

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video conference via Zoom	P Gareth Williams
Meeting date: 23 May 2024	Committee Clerk
Meeting time: 15.30	0300 200 6565
	SeneddLJC@senedd.wales

Remote

Public meeting

(15.30 – 15.35)

- 1 Introductions, apologies, substitutions and declarations of interest**
(15.30)
- 2 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting**
(15.35)

Private meeting

(15.35 – 16.30)

- 3 Senedd Cymru (Electoral Candidate Lists) Bill: Draft report**
(15.35 – 16.30) (Pages 1 – 59)
[Statement of Policy Intent](#)

Attached Documents:

LJC(6)-17-24 – Paper 1 – Draft report

LJC(6)-17-24 – Paper 2 – Legal Advice Note

LJC(6)-17-24 – Paper 3 – Letter to the Business Committee, 20 May 2024



LJC(6)-17-24 – Paper 4 – Letter from the Finance Committee to the Trefnydd and Chief Whip, 16 May 2024

LJC(6)-17-24 – Paper 5 – Letter from the Trefnydd and Chief Whip, 3 May 2024

LJC(6)-17-24 – Paper 6 – Letter from the Counsel General to the Reform Bill Committee, 1 December 2023

Document is Restricted

By virtue of paragraph(s) vii of Standing Order 17.42

Document is Restricted

Rt Hon Elin Jones MS
Y Llywydd and Chair of the Business Committee

20 May 2024

Annwyl Lywydd

Legislation, Justice and Constitution Committee

You will be aware that on Friday 17 May 2024 the elected Chair of the Legislation, Justice and Constitution Committee, Sarah Murphy MS, was appointed as a Welsh Minister. Following her appointment, Sarah has recused herself from the business of the Committee. Given these circumstances, we are writing to you as the three remaining substantive members of the Committee.

At our meeting scheduled to take place today, in addition to the important business which regularly features on our agendas, we were due to consider two significant matters: our draft report on the Senedd Cymru (Electoral Candidate Lists) Bill, and research undertaken for the Senedd and its Committees by Dr Thomas Horsley on the implications for Wales of the *United Kingdom Internal Market Act 2020*.

Samuel Kurtz MS had given his apologies for the meeting in advance, and a substitute member from the Welsh Conservatives was due to attend the whole meeting. You may be aware that Adam Price MS has recused himself from participating in our consideration of the Senedd Cymru (Electoral Candidate Lists) Bill. As such, Luke Fletcher MS was due to attend the meeting for our consideration of our draft report on the Bill as he has participated in the evidence gathering. Sarah Murphy's appointment as a Welsh Minister also had an impact on the meeting arrangements, although the Labour Group had arranged for a substitute.

In these circumstances and given the issues to be considered at the meeting, the committee clerk consulted all committee members on Friday and we collectively agreed to cancel the meeting, with a view to considering this week whether to reschedule a meeting to discuss our draft report on the

Senedd Cymru (Electoral Candidate Lists) Bill (given the current reporting deadline of 7 June 2024) and any other work, particularly if time-critical as well.

If possible, we would therefore like to be in a position to hold a meeting this Thursday or Friday to consider our draft report. Holding a meeting at the end of the week would enable a new Chair of the Committee, should they be formally elected in Plenary on Tuesday or Wednesday, to be in attendance. Currently, there would be no membership clashes with other meetings due to take place on Thursday, and we would look to hold the meeting in a fully virtual format. We acknowledge that there may be some practical issues with publishing meeting papers two working days before the meeting. However, given the circumstances, we consider the late availability of papers would be reasonable. We hope you will look favourably on our request for an additional meeting slot.

Should we be unable to reschedule a meeting this week, it will mean we will only have a single opportunity to consider our draft report on the Senedd Cymru (Electoral Candidate Lists) Bill at our meeting on Monday 3 June 2024, ahead of the reporting deadline on 7 June 2024. We fully appreciate the time-sensitive nature of the reporting deadline within the Welsh Government's overall planned schedule for the legislation. To enable us to give our report the careful consideration that is needed, we would be grateful if the reporting deadline could be extended to Tuesday 11 June 2024 to enable us to agree the report at our meeting on Monday 10 June. If the extension is agreed, we would also welcome the flexibility to meet on the morning of 10 June. We do not believe that an extension to 11 June would impact on the Welsh Government's intentions as regards the Stage 1 general principles debate.

We understand that Sarah will likely have tendered her resignation as Chair of the Committee in advance of Business Committee considering this letter. Nonetheless, the letter is copied to Sarah for her information.


