

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:	For further information contact:
Committee Room 1 – Senedd	Gareth Williams
Meeting date: 15 October 2018	Committee Clerk
Meeting time: 14.30	0300 200 6362
	SeneddCLA@assembly.wales

1 Introduction, apologies, substitutions and declarations of interest

2 Autism (Wales) Bill: Evidence session 2

(14.30–15.30)

(Pages 1 – 11)

Vaughan Gething AM, Cabinet Secretary for Health and Social Services

Matthew Jenkins, Deputy Director – Partnerships and Cooperation, Welsh
Government

Sarah Tyler, Lawyer, Welsh Government

CLA(5)–25–18 – Briefing

[Autism \(Wales\) Bill, as introduced](#)

[Explanatory Memorandum](#)

3 The Welsh Parliament and Elections (Wales) Bill

(15.30–15.35)

(Pages 12 – 14)

CLA(5)–25–18 – Paper 1 Written Statement

4 Paper(s) to note

(15.35)



4.1 Letter from the Parliamentary Under Secretary of State for exiting the European Union to Chair of the House of Commons' Procedure Committee

(Pages 15 – 19)

CLA(5)-25-18 – Paper 2 – Letter from the Parliamentary Under Secretary of State for exiting the European Union, 8 October 2018

CLA(5)-25-18 – Paper 3 – Procedure Committee media release, 10 October 2018

5 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting

6 Consideration of evidence: Autism (Wales) Bill

(15.40–15.50)

7 Renting Homes (Fees etc.) (Wales) Bill – Draft report

(15.50–16.05)

(Pages 20 – 48)

CLA(5)-25-18 – Paper 4 – Draft report

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WRITTEN STATEMENT

Title: The Welsh Parliament and Elections (Wales) Bill

Date: 2 October 2018

By: Elin Jones AM, Llywydd, as Chair of the Assembly Commission

The Assembly Commission has agreed to table a motion today for debate next week (10 October) asking Members to approve its decision to introduce the Welsh Parliament and Elections (Wales) Bill. This Bill would seek to use the powers devolved to the Assembly under the Wales Act 2017 to change the name of the National Assembly, extend the franchise for Assembly elections, amend the law relating to disqualification arrangements, and to make other changes to the Assembly's electoral and internal arrangements. The Commission's intention is that these changes should be implemented by 2021.

The Commission's decision to introduce this legislation is part of a package of reforms under consideration to make the National Assembly a more effective, accessible and diverse legislature. In my statement to the Assembly on 18 July, I set out our intended approach to the package of reform. Many of these reforms are based on recommendations made by the Expert Panel on Assembly Electoral Reform in its report: [Parliament that works for Wales](#).

Each element of this package requires a broad degree of support among Members if it is to be introduced. On some aspects, further work is needed for this to be achieved. For example, Members and political parties are still considering the future size of the Assembly, how Members should be elected, and how diversity could be increased. If an agreement is reached on a way forward, the Commission's intention is that these elements will form the second phase of the reform programme during this Assembly term.

In the meantime, following lengthy discussions with key stakeholders and two public consultations, the Commission is satisfied that there is sufficient support to proceed with the first piece of legislation.

The [report on the findings of the consultation on changing the name of the institution](#) has already been published, as has a [summary of the Commission's consultation on electoral reform](#). Findings of that second consultation have been published today in full in a [report](#) which I'm sure Members will find useful in their deliberations.

The next step for the Assembly Commission will be to seek the support of Members to introduce legislation in early 2019 to allow the implementation of the first phase of Assembly reform before the 2021 election.

This legislation will seek to achieve four key objectives:

01. To change the name of the Assembly to Senedd Cymru/ Welsh Parliament

Changing the name will ensure the name of the institution reflects its constitutional position and help to improve public understanding of the role and responsibilities of the legislature. A majority of those who responded to the public consultation on the matter agreed that 'Senedd Cymru/ Welsh Parliament' best describes the legislature's role and responsibilities. The intention would be for the name change to take



legal effect in May 2020 to ensure that the public are familiar with the new name in advance of the next Assembly election in 2021. In order to minimise costs however, the Commission has decided that there will be no wholesale change to the Assembly's logo.

