

Agenda – Member Accountability Bill Committee

Meeting Venue:

Hybrid – Committee Room 4 and
videoconference via Zoom

Meeting date: 9 December 2025

Meeting time: 09.30

For further information contact:

Sarah Sargent

Committee Clerk

0300 200 6565

SeneddMAB@senedd.wales

Private, Hybrid

Private meeting

(09.30 – 10.55)

1 Introductions, apologies, substitutions, and declarations of interest

09.30

2 Papers to note

09.30–09.35

(Pages 1 – 10)

Attached Documents:

Paper 1 – Letter to the Chair of the Business Committee: Senedd Cymru (Member Accountability and Elections) Bill – Stage 1 scrutiny and Stage 2 proceedings (31 October 2025)

Paper 2 – Letter to the Electoral Management Board: Scrutiny of the Senedd Cymru (Member Accountability and Elections) Bill (19 November 2025)

Paper 3 – Letter from the Electoral Management Board to the Chair of the Member Accountability Bill Committee: Response to letter of 19 November 2025 (4 December 2025)

Paper 4 – Letter from the Counsel General and Minister for Delivery to the Legislation, Justice, and Constitution Committee: Response to letter of 24 November 2025 (4 December 2025)



3 Senedd Cymru (Member Accountability and Elections) Bill – consideration of draft report

09.35–10.55

(Pages 11 – 131)

Attached Documents:

Paper 5 – Draft report

The Rt Hon Elin Jones MS
Llywydd
Chair, Business Committee

Dyddiad | Date: 31 October 2025

Annwyl Lywydd

Pwnc | Subject: Senedd Cymru (Member Accountability and Elections) Bill – Stage 1 scrutiny and Stage 2 proceedings

Thank you for your letter dated 21 October in which you seek the views of the Member Accountability Bill Committee on the Welsh Government’s proposed timetable for the scrutiny of the Senedd Cymru (Member Accountability and Elections) Bill (the Bill).

We note that the Government is proposing we conclude our Stage 1 scrutiny and report to the Senedd by 19 December. By virtue of the fact that Government is introducing the Bill in November, we appreciate that pushing our reporting deadline into the New Year would be problematic for the remaining stages of the legislative process.

Nonetheless, it should be acknowledged that this timetable means our work in scrutinising this proposed legislation will be challenging. We ask that you consider extending this deadline by two working days, to 23 December. We will be utilising as many as possible of the seven weeks available to us to gather evidence on the Bill; this means we may not be able to agree our report until the week commencing 15 December. As such, having these extra days could provide some much-needed breathing space to the Senedd Commission teams who will assist us in laying a bilingual report before the Senedd. We do not believe such an extension would have a material impact on the proposed date for a Plenary debate on the general principles of the Bill and, subsequently, the latter scrutiny stages in the Senedd.

You have also sought our views on the Business Committee’s current assumption that the Bill will be referred to the Committee for Stage 2 proceedings. We are aware that Stage 2 proceedings for Bills of a similar nature have, on occasion, been referred to a Committee of the Whole Senedd. We do not

consider it to be our place to make a firm recommendation to you on where Stage 2 proceedings should take place; that decision is a matter for the Business Committee.

Yours sincerely

A handwritten signature in black ink that reads "David F. Rees." The signature is written in a cursive style with a large 'D' and 'R'.

David Rees MS

Chair

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

Pwyllgor y Bil Atebolrwydd Aelodau
Member Accountability Bill Committee

Senedd Cymru
Bae Caerdydd, Caerdydd, CF99 1SN
SeneddBAA@senedd.cymru
senedd.cymru/SeneddBAA
0300 200 6565

Welsh Parliament
Cardiff Bay, Cardiff, CF99 1SN
SeneddMAB@senedd.wales
senedd.wales/SeneddMAB
0300 200 6565

To: Eifion Evans, Deputy Chair, Electoral Management Board
Mark Pascoe, Secretary, Electoral Management Board
Cc: Karen Jones, Chair, Electoral Management Board

Dyddiad | Date: 19 November 2025

Dear Eifion and Mark,

Pwnc | Subject: Scrutiny of the Senedd Cymru (Member Accountability and Elections) Bill

Thank you for attending the Member Accountability Bill Committee on 18 November 2025. It was a very useful and informative session and the Committee appreciated the opportunity to explore your views on the Bill.

During the session, you indicated that you would update the Committee on how the Board intends to perform its functions in relation to the Bill, once it has had an opportunity to have those initial discussions. In particular, the Committee would welcome your views on whether the Bill should be amended to specifically bring recall polls within the statutory functions of the Electoral Management Board as set out in sections 20A to 20D of the Democracy and Boundary Commission Cymru etc. Act 2013.

As you are aware, the Committee has been set a reporting deadline of 23 December. It would be very useful to have your views on this matter by Monday 1 December, in time for the Committee's scrutiny session with the Counsel General on 2 December. However, we appreciate that the limited timeframe available may make this difficult, as such, we would appreciate a response by midday Friday 5 December at the very latest to inform the Committee's consideration of its report.

I have copied the letter to Karen Jones, Chair of the Board, who was unable to attend the oral session on this occasion.

We look forward to hearing your views.

Yours sincerely,

David F. Rees.

David Rees MS

Chair

4ydd Lawr
Adeilad Llywodraeth Cymru
Parc Cathays
Caerdydd
CF10 3NQ



4th Floor
Welsh Government Building
Cathays Park
Cardiff
CF10 3NQ

E-bost:
ymholiadau@cdffc.llyw.cymru
www.cdffc.llyw.cymru

(029) 2046 4819

E-mail:
enquiries@dbcc.gov.wales
www.dbcc.gov.wales

4 December 2025

Dear David Rees MS

Chair, Member Accountability Bill Committee

I am writing in response to your letter dated 19th November 2025 which asked for views on whether the Senedd Cymru (Member Accountability and Elections) Bill should be amended to specifically bring recall polls within the statutory functions of the Electoral Management Board.

Sections 20A to 20D of the Democracy and Boundary Commission Cymru etc. Act 2013 set out that the following functions must be delivered by the Electoral Management Board:

- Electoral Administration Functions - general function of co-ordinating the administration of Welsh elections and referendums including
 - assisting returning officers, local authorities and other persons in carrying out their functions in relation to Welsh elections and referendums; and
 - promoting best practice in the administration of Welsh elections and referendums by providing information, advice or training (or otherwise).
- Directions to returning officers and electoral registration officers - the EMB may give directions in writing to returning officers and/or electoral registration officers about the exercise of the officers' functions in relation to specified elections and must consult with the Electoral Commission before giving a direction of this nature.
- Welsh Elections Information Platform – the Act provides for the establishment of the Welsh elections information platform that will provide up-to-date information, or access to up-to-date information from other electronic sources, to electors to support their participation in Senedd Cymru elections and ordinary elections to principal councils in Wales. The Welsh Elections Information Platform Regulations 2025 regulations specify the Electoral Management Board as the operator of the platform.

The Board's view is that the EMB should be able to bring recall polls within its remit and that that the proposed legislation should enable the functions of the EMB, where relevant, to be applied to the recall proposals.

Mae'r Comisiwn yn croesawu gohebiaeth yn Gymraeg neu Saesneg
The Commission welcomes correspondence in English or Welsh

The EMB acts as a forum for returning officers to raise and discuss issues and consider best practice. Given the nature of the proposed recall polls, it is appropriate that these provisions are extended to cover them.

The Welsh Elections Information Platform Regulations 2025 provide that the EMB is responsible for the operation of Welsh Elections Information Platform. The platform will provide information about electoral events taking place in Wales and as such, our view is that recall polls should be included in the legislation (or separate legislation) to enable the EMB to publish information about them.

Whilst unlikely that the EMB would want to direct a single returning officer in the conduct of a stand-alone recall poll, powers of direction could be useful in requiring returning officers to make available the datasets needed to communicate any recall poll to voters through the Welsh Elections Information Platform.

As such, our view is that consideration should be given to whether there is a need to be explicit in the proposed legislation that the functions of the EMB extend to recall petitions as well as devolved elections and referendums.

We are not of the view that the EMB should become responsible for administering recall polls. The administration and conduct of recall polls should firmly remain with returning officers who have the infrastructure and resources to be able to undertake those functions.

Should you need any further information or wish to discuss further, please do not hesitate to let me know.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K Jones', written in a cursive style. To the right of the signature is a vertical line.

Karen Jones FCIPD, DL

Chair, Electoral Management Board for Wales

Julie James AS/MS
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni
Counsel General and Minister for Delivery



Llywodraeth Cymru
Welsh Government

Mike Hedges
Chair, Legislation, Justice and Constitution Committee

4 December 2025

Dear Mike

Thank you for your letter of 24 November 2025, detailing a number of follow-up questions pertaining to my attendance of the Committee's meeting of 17 November 2025, as part of your consideration of the Senedd Cymru (Member Accountability and Elections) Bill.

I have detailed my answers to these questions in an annex to this letter.

I am copying this letter to David Rees MS, Chair of the Member Accountability Bill Committee.

Yours sincerely,

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

Julie James AS/MS
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni
Counsel General and Minister for Delivery

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Cwnsler.Cyffredinol@llyw.cymru
correspondence.Counsel.General@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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.

Annex

1. *The Welsh Ministers have a duty to make provision prohibiting the making or publishing of false or false and misleading statements of fact (see paragraphs 113 to 116 of the transcript). Please can you clarify the exact timescale within which the Welsh Ministers must make this provision and identify where in the Bill/explanatory materials this is stated? As part of your response, please can you confirm whether or not a further section 13 Order must be made by the next election in 2030.*

I do not believe that it is appropriate to set an arbitrary timescale for the exercise of this duty. As I have set out, it is essential that careful and detailed consideration is given to the development of any offence, to ensure that it specifically addresses the statements we are looking to prohibit. What the duty ensures is that the next government will be required to consider this issue and take steps to satisfy the duty.

Once new sub-section 13(2A) is enacted and has come into force, which will be after the 2026 election, the Welsh Ministers will be subject to the duty. Although there is no deadline for compliance with the duty, I consider it will be incumbent upon the Welsh Ministers to have made provision to satisfy the duty before the next election when any provision made under section 13(2A) would have effect.

Whilst there is no specific legislative requirement to update the Conduct Order prior to each election, the Conduct Order has been revised or remade in advance of every scheduled Senedd election held to date. I believe it is inconceivable that this would not continue to be the case given the critical role the Order plays in enabling an election to be run.

The provision that must be made is provision “of the kind that must be made under 13(1)(a)” i.e. provision about the conduct of elections for Members of the Senedd so the provision that must be made under that sub-section must have a connection to the conduct of elections and it is for this reason I consider the next election is the point by which the duty will need to have been discharged.

2. *The Bill does not contain a definition of what constitutes a “false statement of fact” or a “misleading statement of fact”. As these terms are crucial to the formulation of the proposed offence, is it desirable to have them on the face of the Bill without being defined?*

The duty in section 13, as amended by section 22 of the Act should be read in conjunction with new sub-section (2B) which sets out a list of the type of provision that may be made when making provision to satisfy the duty in (2A). This illustrative list provides for a wide range of options as to the components of any offence.

The precise nature of any offence of deception is novel and complex and therefore requires careful consideration.

Any attempt to precisely define the nature of what is to be prohibited prior to concluding that careful consideration runs the same risk of the Bill being challenged on competence grounds as if we placed the offence itself on the face of the Bill; a risk we are seeking to insulate this Bill from. As I have already stated, I am satisfied that the duty can be exercised in a way that does not unlawfully interfere with Convention rights however more work needs to be done to determine the exact formulation of an offence that meets the policy objective while remaining within competence.

My officials and I are continuing to work to develop an offence for inclusion in a future Conduct Order. The fact that it is a duty to make such provision means that the next government will continue to take forward this work in the next Senedd term.

3. *In your statement in Plenary on 4 November you stated, in relation to Members: “there's no reason why, in certain circumstances, if they've committed the basic tenets of the offence, they wouldn't be able to be held to that”.*
- (i) Can you outline what consideration has been given to this point?*
 - (ii) Would extending the scope of the offence to cover Members create an element of double-jeopardy where Members are sanctioned through the standards process and separately subject to the new offence?*

In its inquiry into Individual Member Accountability, the Standards of Conduct Committee recognised there is a fundamental difference between an elected Member and a candidate standing for election – which is why they recommended separate systems to address false statements made by each.

However, I am of the view that - as far as is possible - the same broad definition of any wrongdoing should apply to both Members and candidates. It is that view that I was seeking to convey during Plenary on 4 November, rather than extending any specific offence to Members.

I understand that is also the position set out by the Standards of Conduct Committee when they recommended that any definition that is developed should be “replicated in any associated Standing Orders and guidance”. I am aware that the Standards of Conduct Committee is currently undertaking work in response to those recommendations, and I am happy to work with them to ensure that, where possible, there is appropriate read-across between the definitions.

With regards to the “double-jeopardy” point, avoiding such a possibility will be a key issue that requires resolving when defining the scope of any future offence. It will be necessary to ensure that a sitting Member is excluded from any definition of “candidate” for the purposes of that definition.

4. *In that same statement on 4 November you mentioned that there were some competence issues relating to extending the offence to Members that you would need to discuss in committee. Can you expand on what these issues are?*

Any attempt to legislate in a way that restricts speech - and in this context political speech – will engage Convention rights, in particular Article 10 freedom of expression. Therefore the same competence issues that arise in relation to candidates would arise for Members.

Of equal concern however is the constitutional appropriateness of a government Bill seeking to place restrictions on the speech of Members. Members are held to account through the Code of Conduct and the standards regime more generally.

The Government of Wales Act already provides for some protections in relation to statements and publications of Members in the context of Senedd proceedings. We have

not yet had sufficient time to consider what the full consequences, including unintended consequences, of creating an offence in relation to Members' speech more generally might be.

5. *The Welsh Government's Statement of Policy Intent states that: "Given the time available for the passage of this Bill in the current Senedd term, it has not been possible to undertake the necessary engagement in the development of an offence at this time."*

Can you confirm what engagement has already taken place up to this point and, looking forward to the next Senedd, what would you say is a realistic timescale within which such engagement could take place?

Specific engagement will be undertaken with key stakeholders in the criminal justice system during the development of any future offence itself, in discharge of this new duty.

However, it is important to note that during the Standards of Conduct Committee's inquiry – the recommendations from which form the basis of this Bill – evidence was received from the Chief Constables in Wales and the Crown Prosecution Service.

That evidence noted that specific observations would be entirely dependent on the detail contained within the legislation and welcomed further close engagement on that detail as proposals were developed.

Document is Restricted