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Y Gweinidog Tai a Llywodraeth Leol
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Llywodraeth Cymru
Welsh Government

Elin Jones MS
Llywydd and Chair of Business Committee
Senedd Cymru
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09 February 2021

Dear Elin,

I am writing to provide further information about how the Welsh Government envisages that Senedd business should proceed during the pre-election period and that the exercise of the powers under sections 5 and 6 of the Welsh Elections (Coronavirus) Bill would work in practice.

Senedd business during the pre-election period

Business Committee has agreed that during the pre-dissolution period, the Senedd should only be recalled for business relating to:

- urgent and significant Coronavirus related decisions; or
- postponement of the Senedd election.

It would be helpful for Business Committee to discuss the treatment of other urgent and significant developments of the type which saw a recall of the Senedd during the pre-election period ahead of the 2016 election.

In asking for a recall we would be mindful of balancing the need for the Welsh Government to be held to account for decisions by the Senedd with the platform that scrutiny would provide for Members which would not be available to other candidates.

We would welcome Business Committee's views on the treatment of regulations. During the pre-election period there will be no formal requirement for scrutiny by the Legislation, Justice and Constitution Committee (as during the Recess the timescales for reporting are paused) or for Senedd agreement during that period to regulations made under the made affirmative procedure. The arrangements for approval of such Regulations before they automatically fall would otherwise be a matter for the next Senedd and Government to consider immediately after the election, however, the balance between scrutiny and election fairness is also relevant here. Consideration of regulations during the pre-election period might require flexible arrangements including potentially the suspension of Standing Orders to allow debate of a motion without due notice.

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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.

We will publish our pre election guidance for Welsh Government civil servants as soon as possible, but I would like to reassure you that the fundamental principles will remain the same as for previous elections. Changes will recognise and reflect the specific circumstances of the pandemic. It is unlikely that the details of the guidance will significantly influence considerations by the Business Committee and the Senedd Commission beyond the details we have already confirmed around treatment of correspondence.

It is important that Members and candidates are treated on as equal a basis as possible during the pre-election period. To that end, we are of the view that Written Questions should not be tabled during that period.

Section 5 power – postponement of Senedd election for up to six months

Under section 5 of the Bill, the First Minister may propose that the Senedd election be postponed. Except in the most extreme circumstances, I anticipate that the First Minister and our officials will be in continuous dialogue with you and your officials on a confidential basis, to supplement the regular updates I have agreed to provide to the Senedd, so that the exercise of this power does not come as a surprise.

The First Minister intends to continue to offer regular briefings to the leaders of the main opposition parties in the Senedd, throughout the pre election period, and will invite you to join these. This would give you and the First Minister a clear view of the likely reaction of other parties to a proposal to defer the election (and hence the likelihood of it achieving the super-majority) before you put forward any proposal to fix a new date.

As I have indicated to the Senedd already, we would like to be able to make a decision in a timely fashion and we would hope that any recommendation from the First Minister to postpone the election would be made in advance of the Easter recess. Our three-weekly review process for Coronavirus regulations includes consideration of the public health context for the election, and we will also align decision-making to the extent possible with key election timetable decision points including the notice of election, as well as to decision-making elsewhere in the UK. But, of course, we must also prepare for a decision to be made closer to polling day if that is necessary.

If the First Minister decides to exercise the power, his intention is that he would write to you, providing details about the considerations he has made of the public health situation, the challenges associated with the administration of the election, and the effect on voters, enclosing separate advice from the Welsh Government's Chief Medical Officer, and indicating the preferred window for holding the postponed poll. The First Minister would simultaneously lay a Written Statement enclosing the same information.

It would then be for you to decide whether or not to recall the Senedd and put a motion to Members asking for agreement to your fixing a new date for the poll. If supermajority agreement was obtained, you would be under a duty to lay a statement. If not, you could decide to put a new motion to the Senedd; this would not require fresh intervention by the First Minister although we would of course be happy to assist in any way with your consideration of this option.

It is important that Business Committee discusses contingency planning for a situation where more sitting weeks may be available for the Fifth Senedd, and to reach agreement on the types of business which could be taken forward during that period. I would be grateful if our officials could work together to prepare further advice for Members on this.

Section 6 power – further variation of Senedd election date

Under section 6 of the Bill, you may propose a new date for the election which is one month earlier or later than a date you have fixed under section 5. If you propose this, the Welsh Government will liaise with Buckingham Palace regarding the proclamation to be made by Her Majesty dissolving the Senedd and requiring the election to be held on the new date. The wording of the proclamation will be based on that to be set out in the forthcoming Senedd Cymru (Letters Patent and Proclamations) Order 2021.

The Welsh Government will arrange for the proclamation agreed by Her Majesty to be passed under the Welsh Seal as soon as possible, and published in the Gazettes; we will of course need to coordinate the arrangements for wider communication to Members, those involved in the election and the people of Wales.

We are in discussion with Buckingham Palace about the practicalities and I will provide further information about any other issues which arise from those discussions as appropriate.

I welcome the ongoing work between our officials on these matters and I would also be happy to discuss them further with you directly.

I am copying this letter to the First Minister, to the Minister for Finance and Trefnydd, and to the Legislation, Justice and Constitution Committee. I will also lay a copy in the Senedd.

Yours sincerely,



Julie James AS/MS

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