In addition to changing the institution's name there will be associated changes, for example the suffix which appears after Members' names. This is a matter which is still under consideration by the Commission.

02. To reduce the minimum voting age to 16 with effect from the 2021 Assembly election

The Commission's aim is to empower, engage and enthuse young people to participate in the democratic process in Wales. The Commission is working with the Welsh Government and electoral partners to put in place the required arrangements for the extension of the franchise to include 16 and 17 year olds and the smooth operation of the Assembly elections in 2021

As Members are aware, it is the Commission's view that every effort would need to be made to be made to raise awareness of an extension to the franchise, in order to encourage the highest level of participation possible among young people. The Commission will work with relevant stakeholders to engage young people in this positive change.

03. To clarify and reform the legislative framework relating to disqualification from being an Assembly Member

The Commission intends to implement recommendations for legislative change made by the Constitutional and Legal Affairs Committee of the Fourth Assembly. These changes would provide clarity for potential candidates about their eligibility to stand for election and, by adjusting the point at which most disqualifications take effect, would enable more people to stand without having to first resign their jobs, with such resignations only required if they are elected. The reforms would also clarify the disqualification of lord lieutenants and high sheriffs and, in order to avoid conflicts of interest, would disqualify members of the House of Lords unless they take a formal leave of absence from Westminster. The new disqualification arrangements would take effect from the next Assembly election.

04. To make changes to the Assembly's electoral and internal arrangements

Provisions would ensure that if the Law Commission makes recommendations to rationalise the current laws relating to elections, such recommendations as may be considered desirable in Wales can be implemented for Assembly and local authority elections in Wales. This could allow for the development of a coherent legislative framework and provide consistency across different elections.

The deadline for the first meeting of the Assembly after an election would be extended from seven to fourteen days, in line with the arrangements in the Scottish Parliament. The intention is to extend the opportunities for discussions and negotiations between political parties after the election, before important decisions need to be taken.

Provision will also be made to remove a current legislative ambiguity and clarify that the Assembly Commission has the power to charge for the provision of services not related to its functions.

Should the National Assembly for Wales decide that the Commission should introduce the Welsh Parliament and Elections (Wales) Bill, it would be subject to the Assembly's full legislative scrutiny



processes and would require a super-majority at its final legislative stage, meaning that at least 40 Members would need to vote in favour of the Bill. I will ask the Business Committee to consider an approach to legislative scrutiny which would allow all Members, and the wider Welsh public, to engage fully in the debate around the Bill's principles and its provisions and implications. As required by Standing Orders, the Explanatory Memorandum which will be published alongside the Bill on introduction will include best estimates of the potential costs and savings to which the legislation could give rise, and assessments of the impact of the proposals on equalities and inclusion, the Assembly's official languages, the justice system, children's rights and other relevant areas.

The Commission is grateful to all who continue to engage with us on these matters. I believe that should this legislation be implemented, it will give young people a stronger voice in the future of our nation, paving the way to improving the participation of our next generation in our democracy and our parliament as it enters its third decade of serving the people of Wales.





Department
for Exiting the
European Union

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Agenda Item 4.1

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Charles Walker OBE MP
Chair, Procedure Committee
House of Commons
SW1A 0AA

8 October 2018

Dear Charles,

Thank you for your letter of 13 September and the further observations from the Procedure Committee on the sifting procedure in the EU (Withdrawal) Act 2018 and the statutory instruments needed for EU exit.

Government disagreement with a Committee recommendation

I want to set out clearly what our intentions are if the government decides to disagree with any referral from the European Statutory Instruments Committee (ESIC). I am convinced that we want to achieve the same thing - effective scrutiny. I want to work with the Committee and make sure we have an open dialogue both before and after sifting has occurred.

I am very concerned that the Committee believes that our intention is for ESIC to find out that we have not agreed with its recommendation *after* a Minister has made a statutory instrument under the negative procedure. This is absolutely not the intention. While the EU (Withdrawal) Act sets out that the way in which a statement is made is at the discretion of the Minister, I have reflected on the Committee's perspective in your letter and I am happy to take your advice that a Written Ministerial Statement to the House is the preferred way.

Your letter showed real concern about this part of the new process and I thought it may help if I set out how we see it working (I have set this out with the Commons in mind, but it applies in the same way to the Lords):

- An SI is laid for sifting;
- Ministers may be asked for additional information, if required;
- An SI is considered ('sifted') by ESIC and the recommendation is for the affirmative procedure;
- After consideration of the Committee's recommendation a Minister decides an SI should be subject to the negative procedure;

- The Minister writes to ESIC to set out their view and why they consider this is the case (it would be for ESIC to decide, in the usual way, whether and when to publish the Minister's letter);
- A Written Ministerial Statement is made to the House setting out the reasons for disagreeing with the recommendation;
- This explanation would, in addition, be included as a statement in the EM, thereby making the 'audit trail' easily accessible to all those with an interest in the SI itself;
- An SI is made; and
- The ESIC may call a Minister to give oral evidence on the SI in question.

On the last point, we have clearly committed that, if called, a Minister will give oral evidence.

I understand why the Procedure Committee has interpreted the point the Leader of the House of Lords made as a commitment to a Written Ministerial Statement (WMS). Equally, I am clear that the commitment was to provide Parliament and the public with a written explanation in some form. I hope the above goes some way to resolving the Committee's concern.

I am keen to ensure the government works effectively with your Committee and ESIC throughout this process. I would be happy to discuss any further concerns with you and Sir Patrick.

Use of the urgent procedure

I completely understand the Committee's concern about use of the urgent procedure in the EU (Withdrawal) Act. I want to be clear that we are working across all government departments to ensure the volumes of SIs that are laid as manageable as we can. We have been very clear with departments that the urgent procedure can only be used in exceptional circumstances - it is not a fallback plan.

Regular updates to ESIC

There are practical obstacles to giving regular updates, as the National Audit Office report you mention recognises. However, as we committed to Parliament, we are working with departments to manage the spread of SIs with a view to mitigating serious peaks. The triage process is part of mitigation and does not add to the time departments require to be ready.

If you think it is useful I would be more than happy to meet with you and Sir Patrick to discuss further the coming months.

In the meantime, my Ministerial colleagues will be able to answer any further questions you have at your meeting on 10th October.

I am copying this letter to Sir Patrick McLoughlin, Lord Trefgarne and Lord Cunningham, the Chief Whips and Leaders of both Houses, the Secretary of State for Exiting the European Union and Gavin Barwell.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Chris", with a stylized flourish extending to the right.

**CHRIS HEATON-HARRIS MP
PARLIAMENTARY UNDER SECRETARY OF STATE FOR EXITING THE EUROPEAN
UNION**

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Committee welcomes Government undertaking on scrutiny of SIs

**10 October 2018**

The Procedure Committee has received assurances from the Government that it will make a Written Ministerial Statement when it disagrees with the recommendations of the legislative scrutiny committees examining Brexit.

- [Read the letter from Chris Heaton-Harris MP to Charles Walker OBE MP \(8 October 2018\)](#) (PDF 936 KB)
- [Read the letter from Charles Walker OBE MP to Chris Heaton-Harris MP, raising the Committee's concerns over the Government's approach](#) (PDF 341 KB)
- [Procedure Committee](#)

The DExEU Minister, Chris Heaton-Harris was responding to concerns raised by the Committee about how the Government would operate the new system to sift and scrutinise delegated legislation readying the statute book for EU exit.

Minister confirms commitment to Written Statements

The Minister confirmed to the Committee that in every case where the Government disagrees with a recommendation made by the European Statutory Instruments Committee (ESIC) in the Commons, or the Secondary Legislation Scrutiny Committee (SLSC) in the Lords, a Minister will make a Written Ministerial Statement in the appropriate House before proceeding to legislate.

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The Government had previously planned to provide this information to Parliament as part of explanatory memoranda accompanying the legislation. The Committee felt that this fell well short of what Ministers had offered during the passage of the European Union (Withdrawal) Act.

Chair's comment

"I welcome the Minister's commitment given today. It confirms to the Committee and members of both Houses that the assurances given from the Government Despatch Boxes during the passage of the Act will be met in full. The Procedure Committee takes its duty to Parliament seriously and will continue to ensure that the wishes of Parliament are respected."

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