Yours sincerely,



Alun Davies MS



Samuel Kurtz MS



Adam Price MS

Jane Hutt MS
Trefnydd and Chief Whip

16 May 2024

Dear Jane

Financial implications of the Senedd Cymru (Electoral Candidate Lists) Bill

Thank you for attending an evidence session with the Finance Committee on 24 April, to discuss the financial implications of the Senedd Cymru (Electoral Candidate Lists) Bill (the Bill).

Subject to the views detailed below, the Committee is broadly content with the financial implications of the Bill as set out in the Regulatory Impact Assessment (RIA).

Senedd Reform Programme

The Welsh Government's Senedd Reform Programme includes the Bill and the Senedd Cymru (Members and Elections) Bill, which the Committee has already reported on. We note your view that the RIA "on this Bill needs to be looked at in the context of the Members and elections Bill, because it's seen as the Senedd reform programme as a whole". We acknowledge the interrelationship between these pieces of legislation, and that the costs arising from them are linked, should they both be passed by the Senedd.

Furthermore, we welcome clarification that any costs incurred by local authorities in relation to updates to the Electoral Management System arising from both Bills, will be reimbursed by the Welsh Government.

Total costs of the Bill

The RIA states the total cost of implementing the legislation is estimated to be £21,000, over the eight-year appraisal period. During your appearance before the Reform Bill Committee on 1 May, you told that Committee that since the RIA was published, the Electoral Commission has identified a cost in the region of £6,000 “for work undertaken by their new legislation team to prepare for the implementation of the Bill” which includes staff costs and preparing guidance. We note the increase is a significant proportion of the final cost of the Bill. We are disappointed you did not notify this Committee of the increase in the estimate and we expect to see full details in a revised RIA, should the Bill proceed beyond Stage 1.

Legal challenges regarding legislative competence

RIAs should set out the best estimates of the costs and benefits of implementing Bills and therefore information on costs associated with potential legal challenges arising from Bills are not normally included. However, this is the first time that the Llywydd has issued a statement that in her view, a Bill “would not be within the legislative competence of the Senedd”. Given that yours and the Llywydd’s view on competence differ, this makes it very likely that a challenge will be made to the Supreme Court and therefore additional legal costs will be incurred by the Welsh Government. Should this happen, the Committee would like to be kept informed of the costs involved.

National Nominations Compliance Officer

The RIA sets out the role of the National Nominations Compliance Officer (NNCO) with a recurring cost of £1,500 per election. Should you conclude that, in addition, a deputy NNCO is required, we expect those costs to be included in a revised RIA, although we acknowledge that such costs are likely to be minimal.

Engagement with political parties

We are disappointed that there has been no direct engagement with political parties on costs ahead of the Bill being introduced. Whilst the costs and potential savings of introducing quotas would vary between political parties, we believe further work should be undertaken to assess the costs. This could be achieved by consulting the Senedd Political Parties Panel and also by engaging directly with political parties that are not currently represented in the Senedd.

Subordinate legislation

Finally, we expect you to commit to providing as much transparency as possible in relation to the costs of the Bill by publishing full and robust RIAs to accompany any subordinate legislation made under this Bill. This is a recommendation we have made previously in relation to a number of Bills during the Senedd, as we seek to gain a full picture of the costs arising from the legislation before us.

I would be grateful for a reply by 11 June, to allow the Committee to consider your response prior to the debate on the general principles of the Bill, scheduled for 18 June 2024.

Yours sincerely,



Peredur Owen Griffiths MS
Chair

cc Chair of the Reform Bill Committee and Chair of the Legislation, Justice and Constitution Committee

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

Jane Hutt AS/MS
Y Trefnydd a'r Prif Chwip
Trefnydd and Chief Whip



Llywodraeth Cymru
Welsh Government

Sarah Murphy
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

SeneddLJC@senedd.wales

3 May 2024

Dear Sarah,

During the committee scrutiny of the Senedd Cymru (Electoral Candidates Lists) Bill on Monday 29 April, I offered to provide the committee with a copy of the correspondence from the Secretary of State for Wales and the subsequent response from the First Minister. Please find the correspondence attached.

Yours sincerely,

Jane Hutt AS/MS
Y Trefnydd a'r Prif Chwip
Trefnydd and Chief Whip

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Ref: 033MISC24

T: 0292 092 4216

E: Correspondence@ukgovwales.gov.uk

Vaughan Gething MS

First Minister of Wales

Welsh Government

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Email: correspondence.fm@gov.wales

21st March 2024

Dear Vaughan,

I would like to reiterate my congratulations to you on becoming the First Minister of Wales. I look forward to working together to deliver for people across Wales.

