small and that improvement in scrutiny (as a consequence of having an increase in members) can deliver real dividends for public services. We should look at these reforms in the round as they will deliver a larger, stronger Senedd with a higher level of accountability to the public. That is a worthwhile investment.⁴²⁹

367. Conversely, the AEA and Pembrokeshire County Council anticipated changes to electoral systems resulting in increased costs in the short and longer term, and called for commitments from the Welsh Government and Senedd to resource this work appropriately.⁴³⁰

368. Preliminary research on the implications of COVID-19 for the conduct and administration of elections has suggested that, at a time when public finances are particularly under pressure, there could be substantial additional costs associated with conducting elections under conditions of social distancing or other public health measures, or on the basis of increased levels of postal voting or other special voting arrangements. Nevertheless, the researchers note that:

“Evidence shows that there is a positive relationship between resourcing and election quality. Better-run elections are often those which are better resourced. Studies from the UK, USA and comparative research has established this link. When funding is cut, election quality is cut. Healthy and fair elections therefore require investment.

The costs of not investing in elections is therefore potentially much more substantial. When citizens feel that the electoral process has

⁴²⁹ [ESB07 Electoral Reform Society Cymru](#)

⁴³⁰ [ESB06 Association of Electoral Administrators](#); [ESB12 Pembrokeshire County Council](#)

been unfair, their trust in government and states can be affected. This does not return easily”.⁴³¹

369. The additional financial implications arising from electoral reform will depend on the particular package of reforms which is brought forward. Some reforms would have more significant financial implications than others. For example:

- The costs associated with establishing boundary review arrangements and undertaking a boundary review could be significant. The Boundary Commission for Wales, which reviews Wales’ Westminster constituencies, stated:

“During the review period, Cabinet Office provides the financial resources to [the Boundary Commission for Wales]. This ranges between £1 million to £1.2 million per annum for approximately two and a half years. This allows the Commission to pay for publicity costs, the online portal for submissions, Secretariat salaries and Commissioners fees”.⁴³²
- If introduced, electronic counting could also give rise to significant costs. While not directly comparable, as the scale and complexity of the elections are different, we are aware that the contract for electronic counting and associated services for the London Assembly and Mayoral elections in 2020 is valued at around £9m for an electorate of 5.8m, and a count including four votes across three ballot papers using three different electoral systems.⁴³³ The cost of the electronic counting project for the 2017 Scottish local elections was around £5.9m for STV elections conducted across 32 local authority areas and an total electorate of 4.1m

⁴³¹ Apslund, E., James, T. and Clark, A., *Electoral officials need more money to run elections during COVID-19*, 14 July 2020

⁴³² *ESB02 Boundary Commission for Wales*

⁴³³ Mayor of London and London Assembly, *GLRO20-05 Contract for electronic counting system and related service*, November 2018; London Elects, *Review of the London Elects Programme for the Greater London Authority Mayoral and Assembly Elections 5 May 2016 [DRAFT]*, July 2016

of whom 1.9m voted.⁴³⁴ For context, the electorate for the Senedd election in 2016 was 2.2m, of whom 1.0m voted.⁴³⁵

Our view on the financial implications for the electoral community

370. The legislative and administrative framework for Senedd elections is complex. We do not underestimate the challenges associated with introducing a new electoral system or establishing new electoral boundaries. However, as outlined in chapters 2, 3 and 4 of this report, we believe that increasing the size of the Senedd and reforming its electoral arrangements and boundaries is necessary if we are to have a legislature with sufficient capacity to fulfil its responsibilities and which has electoral and boundary arrangements that maximise voter choice and encourage participation, diversity and proportionality.

371. We recognise that introducing a new electoral system will give rise to financial and other resource implications for organisations involved in the conduct, administration or contesting of Senedd elections. These will rightly be subject to scrutiny by the Senedd as it considers any reform proposals. However, our view is that cost alone should not be an excuse for failing to invest in our democracy by ensuring that the Senedd's electoral arrangements are appropriate, and that its boundaries and seat apportionments ensure people across Wales have equal representation and equal voices in the selection of their representatives.

372. The scope and scale of the financial implications will depend, of course, on the scope and scale of the reforms which are brought forward. As part of developing detailed proposals for reforming the Senedd, the Member-in-charge of any reform legislation will need to engage effectively with electoral administrators and other stakeholders with an interest in or responsibility for Senedd elections. We believe that this engagement should begin at an early stage in order to inform the development of policy and legislative proposals, and will need to encompass the practical and administrative issues associated with any reforms, and the potential financial, resourcing, equality and other impacts of the proposals.

⁴³⁴ Scottish Government, *Local government elections costs 2012 and 2017*, April 2018 [accessed March 2020]; Electoral Commission, *Scottish council elections 2017: Report on the administration of the elections held on 4 May 2017*, September 2017, p.6

⁴³⁵ Electoral Commission, *The National Assembly for Wales General Election: report on the administration of the 5 May 2016 elections to the National Assembly for Wales*, September 2016, p.6

RECOMMENDATION

Recommendation 31. The Member-in-charge of any Senedd reform legislation should engage early and effectively with the electoral community and other stakeholders to inform the policy and legislative development and scrutiny processes, and to facilitate implementation planning. Engagement with stakeholders should include practical, administrative and implementation issues, the potential financial implications and resourcing, and the assessment of any equality or other impacts.

Financial implications for the Senedd Commission

Estimated transitional and additional ongoing costs

373. The Expert Panel recommended that the costs associated with an increase in the number of Members should be kept to an absolute minimum.⁴³⁶

374. Decisions on the Senedd Commission's budget, and thereby the financial resources available to provide the Senedd with the property, staff and services it requires and to meet the costs arising from the decisions of the Remuneration Board, are ultimately a matter for the Senedd itself in accordance with the annual budget process. However, the potential transitional and additional ongoing financial implications associated with an increase in the number of Members would be influenced by decisions taken by three key decision-makers about the organisation and operation of a larger Senedd (see Table 18).

Table 18 Key decision-makers in the implementation of a larger Senedd⁴³⁷

| Decision-maker | Responsibilities |
|---------------------------|---|
| Business Committee | Responsible under Standing Orders for determining the organisation of Senedd business; commenting on the organisation of Government business; setting the Senedd timetable; determining committee structures, remits and memberships; facilitating the legislative process through the setting of scrutiny timetables and referring legislation to committees for scrutiny; making recommendations on the general |

⁴³⁶ Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017, recommendations 2 and 3

⁴³⁷ Senedd, [Business Committee](#) [accessed July 2020]; Chief Executive and Clerk of the Senedd, [RoP \[paras 109-110 and 114\]](#), 2 December 2019; [Letter from the Llywydd](#), 27 January 2020; [Written submission from Prospect on the capacity of the Assembly](#), February 2020; [Letter from the Chair of the Remuneration Board](#), 22 June 2020

| Decision-maker | Responsibilities |
|---------------------------|--|
| | practice and procedure of the Senedd in the conduct of its business; and making proposals for the revision of Standing Orders. |
| Senedd Commission | Responsible in accordance with section 27 and Schedule 2 of GOWA 2006 for ensuring that the Senedd has the property, staff and services it needs to fulfil its purposes. Key decisions would include the design of support services, the level of Commission staff support provided (including whether any staff headcount cap applied), and how the Senedd estate might need to be adapted to provide suitable office accommodation, meeting and event space, and sufficient space in the Siambr. |
| Remuneration Board | Responsible in accordance with the <i>National Assembly for Wales (Remuneration) Measure 2010</i> for determining the remuneration and financial support for Members of the Senedd. The Board has previously committed to publishing its Determinations a year in advance of the elections at which they come into effect. The Board may review its Determination during a Senedd term, although unless there are exceptional circumstances it may only determine Members' salaries once per term. |

375. Some implementation planning and decisions would need to be undertaken before the first election at which a larger Senedd was to be elected, but the majority of the decisions would be for the iterations of these decision-makers in place after the relevant election. In reaching their decisions, the Business Committee, Senedd Commission and Remuneration Board would each need to take account of the perspectives and preferences of a range of stakeholders, including Members, Members' support staff, political groups and committees.

376. We recognise that this makes it challenging to accurately estimate the potential financial implications which would be associated with an increase in the number of Members. We are grateful, however, to the Llywydd for sharing with us the financial modelling she has undertaken to date, and the associated assumptions upon which it is based.⁴³⁸ Table 19 summarises the Llywydd's estimates of the transitional and typical additional ongoing costs for election and non-election years. The detailed estimates and underlying assumptions provided by the Llywydd on behalf of the Senedd Commission are set out in Annex E.

⁴³⁸ [Letter from the Llywydd](#), 27 January 2020; [Letter from the Llywydd](#), 23 July 2020

Table 19 Summary of estimated additional transitional costs and estimated additional ongoing costs for typical non-election years from 2027-28 onwards and typical election years from 2031-32 onwards⁴³⁹

| | Transitional costs (£000) | Ongoing costs: typical non-election year from 2027-28 onwards (£000) | Ongoing costs: typical election year from 2031-32 onwards (£000) |
|------------------------------|---------------------------|--|--|
| Additional 20 Members | 2,378 | 7,405–8,604 | 8,350–9,489 |
| Additional 30 Members | 3,230 | 10,387–11,682 | 11,672–12,905 |

377. The potential costs associated with increasing the number of Members, and any corresponding reduction in the funding available for the delivery of public services, was the principal reason given by respondents to the Senedd Commission’s *Creating a Parliament for Wales* consultation who opposed an increase in the number of Members.⁴⁴⁰

378. As Table 19 shows, the potential additional ongoing costs, depending on the number of additional Members and decisions taken about the organisation of Senedd business, range between £7.4 million and £12.9 million per year. These are significant sums in absolute terms. However, Professor McAllister told us that even marginal gains in the efficiency of public services, better decision-making, or early rectification of potential defects in policy or legislation as a result of improved scrutiny carried out by a larger Senedd could result in both financial and non-financial benefits:

“But I will say that I feel that an enlarged Assembly or an appropriately-sized Assembly—put it another way—would actually generate savings to the public purse by effective scrutiny. I think it would deliver better in policy and legislative terms on a very basic level to the population, and it can’t be beyond us, as a population, [...] to be able to make that case effectively to people”.⁴⁴¹

379. The Auditor General for Wales sought to quantify the scale of gains which would be required to offset the potential additional costs. He suggested that an

⁴³⁹ The lower estimate in each range assumes no increase in Senedd business activity. The higher estimate in each range assumes one additional Plenary meeting per week, the establishment of one additional policy and legislation committee, and a proportionate increase in ballots for Member Bills.

⁴⁴⁰ Senedd Commission, *Creating a Parliament for Wales: consultation report*, October 2018, p.10

⁴⁴¹ Professor McAllister, *RoP [para 9]*, 20 January 2020

improvement in value or financial savings of just 0.17 per cent in respect of the Welsh Government's annual spending of £17.5 billion would offset the additional annual cost of 30 additional Members estimated in the Expert Panel's report.⁴⁴²

Our view on the financial implications for the Senedd Commission

380. We understand that the potential costs of increasing the size of the Senedd, and in particular the potential impact of such costs on other public services, will be a matter of concern to the public. However, our view is that good scrutiny leads to good governance, to more effective policy, to more efficient spending, and to better legislation. We believe, therefore, that investing in our democracy by ensuring that the Senedd has the capacity it needs will be cost effective in the longer term.

381. We recognise that the costs to the Senedd Commission, as estimated by the Llywydd, are significant in absolute terms, and we agree with the Expert Panel that the costs should be kept to a minimum, while also ensuring value for money. Nevertheless, we believe that there is a compelling case to be made for increasing the number of Members. Apart from the potential benefits we would expect to be realised in terms of better scrutiny, representation and legislation, we believe that ensuring that the Senedd has an appropriate number of Members would mitigate against the consequences and real costs which arise from the legislature being undersized. Such additional costs have included those costs associated with ineffective scrutiny, such as those outlined to us by the Auditor General for Wales,⁴⁴³ and those associated with measures to try to maximise the capacity of a 60 Member Senedd, including increases in the number of Commission staff, increases in the resources available to Members and political groups to employ staff, and increases in the funding available to support Members' access to policy and research expertise.

382. Decisions on the procedures, practices and ways of working of a larger legislature, the services required to support it, and the financial support to be provided to its Members will be matters for the Business Committee, Senedd Commission and Remuneration Board of the time. Nevertheless, estimates of the potential financial implications will need to be prepared, and will be carefully considered by the Senedd and its committees as part of the scrutiny of any Senedd reform Bill.

⁴⁴² **CAP04 Auditor General for Wales.** The Expert Panel's report estimated the annual recurrent cost of 30 additional Members to be £9.6 million per year.

⁴⁴³ *Ibid.*

383. We are grateful to the Llywydd for providing us with her estimates of the potential financial implications which might arise for the Senedd Commission. We believe that this early preparatory work will provide a solid basis on which the Member-in-charge of any reform legislation will be able to build. We also recognise, however, that these estimates were largely prepared before the COVID-19 pandemic. Responding to the COVID-19 pandemic has shown that radical changes to patterns of business and ways of working are possible, with potential implications for the assumptions underpinning the financial estimates. For example, we have seen that it is possible for many Commission services to be provided remotely, at least while formal business is taking place in virtual or hybrid forms.

384. It is not yet clear when Members and staff will return to the Senedd estate on a routine basis, or what the balance will be in future between attendance on the estate and remote working or participation in Senedd business. However, should there be a move towards more remote working in future, the balance in requirements for physical office space on the one hand, and ICT infrastructure and support on the other, might reasonably be expected to shift. To this end, we welcome the indication from the Llywydd in Plenary on 1 July 2020 that she intends both the Business Committee and the Senedd Commission to reflect on what lessons may be learned in the longer term from the response to the pandemic.⁴⁴⁴ We would expect, in due course, to see this learning reflected in any further financial modelling of a larger Senedd.

RECOMMENDATION

Recommendation 32. To inform the development of legislative proposals and the accompanying Explanatory Memorandum and Regulatory Impact Assessment, the Business Committee, Senedd Commission and Remuneration Board should engage in early scenario planning to identify the issues they would need to consider and the decisions they would need to take if the size of the Senedd were to be increased. This work should take account of the interdependency between their areas of responsibility, any lessons to be learned from the response to the COVID-19 pandemic and any measures that are introduced to maximise the capacity of a 60 Member Sixth Senedd.

⁴⁴⁴ Plenary, [RoP \[paras 302 and 308\]](#), 1 July 2020

Annex A: List of oral evidence sessions

The following witnesses provided oral evidence to the committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the [Committee's website](#).

| Date | Name and Organisation |
|-----------------|--|
| 2 December 2019 | <p>Elin Jones MS, Llywydd, Senedd Commission</p> <p>Manon Antoniazzi, Chief Executive and Clerk, Senedd Commission</p> <p>Anna Daniel, Head of Strategic Transformation, Senedd Commission</p> <p>Matthew Richards, Head of Legal Services, Senedd Commission</p> |
| 13 January 2020 | <p>Ruth Coombs, Head of Wales, Equality and Human Rights Commission</p> <p>Professor Rosie Campbell, King's College London</p> <p>Dr Nicole Martin, The University of Manchester</p> |
| 20 January 2020 | <p>Professor Laura McAllister, Cardiff University</p> <p>Professor Diana Stirbu, London Metropolitan University</p> <p>Dr Hannah White, Institute for Government</p> <p>Dame Dawn Primarolo, Chair, Remuneration Board</p> <p>Anna Daniel, Head of Strategic Transformation and Senior Adviser to the Remuneration Board, Senedd Commission</p> |
| 27 January 2020 | <p>Rebecca Evans MS, Minister for Finance and Trefnydd, Welsh Government</p> <p>Lisa James, Deputy Director, Local Government Democracy, Welsh Government</p> <p>Elaina Chamberlain, Head of Democracy, Diversity and Remuneration, Welsh Government</p> |

| Date | Name and Organisation |
|------------------------|--|
| 3 February 2020 | Professor Sarah Childs, Birkbeck, University of London Councillor Mary Sherwood, City and County of Swansea Council Dr bob Watt, Retired Professor of Election Law |
| 16 March 2020 | Professor Roger Awan-Scully, Cardiff University Jess Blair, Director Electoral Reform Society Cymru |

Annex B: List of attendees at stakeholder events

The following organisations took part in the Committee's stakeholder discussion events on the **capacity** and **diversity** of the Senedd.

| Event | Organisation |
|--|--|
| Capacity of the Senedd, 6 January 2020 | Children in Wales Children's Commissioner for Wales CIPFA Learned Society of Wales Media Wales Office of the Future Generations Commissioner Public Affairs Cymru Public Services Ombudsman for Wales Wales Council for Voluntary Action Welsh Local Government Association |
| Diversity of the Senedd, 10 February 2020 | Bevan Foundation Chwarae Teg Disability Wales Ethnic Minorities and Youth Support Team Wales Mencap Cymru Race Council Cymru Race Equality First Stonewall Cymru Wales TUC Welsh Language Commissioner Women's Equality Network Wales |

Annex C: List of written evidence

The following people and organisations provided written evidence to the Committee. All consultation responses and additional written information can be viewed on the [Committee's website](#).

Consultation responses

| Reference | Organisation |
|--------------|---|
| CAP01 | Electoral Reform Society Cymru |
| CAP02 | Women's Equality Network Wales |
| CAP03 | Individual |
| CAP04 | Auditor General for Wales |
| DIV01 | Electoral Reform Society Cymru |
| DIV02 | Welsh Labour |
| DIV03 | Individual |
| DIV04 | Centenary Action Group |
| DIV05 | Women's Equality Network Wales |
| DIV06 | Leonard Cheshire Wales |
| DIV07 | Ethnic Minorities and Youth Support Team Wales |
| ESB01 | Professor Denis Mollison |
| ESB02 | Boundary Commission for Wales |
| ESB03 | Peter Varley |
| ESB04 | Electoral Commission |
| ESB05 | Local Democracy and Boundary Commission for Wales |
| ESB06 | The Association of Electoral Administrators |
| ESB07 | Electoral Reform Society Cymru |
| ESB08 | UKIP |
| ESB09 | Carmarthenshire County Council |
| ESB10 | Cardiff Council |
| ESB11 | Make Votes Matter |
| ESB12 | Pembrokeshire County Council |

Additional information

| Title | Date |
|---|------------------|
| Letter from the Llywydd including additional information following the meeting on 2 December 2019 | 17 January 2020 |
| Letter from the Chair of the Culture, Welsh Language and Communications Committee in relation to the capacity of the Senedd | 20 January 2020 |
| Letter from the Chair of the Finance Committee in relation to the capacity of the Senedd | 24 January 2020 |
| Letter from the Chair of the Petitions Committee in relation to the capacity of the Senedd | 24 January 2020 |
| Letter from the Chair of the Equality, Local Government and Communities Committee in relation to the capacity of the Senedd | 27 January 2020 |
| Letter from the Chair of the External Affairs and Additional Legislation Committee in relation to the capacity of the Senedd | 27 January 2020 |
| Letter from the Chair of the Standards of Conduct Committee in relation to the capacity of the Senedd | 27 January 2020 |
| Letter from the Llywydd including additional information following the meeting on 2 December 2019 | 27 January 2020 |
| Letter from the Chair of the Climate Change, Environment and Rural Affairs Committee in relation to the capacity of the Senedd | 28 January 2020 |
| Letter from the Chair of the Children, Young People and Education Committee in relation to the capacity of the Senedd | 29 January 2020 |
| Letter from the Chair of the Constitutional and Legislative Affairs Committee in relation to the capacity of the Senedd | 29 January 2020 |
| Letter from the Chair of the Economy, Infrastructure and Skills Committee in relation to the capacity of the Senedd | 29 January 2020 |
| Letter from the Chair of the Health, Social Care and Sport Committee in relation to the capacity of the Senedd | 29 January 2020 |
| Written submission from an individual in relation to the capacity of the Senedd | January 2020 |
| Written submission from Old Radnor Community Council in relation to the capacity of the Senedd | January 2020 |
| Written submission from Wales Environment Link in relation to the capacity of the Senedd | January 2020 |
| Letter from the Minister for Finance and Trefnydd in relation to the capacity of the Senedd | 10 February 2020 |
| Letter from the Head of the Equality and Human Rights Commission in Wales including additional information following the meeting on 13 January 2020 | 12 February 2020 |
| Written submission from Councillor Mary Sherwood in relation to job sharing | February 2020 |
| Written submission from New Radnor Community Council in relation to the capacity of the Senedd | February 2020 |

| Title | Date |
|---|----------------|
| Written submission from Presteigne and Norton Town Council in relation to the capacity of the Senedd | February 2020 |
| Written submission from Prospect in relation to the capacity of the Senedd | February 2020 |
| Written submission from Electoral Reform Society Cymru in relation to electoral systems | March 2020 |
| Letter from the Chair of the Finance Committee in relation to committee legislation | 22 April 2020 |
| Written submission from Dr Alistair Clark in relation to STV | May 2020 |
| Written submission from Professor Laura McAllister in relation to legislative mechanisms and draft Bills | May 2020 |
| Letter from the Chair of the Remuneration Board including additional evidence following the meeting on 20 January 2020 | 22 June 2020 |
| Letter from the Llywydd including additional information on the financial implications of increasing the number of Members | 23 July 2020 |
| Written submission from the Association of Electoral Administrators in relation to electoral systems and boundaries | July 2020 |
| Letter from the Minister for Finance and Trefnydd in relation to the impact of COVID-19, local government electoral reform, Senedd electoral reform and boundary changes, and the legislative approach. | 11 August 2020 |

Annex D: Expert Panel recommendations

Our examination of the Expert Panel’s recommendations may be found throughout our report as follows.

| Expert Panel recommendation | Chapter |
|--|---------|
| Recommendation 1. The size of the Assembly should be increased to at least 80 Members, and preferably closer to 90 Members, to ensure that the parliament elected in 2021 has sufficient capacity to fulfil its policy, legislative and financial scrutiny responsibilities, and that Members can also undertake their representative, campaigning, political and other roles | 2 |
| Recommendation 2. The Remuneration Board and Assembly Commission should consider how the total staffing support, services and financial resources provided to Members can be altered in the case of a larger Assembly, so that the cost of implementing our recommendations is kept to an absolute minimum. | 11 |
| Recommendation 3. The Assembly must exercise restraint in the way it makes use of any increase in the size of the institution—for example in relation to the number and size of committees, the appointment of office holders, and the maximum size of the Welsh Government—in order to ensure that the potential benefits for the quality and quantity of scrutiny are realised and additional costs are kept to an absolute minimum. | 2, 11 |
| Recommendation 4. If our recommendations on legislative interventions to support and encourage diversity of representation are implemented, the Assembly should be elected by Single Transferable Vote with effect from 2021. If, however, these recommendations are not implemented, the Assembly should be elected on the basis of a Flexible List electoral system with effect from 2021. | 3, 6, 7 |
| Recommendation 5. We recommend that the multimember Assembly constituencies upon which a Single Transferable Vote or Flexible List system are based should return no fewer than four and ideally no more than six Members. | 4 |
| Recommendation 6. Should the Assembly implement either a Single Transferable Vote or Flexible List electoral system in 2021, we recommend that an Assembly of 89 or 90 Members should be elected on the basis of 20 Assembly constituencies formed by pairing the current 40 Assembly constituencies. A multimember constituency model based on combining or splitting local authority areas could be a viable alternative for the election of an Assembly of 83 or 84 Members on the basis of either STV or Flexible List, should the Assembly decide that variations in district magnitude were acceptable. | 4 |
| Recommendation 7. The Assembly should consider whether, in the apportionment of seats to constituencies or regions, additional weighting should be applied to voters in specific parts of Wales, for example on the basis of the distance from Cardiff Bay, rurality or deprivation of the area in which they are registered to vote. | 4 |
| Recommendation 8. The Welsh Government, in developing its proposals for local government electoral reform, should have regard to our recommendations and report, particularly in relation to the design and operation of the Single Transferable Vote electoral system. | 3 |
| Recommendation 9. The Assembly should request that the Secretary of State commences section 106 of the <i>Equality Act 2010</i> in relation to Assembly elections, or transfers the power to do so to the Welsh Ministers. Otherwise, legislation to | 6 |

| Expert Panel recommendation | Chapter |
|---|---------|
| reform the Assembly's electoral arrangements should include provision that would secure the availability of information regarding diversity. | |
| Recommendation 10. In order to safeguard the achievements of the Assembly and political parties in Wales in relation to gender-balanced representation, we recommend that a gender quota is integrated within the electoral system put in place for 2021. If this does not happen—whether through lack of political consensus or the limits of the Assembly's legislative competence—we propose that political parties be expected to take steps to ensure their candidate selection processes support and encourage the election of a gender-balanced parliament for Wales. This should include voluntary adoption by parties of the quotas we have outlined. | 7 |
| Recommendation 11. Electoral law, Assembly procedures and the Remuneration Board's Determination on Members' Pay and Allowances should be changed to enable candidates to stand for election on the basis of transparent job sharing arrangements. The guiding principles of such arrangements should be that candidates clearly articulate the basis of their job sharing agreement to voters, that job sharing partners are treated as if they are one person, and that job sharing Members should give rise to no additional costs beyond those of a single Assembly Member. | 6 |
| Recommendation 12. Before making any order prescribing the design of ballot papers for use in Assembly elections, in addition to the consultation with the Electoral Commission required by section 7(1) of the <i>Political Parties, Elections and Referendums Act 2000</i> , the Welsh Ministers should also undertake such other consultation as may be appropriate, to ensure that the information included and the layout of the ballot paper is appropriate for the electoral system and for Wales. | 3 |
| Recommendation 13. Legislative action must be taken to put in place boundary or seat apportionment review mechanisms which provide for a full review before the 2026 election, whether or not our proposals for reform are implemented. Such mechanisms must take account of any changes to the Assembly franchise, as well as other demographic or population changes. | 4 |

We did not examine the Expert Panel's recommendations 14, 15 and 16 in respect of the minimum voting age for Senedd elections, as these issues were addressed in the *Senedd and Elections (Wales) Act 2020*.

Annex E: Senedd Commission's estimates of the financial implications of a larger Senedd

This annex provides an overview of the Senedd Commission's estimates of the financial implications associated with an increase in the number of Members of the Senedd.

The information set out in this annex was provided to us by the Llywydd. She emphasised that the financial modelling is still “a work in progress” and that further work in this regard is needed, including “test[ing] the extent to which particular models would be acceptable to Members”.⁴⁴⁵

Decision-making

A number of different decision-makers would have a role in determining the financial implications. Decision timescales depend on the nature of the decisions:

- **Senedd:** approves the Commission's budget through the annual budget process.
- **Business Committee:** determines the organisation of Senedd business, including the structure of the committee system. Preliminary decisions taken by the outgoing Business Committee could inform decisions taken by other decision-makers as part of the implementation process, but could not bind a successor Business Committee.
- **Senedd Commission:** provides the Senedd with the staff, property and services it requires. The Commission is responsible for determining and reviewing the nature of services and associated staff in light of legislative changes and business demands. Some decisions would need to be taken before the relevant election, such as accommodation needs. Other decisions would be taken in line with the Senedd Commission's usual practice of taking decisions on the shape of its services after Business Committee has decided on the organisation of business and committee structures at the start of a Senedd. In preparation for such decisions, before an election the Commission bases its estimates on experience of previous Senedds. In line with the principles of effective financial management and the Statement of Principles the Finance

⁴⁴⁵ Letter from the Llywydd, 27 January 2020; Letter from the Llywydd, 23 July 2020

Committee expects Directly Funded Bodies to have regard to, any increase in activities will initially be sought to be met from existing budgets and resources (utilising any savings or efficiencies where available). Only if it is not possible to address increased activities through existing budgets and resources would the Commission request an increase to its budget.

- **Remuneration Board:** makes decisions on the remuneration of Members and their support staff (pay and pensions) and on allowances for the reimbursement of costs incurred by Members in the performance of their duties as Members (such as office costs, the employment of support staff etc).

Assumptions

The Senedd Commission has provided estimates of the additional costs associated with an increase to either 80 or 90 Members of the Senedd. Table 20 identifies assumptions associated with each scenario.

Table 20 Assumptions underpinning the estimated additional costs associated with increases to 80 or 90 Members

| Increase to 80 Members | Increase to 90 Members |
|--|---|
| Members elected on the basis of the current electoral constituencies and regions. | Members elected on the basis of 20 constituencies based on the Expert Panel's proposed boundary model. |
| Members would reside in the inner, outer and intermediate areas defined in the Remuneration Board's Determination. | The paired constituencies would be allocated to the inner, outer and intermediate areas defined in the Remuneration Board's Determination on the basis of the current designation of the paired constituencies. |

In either case it is assumed that there would be five political groups represented in the Senedd. For both the 80 and 90 Member scenarios, lower and upper estimates have been prepared. The lower estimates are based on the current number of sitting weeks and no increase in Senedd business activity. The upper estimates are based on the current number of sitting weeks, but assume the following increase in Senedd business activity:

- One additional Plenary meeting per week.
- The establishment of one additional policy and legislation committee.
- A proportionate increase in the number of ballots for Member Bills.

Members' allowances have been estimated on the basis of the Remuneration Board's Determination for 2018-19. Where relevant, the take-up of allowances has been estimated on the basis of take-up in previous years.

The estimated costs assume that additional office accommodation would be rented in Cardiff Bay to house Commission staff moved from Tŷ Hywel to make space for office accommodation for the additional Members.

The cost estimates summarise the additional cash requirement on the Welsh Consolidated Fund. The actual budget requirement for the Senedd Commission may vary significantly as a result of the implementation of International Financial Reporting Standard 16 – Leases.

Increases in non-cash expenditure have been identified amounting to approximately £0.5m per year. This includes, for example, additional calls on the Members' pension scheme and the depreciation of fixed assets.

All cost estimates are at current values and net of VAT. Estimated Commission staff costs include 'on costs', and are based on the highest point of the pay scale.

Discretionary and fixed costs

The Expert Panel recommended that the Senedd should exercise restraint in how it used any increase in the number of Members, both to ensure that the potential benefits for the quantity and quality of scrutiny were realised and to keep the additional costs to a minimum. Nevertheless, the cost estimates assume that essential services (such as security) would not be compromised.

There are certain fixed-cost requirements which can be reasonably firmly identified for different numbers of Members, and which, in the main, are not directly dependent on formal Senedd business requirements. For example, the costs of supplying ICT equipment, software licences and broadband line rental to additional Members (£321k for an additional 30 Members) are seen as fixed costs.

Some costs would depend on decisions to be taken by the Remuneration Board. In particular the level of staff resources made available to Members is at the Remuneration Board's discretion. The potential additional costs of Members' support staff (£3.29m for an additional 30 Members should the current staffing level per Member be maintained) may not therefore be borne out in full.

Some costs are treated within the estimates as 'fixed', but could become discretionary depending on choices made by decision-makers. For example, the estimates assume that the office space available in Tŷ Hywel would be unable to

accommodate the projected numbers of Members, Members' support staff and Commission staff associated with an increase in the number of Members. Additional transitional costs of £1.74m for office refurbishment and ongoing costs of £790k for office rental are therefore included in the figures for a Senedd of 90 Members. However, a future Commission could decide it was unnecessary to provide such additional accommodation.

Other 'discretionary' costs depend on policy decisions to be taken by a future Senedd, Business Committee or Senedd Commission about working practices, priorities or the organisation of Senedd business. In particular, the costs associated with Senedd Commission staff are not fixed and would reflect decisions taken by the Senedd Commission about the nature of services to be provided to support the business needs of a larger Senedd and Commission investment priorities.

The legislative timescales could affect the potential additional costs. As a broad principle, more time to prepare for the implications of legislation would enable the Senedd to take advantage of various opportunities such a major change would bring, and deliver material financial and implementation benefits. For example, physical changes to meet the needs of a larger Senedd could be phased over recess periods and dissolution to minimise disruption.

Ongoing and transitional costs

Some costs would be one-off, transitional costs. Others would be ongoing costs, some of which would rise in election years. Ongoing costs could come into effect at different times: for example if a larger Senedd were to be elected in 2026, some costs related to additional accommodation could begin in 2024-25, whereas other costs might not take effect until 2031-32. Costs are therefore set out in two ways:

- **Long term cost implications after all ongoing costs have come into effect.** These estimates include the transitional costs, the non-election year ongoing costs from 2027-28 onwards, and the election year ongoing costs from 2031-32.
- **Ongoing costs across financial years up to 2031-32.** These estimates show when different ongoing costs would come into effect.

Table 21 Estimated additional transitional and ongoing costs for a Senedd of 80 Members with ongoing costs for typical non-election years from 2027-28 onwards and typical election years from 2031-32 onwards (£000)⁴⁴⁶

| | Transitional | Ongoing: typical non-election year from 2027-28 onwards | Ongoing: typical election year from 2031-32 onwards |
|---|---|---|---|
| Senedd Commission staff costs | 708 | 1,607-2,577 | 1,672-2,577 |
| Other Senedd Commission costs (including refurbishment and rental of additional office accommodation and other related costs) | 1,670 (of which £50k is capital expenditure) | 889-1,100 | 934-1,150 |
| Senedd Members' salaries (including office holder salaries) | - | 1,770-1,788 | 1,770-1,788 |
| Members' support staff salaries | - | 2,393 | 2,393 |
| Member allowances and office costs (including residential accommodation expenditure, Members' travel, office costs and support for political parties) | - | 885 | 922 |
| Members' support staff vacancy provisions | - | (-139) | (-139) |
| Other costs associated with the Remuneration Board's Determination | - | 0 | 798 |
| Total | 2,378 | 7,405-8,604 | 8,350-9,489 |

⁴⁴⁶ For this table, and all following tables, where a range of costs is shown, the lower estimate in each range assumes no increase in Senedd business activity and the upper estimate assumes an increase in Senedd business activity as set out in the assumptions above. Figures are rounded to the nearest £1,000. Totals presented in the tables are based on the rounded figures, not the underlying unrounded data.

Table 22 Estimated additional ongoing costs for an 80 Member Senedd in years leading up to 2031-32 (£000)⁴⁴⁷

| | 2024-25 | 2025-26 | 2026-27 (election year) | 2027-28, 2028-29, 2029-30, 2030-31 | 2031-32 (election year) |
|---|------------|--------------------|-------------------------|------------------------------------|-------------------------|
| Senedd Commission staff costs | 122 | 518-721 | 1,672-2,577 | 1,607-2,577 | 1,672-2,577 |
| Other Senedd Commission costs (including refurbishment and rental of additional office accommodation and other related costs) | 10 | 543-571 | 934-1,150 | 889-1,100 | 934-1,150 |
| Senedd Members' salaries (including office holder salaries) | - | - | 1,623-1,639 | 1,770-1,788 | 1,770-1,788 |
| Members' support staff salaries | - | - | 2,194 | 2,393 | 2,393 |
| Member allowances and office costs (including residential accommodation expenditure, Members' travel, office costs and support for political parties) | - | - | 980 | 885 | 922 |
| Members' support staff vacancy provisions | - | - | (-127)-(-121) | (-139) | (-139) |
| Other costs associated with the Remuneration Board's Determination | - | - | 135 | 0 | 798 |
| Total | 132 | 1,061-1,292 | 7,411-8,554 | 7,405-8,604 | 8,350-9,489 |

⁴⁴⁷ Estimated costs for each year are the costs for the specified year, and are not in addition to the costs for previous years.

Table 23 Estimated additional transitional and ongoing costs for a Senedd of 90 Members with ongoing costs for typical non-election years from 2027-28 onwards and typical election years from 2031-32 onwards (£000)

| | Transitional | Ongoing: typical non-election year from 2027-28 onwards | Ongoing: typical election year from 2031-32 onwards |
|---|---|--|--|
| Senedd Commission staff costs | 708 | 1,752-2,810 | 1,818-2,810 |
| Other Senedd Commission costs (including refurbishment and rental of additional office accommodation and other related costs) | 2,522 (of which £50k is capital expenditure) | 1,295-1,508 | 1,357-1,580 |
| Senedd Members' salaries (including office holder salaries) | - | 2,638-2,656 | 2,638-2,656 |
| Members' support staff salaries | - | 3,590 | 3,590 |
| Member allowances and office costs (including residential accommodation expenditure, Members' travel, office costs and support for political parties) | - | 1,320-1,326 | 1,326 |
| Members' support staff vacancy provisions | - | (-208) | (-208) |
| Other costs associated with the Remuneration Board's Determination | - | 0 | 1,151 |
| Total | 3,230 | 10,387-11,682 | 11,672-12,905 |

Table 24 Estimated additional ongoing costs for a 90 Member Senedd in years leading up to 2031-32 (£000)⁴⁴⁸

| | 2024-25 | 2025-26 | 2026-27 (election year) | 2027-28, 2028-29, 2029-30, 2030-31 | 2031-32 (election year) |
|---|------------|--------------------|-------------------------|------------------------------------|-------------------------|
| Senedd Commission staff costs | 122 | 518-721 | 1,818-2,810 | 1,752-2,810 | 1,818-2,810 |
| Other Senedd Commission costs (including refurbishment and rental of additional office accommodation and other related costs) | 10 | 848-876 | 1,357-1,580 | 1,295-1,508 | 1,357-1,580 |
| Senedd Members' salaries (including office holder salaries) | - | - | 2,418-2,435 | 2,638-2,656 | 2,638-2,656 |
| Members' support staff salaries | - | - | 3,291 | 3,590 | 3,590 |
| Member allowances and office costs (including residential accommodation expenditure, Members' travel, office costs and support for political parties) | - | - | 1,320-1,326 | 1,326 | 1,326 |
| Members' support staff vacancy provisions | - | - | (-191) | (-208) | (-208) |
| Other costs associated with the Remuneration Board's Determination | - | - | 203 | 0 | 1,151 |
| Total | 132 | 1,366-1,597 | 10,216-11,454 | 10,393-11,682 | 11,672-12,905 |

⁴⁴⁸ Estimated costs for each year are the costs for the specified year, and are not in addition to the estimated costs for previous years.

Table 25 Summary of estimated additional transitional costs and estimated additional ongoing costs for typical non-election years from 2027-28 onwards and typical election years from 2031-32 onwards (£000)

| | Transitional | Ongoing: typical non-election year from 2027-28 onwards | Ongoing: typical election year from 2031-32 onwards |
|--|---------------------|--|--|
| 80 Members, no increase in Senedd business activities | 2,378 | 7,405 | 8,350 |
| 80 Members, increase in Senedd business activities | 2,378 | 8,604 | 9,489 |
| 90 Members, no increase in Senedd business activities | 3,230 | 10,387 | 11,672 |
| 90 Members, increase in Senedd business activities | 3,230 | 11,682 | 12,905 |