

Quick guide

The Constitution –

The Presiding officer and Deputy Presiding Officer

April 2007

What is the role of the Presiding Officer?

The offices of Presiding Officer and Deputy Presiding Officer were created by the *Government of Wales Act 1998* ("the 1998 Act").

At its first meeting after an election, the Assembly elects a Presiding Officer. The Presiding Officer's main role is to chair Plenary, maintaining order and protecting the rights of Assembly Members. The Presiding Officer is responsible for ensuring that business is handled on the basis of equality and impartiality. He or she is responsible for Standing Orders and is the final authority on their interpretation.

The Deputy Presiding Officer deputises as necessary for the Presiding Officer. The Presiding Officer's functions may be exercised by the Deputy Presiding Officer if the Presiding Officer's office is vacant, or if the Presiding Officer is for any reason unable to act and the Presiding Officer may, subject to Standing Orders, authorise the Deputy Presiding Officer to exercise functions of the Presiding Officer.

The Rt.Hon.Dafydd ElisThomas AM served as Presiding Officer for the first two Assembly terms and has been elected to serve again in the Third Assembly. There were two Deputy Presiding Officers in the First and Second Assemblies. Jane Davidson AM held the post between May 1999 and October 2000. She was succeeded by Dr John Marek AM, who served until the end of the Second Assembly. Rosemary Butler AM has been elected to serve in the Third Assembly.

Changes in the Government of Wales Act 2006

The Government of Wales Act 2006 and new Standing Orders have introduced some changes to the way the Presiding Officer and Deputy Presiding Officer are appointed and to their roles. These are outlined below

Election

The Government of Wales Act 2006 ("the 2006 Act") provides for the election of a Presiding Officer and a Deputy Presiding Officer by the Assembly but modifies the requirement in the 1998 Act that they should not 'represent the same party', to require that they should not be from the same political group or both be members of political groups with an executive role.

The Standing Orders further state that the Presiding Officer and Deputy Presiding Officer should not belong to:

- the same political group;
- different political groups both of which have an executive role; or
- different political groups neither of which has an executive role.

In effect, this means that one will be from the governing political group or groups and the other from the Opposition. This provision can be disapplied if approved by two-thirds of those voting. Furthermore, if, in the course of an Assembly, the Presiding Officer and Deputy become members of the same political group; different political groups both of which have an executive role; or different political groups neither of which has an executive role, and neither resigns from office, then any Member may propose a motion that the Presiding Officer and Deputy may remain in office. If no such motion is proposed, or the motion is not passed on a vote supported by at least two-thirds of those voting, then both the Presiding Officer and Deputy must resign from office.

The Presiding Officer and Deputy Presiding Officer may not vote in Plenary proceedings, whether they are in the chair or not, apart from to exercise their casting vote.

The Presiding Officer holds office until a new Presiding Officer is elected. The effect is that the Presiding Officer does not cease to hold office merely because of the dissolution of the Assembly before a Welsh Assembly election. The Deputy Presiding Officer, on the other hand, holds office only until dissolution of the Assembly. Either may, however, resign, and each would also cease to hold office upon ceasing to be an Assembly Member otherwise than by virtue of a dissolution (e.g. by resignation as an Assembly member) or by being removed from office by resolution of the Assembly.

Chairing the Assembly Commission

The 2006 Act provides for the creation of corporate body to be known as “the Assembly Commission” which will be composed of the Presiding Officer and four other Assembly Members (see Constitutional Quick guide on [The Assembly Commission](#)). The Presiding Officer will chair meetings of the Assembly Commission. This role may not be delegated to the Deputy Presiding Officer. If there is no Presiding Officer in post, or if the Presiding Officer is unable to act, then it is for the Assembly Commission to appoint another of its members to preside over its meetings.

Chairing the Business Committee

Standing Orders provide for a Business Committee comprising the Presiding Officer as Chair and one Member from each political group. This arrangement is subject to approval by a two-thirds majority of the Assembly.

Summary of Presiding Officer's Functions under the 2006 Act

Some of the Presiding Officer's other functions under the 2006 Act include:

- Fixing the date of an election in the event of a constituency vacancy.
- Receiving notification of the filling of a regional member vacancy.
- Receiving notification of a Member's resignation.
- Deciding questions arising under the standing orders about the political group (if any) to which a member belongs.
- Deciding questions arising under provision made in compliance with section 29 of the Act regarding the composition of committees.
- Receiving notification of the issue of a direction by a Welsh Minister or the Counsel General to a current or former member of staff of the Welsh Assembly Government (or person with an equivalent status) that the person need not give evidence or produce documents to the Assembly, its committees or sub-committees.
- Administering the oath or affirmation to anyone giving evidence in Assembly proceedings.
- Designating a person to act as First Minister (on the recommendation of the Welsh Ministers) if the First Minister's office is vacant, the First Minister is unable to act or the First Minister has ceased to be an Assembly Member.
- Recommending to the Monarch the Assembly's choice as First Minister.
- Stating whether the provisions of a proposed Assembly Measure are, in the view of the Presiding Officer, within the Assembly's legislative competence.
- Stating whether the provisions of an Assembly Bill are, in the view of the Presiding Officer, within the Assembly's legislative competence.
- Certifying to the Assembly that the Auditor General is unable to certify or report on accounts (or statements) in person.

Further information

For further information on Constitution Series, please contact **Dr. Alys Thomas** (Alys.Thomas@Wales.gsi.Gov.UK), Members' Research Service.

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MRS 07/0728 Dr. Alys Thomas

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