Unfortunately, I am writing so soon as I have serious concerns with the Welsh Government's decision to introduce the Senedd Cymru (Electoral Candidate Lists) Bill, despite the Llywydd concluding, on the basis of legal advice, that it does not fall within the Senedd's legislative competence.

The Llywydd has set out detailed concerns that, in her view, the Bill relates to the reserved matter of equal opportunities (a reserved matter in Schedule 7A to the Government of Wales Act 2006) and modifies the law on reserved matters (in this case, section 104 of the Equality Act 2010), indicating that the proposals would not be within the legislative competence of the Senedd. I note that notwithstanding this, the Welsh Government maintains that the Bill's provisions are within the Senedd's competence. I have not seen any analysis from the Welsh Government explaining its position.

I understand you have decided to proceed to introduce the Bill despite the Llywydd's assessment of competence. The Senedd Reform Committee has now said it will consider the question of competence as part of its scrutiny of the Bill.

Given that a key aspect of the role of Secretary of State for Wales is ensuring that legislation in both the UK Parliament and Senedd reflects the devolution boundary, I am therefore duty bound to express my grave concern that the Llywydd and the Welsh Government are not in agreement on this Bill.

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While improving the gender diversity of parliaments across the UK is an ambition we share, I am concerned that Welsh Ministers are yet to make clear how relevant UK legislation, including the Equalities Act 2010 and the Gender Recognition Act 2004, relates to the provisions in the Bill, particularly in regard to the definition of a 'woman'.

I would like our officials to meet to discuss and better understand the Welsh Government's position on the Senedd's legislative competence in relation to this Bill at the earliest opportunity.

Yours sincerely,

David T.C. Davies

Rt Hon David TC Davies MP
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru

Vaughan Gething AS/MS
Prif Weinidog Cymru/First Minister of Wales



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref:IM/FM -/05011/24

David T C Davies MP
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22 April 2024

Dear David,

I am writing in response to your letter dated 21 March regarding the introduction of the *Senedd Cymru (Electoral Candidate Lists) Bill* (the Bill).

The Bill delivers on the recommendation of the Special Purpose Committee (SPC) on Senedd Reform that the Senedd should be elected with integrated statutory gender quotas. The SPC's recommendations were endorsed by the Senedd, and the Welsh Government committed to bringing forward legislation to deliver on those recommendations.

The Welsh Government's position on the Bill has been set out in the [Explanatory Memorandum](#), and in the [Oral](#) and [Written Statements](#) made by the Member in Charge, Jane Hutt MS (Bill webpage: [Senedd Cymru \(Electoral Candidate Lists\) Bill](#)).

The Reform Bill Committee launched its Stage 1 scrutiny of the general principles of the Bill on 13 March, including holding its first scrutiny session with the Member in Charge. The Committee will continue to gather evidence over the coming weeks and the Bill will also be considered by both the Legislation, Justice and Constitution Committee and the Finance Committee later this month. All relevant transcripts and recordings can be accessed from the Reform Bill Committee webpage or from the web pages of the relevant committees. All three committees are due to report on the general principles of the Bill in June.

I would be happy for our officials to meet to discuss the Bill at an appropriate time in the future, shortly after the Committees have completed their Stage 1 scrutiny of the Bill.

Yours sincerely,

VAUGHAN GETHING

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Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref CG/PO/413/2023
Ein cyf/Our ref CG/PO/413/2023

1st December 2023

Dear David,

Thank you for your letter of 22 November 2023 regarding the implementation of the Senedd Cymru (Members and Elections) Bill.

In your correspondence you asked if I could provide an overview of the anticipated timeline for the implementation of the electoral reforms in advance of the 2026 election, including timescales associated with the National Assembly for Wales (Representation of the People) Order 2007 (“the Conduct Order”). You also asked if I could provide an indication of the nature and scale of the changes I anticipated the Welsh Government proposing in a consultation on the Conduct Order.

As you are aware, two Bills related to electoral reforms (the Senedd Cymru (Members and Elections) Bill and the Elections and Elected Bodies (Wales) Bill) are currently being scrutinised by the Senedd.

The renamed Democracy and Boundary Commission Cymru (DBCC) will not have the legal function to commence and undertake a review of Senedd boundaries until the provision which confers that function is commenced the day after the Senedd Cymru (Members and Elections) Bill receives Royal Assent. As they have set out in their written evidence to the Reform Bill Committee, it is anticipated that the DBCC will commence its pairing of the 32 UK Parliament constituencies in August 2024. The Bill provides that the Commission’s final report on the pairing of the constituencies will be completed by 1 April 2025. This will then enable the Statutory Instrument to implement the 16 Senedd constituencies to be drafted and made by Welsh Ministers.

In parallel with the DBCC’s work, the Welsh Government will consult on a draft bi-lingual and consolidated Conduct Order. This will reflect our ambition to consolidate the statute book for Wales where we can, to deliver an accessible, bilingual legislative framework. We intend to take steps to consolidate electoral law in Wales for devolved elections, as part of our longer-term goal of modernising electoral law.

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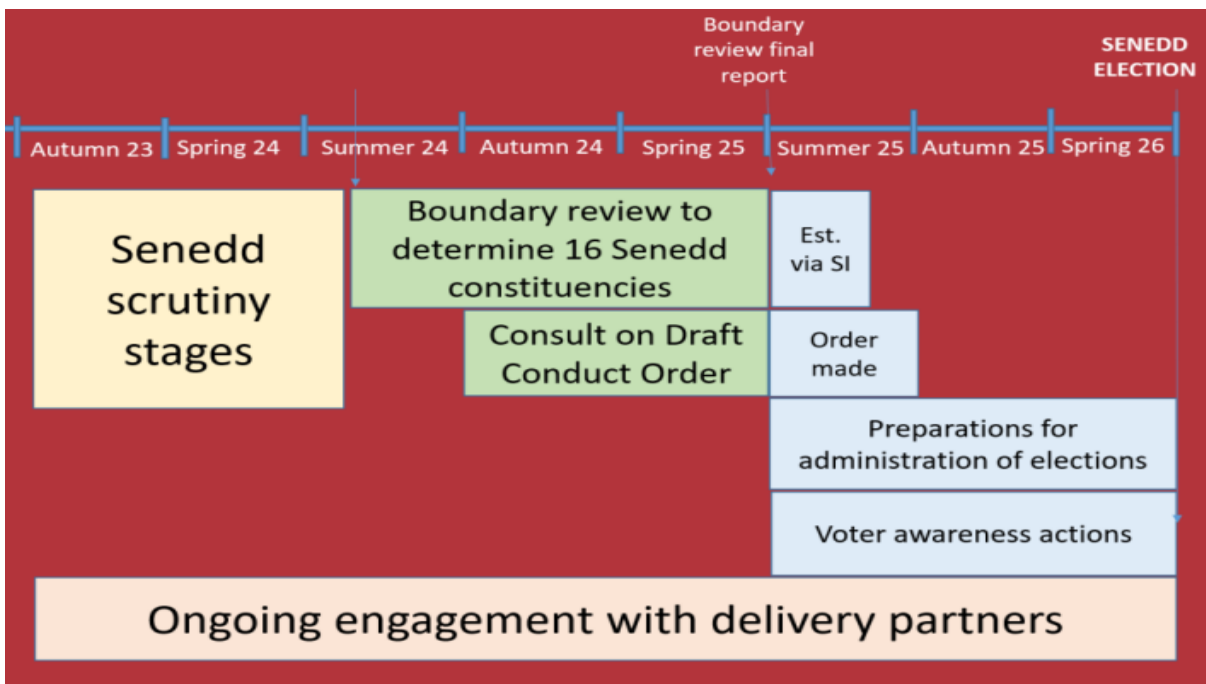
The Conduct Order sets out the detailed rules for conducting elections to Senedd Cymru. It sets out the way in which the election and the election campaign are conducted, including provisions for legal challenge to the election. The Conduct Order has previously been reviewed and amended before each Senedd election.

The Order was originally made, and subsequently amended, by the Secretary of State, before the function of making the Order was transferred to the Welsh Ministers by the Wales Act 2017 (which amended section 13 of the Government of Wales Act 2006). As the original Order was made in 2007, this represents a valuable opportunity for us to consolidate and re-state the law as part of an accessible, bilingual framework for the first time.

In doing so, we will take account of the principles set out in the Legislation (Wales) Act 2019, and seek to produce an Order using modern and clear language which is accessible to the reader. This will include, as you referred to, amendments to ballot paper design, reflecting the move to a single system of election for all Members.

Ahead of the 2026 general election to the Senedd, the Electoral Commission will develop and publish guidance related to the administration of elections, and we will work with delivery partners to facilitate a smooth adoption of the different administrative processes associated with the election. In addition to the usual secondary legislation that precedes a Senedd election, including the Disqualification and Returning Officers' Charges Orders, we will work with partners to facilitate public awareness of the new electoral system.

I have provided a visual depiction of the timescales for these different processes below.



Yours sincerely,

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution