

# Amending Standing Orders

## Definition of political groups

March 2021

In accordance with Standing Order 11.7(iv), the Business Committee is responsible for making recommendations on the general practice and procedures of the Senedd, including any proposals for the re-making or revision of Standing Orders.

This report recommends amendments to an amendment to Standing Order 1.3 regarding the definition of political groups.

The Senedd is invited to approve the proposals to amend the Standing Orders as at Annex A. The amended Standing Orders, if approved, are at Annex B.

This proposal does not have the unanimous support of the Business Committee. The proposal was made by Rebecca Evans MS (the Trefnydd) and supported by Sian Gwenllian MS who, in accordance with Standing Order 11.5(ii), together carry 39 votes on the Committee. Mark Isherwood MS and Caroline Jones MS, comprising a total of 14 votes, do not support the proposal and support retaining the current Standing Order. This report sets out both sets of views.



# Contents

<b>1. Background</b>	<b>3</b>
<b>2. Proposed amendment to Standing Order 1.3</b>	<b>4</b>
Case for amendment	4
Case against amendment	4
<b>3. Decision</b>	<b>6</b>
<b>Annex A - Proposed changes to Standing Order 1.3, and explanatory notes</b>	<b>7</b>
<b>Annex B - Standing Order 1, as amended</b>	<b>9</b>
<b>Annex C - Guidance for inclusion in the Llywydd's Guidance on the Proper Conduct of Senedd Business issued under Standing Order 6.17</b>	<b>10</b>

## 1. Background

**1.** Section 24(5) of the Government of Wales Act 2006 requires the Senedd to make provision in Standing Orders for the determination of whether any Member belongs to a political group, and if so, to which political group. It provides that Standing Orders may include provision for the number of Members who must belong to a political group in order for it to be recognised as a group.

**2.** Standing Order 1.3 currently states that:

*For the purposes of the Act, a political group is:*

- (i) a group of Members belonging to the same registered political party having at least three Members in the Senedd; or*
- (ii) three or more Members who, not being members of a registered political party included in Standing Order 1.3(i), have notified the Presiding Officer of their wish to be regarded as a political group.<sup>1</sup>*

**3.** Standing Order 1.4 states that:

*The Presiding Officer must decide any question as to whether any Member belongs to a political group or as to which political group he or she belongs.<sup>2</sup>*

**4.** There is currently no discretion for the Presiding Officer, nor anyone else, to determine whether or not a group exists. The Llywydd's role – in relation to a group seeking to form under Standing Order 1.3(ii) – is limited to confirming that the new group complies with the Standing Order, by its Members not being Members of a registered political party which has already formed a group under Standing Order 1.3(i).

**5.** The definition of groups has a wide-ranging bearing upon the operation of the Senedd, including in relation to the membership of the Senedd Commission and Business Committee, the organisation of plenary business, and the membership of Senedd Committees and legislative scrutiny process.

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<sup>1</sup> Senedd, [Standing Orders of the Welsh Parliament](#), 1.3

<sup>2</sup> Senedd, [Standing Orders of the Welsh Parliament](#), 1.4

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## 2. Proposed amendment to Standing Order 1.3

**6.** The Fifth Senedd has seen unprecedented fluidity in the membership, formation and dissolution of political groups. There have been changes in the relative sizes of the two largest groups in the Senedd without an executive role, a number of changes in the party or group affiliation of some Members, and some groups have been dissolved and new ones established.

**7.** A majority of the Business Committee believes that this level of fluidity is undesirable and should be addressed through an amendment to Standing Order 1.3, as set out at Annex A.

**8.** The proposed associated guidance for the Llywydd to utilise in determining whether a group could be formed under the amended Standing Order 1.3(ii) is set out at Annex C.

### **Case for amendment**

**9.** Business Managers in favour of the amendment consider that it would ensure that Senedd groups would normally have a clear democratic mandate, being made up of Members of a registered political party which had won a seat or seats in the previous election. They consider that this would facilitate the Senedd in reflecting the political opinion of voters at the most recent Senedd election.

**10.** Business Managers in favour of the amendment also consider that the amended Standing Order would create greater stability for the Senedd, as it would limit the formation of new political groups, other than in exceptional circumstances.

**11.** Business Managers in favour of the amendment also consider that amending Standing Order 1.3(ii) to provide the Llywydd with discretion to allow the formation of groups would provide the necessary flexibility for the Senedd's political make-up to respond to exceptional circumstances, citing 'a split in a registered political party, a national crisis or a major event that changed political affiliations' as examples.

### **Case against amendment**

**12.** The Business Managers opposed to the amendment consider that it would be a barrier to the free and democratic expression of Members' political views between Senedd elections, in the event that their position diverged from that of their group during the course of a Senedd term. They do not consider it the role of the Senedd's Standing Orders to constrain a Member's ability to leave their party

and group, or to form a new group should they wish to do so. Rather, they consider that it is for the electorate to hold Members accountable for their actions at subsequent elections.

**13.** Business Managers opposing the amendment also consider that ossifying the group structure based on the previous Senedd election results could, over a five-year period, result in the Senedd becoming detached from, and less relevant to, the political landscape in Wales. They consider that the political events in Wales and the UK during the current Senedd, and ability to accommodate group changes, show that the current Standing Orders work well in providing a framework within which political dynamics can be accommodated and reflected within the Senedd.

**14.** Business Managers opposing the amendment did so because it would prevent independent Members from automatically being able to form a group. Business Managers opposing the amendment consider that while independent Members might have contrasting political views, they could still have enough of a common philosophy and shared objectives to form a group for the purposes of Senedd business. They also noted that many other parliaments have provisions that allow independent Members to form groups.

### 3. Decision

**16.** The Business Committee formally agreed the changes to Standing Orders on 16 March 2021. The Senedd is invited to approve the proposals at Annex B.

# Annex A – Proposed changes to Standing Order 1.3, and explanatory notes

## Standing Order 1 – Members

Political Groups	Retain heading
<p>1.3 For the purposes of the Act, a political group is:</p> <p>(i) a group of <u>at least three</u> Members belonging to the same registered political party <u>that won at least one seat at the previous Senedd election having at least three Members in the Senedd</u>; or</p> <p>(ii) three or more Members <del>who, not being members of a registered political party included not satisfying the criteria</del> in Standing Order 1.3(i), who have notified the Presiding Officer of their wish to be regarded as a political group, <u>and satisfied the Presiding Officer that exceptional circumstances apply.</u></p>	<p><b>Amend Standing Order</b></p> <p>The proposed amendments will have the effect of:</p> <ul style="list-style-type: none"> <li>▪ Limiting the ‘automatic’ creation of groups to those consisting of Members belonging to the same registered political party that won a seat or seats in the most recent Senedd general election ;</li> <li>▪ Enabling three or more Members who do not satisfy the criteria in Standing Order 1.3(i) to be recognised as a group if the Presiding Officer is satisfied that exceptional circumstances apply.</li> </ul>
<p><u>1.3A</u> The Presiding Officer must issue guidance to Members under Standing Order 6.17 on the interpretation and application of Standing Order 1.3(ii).</p>	<p><b>Introduce New Standing Order</b></p> <p>The new Standing Order requires the Presiding Officer to issue written guidance to Members on the interpretation of Standing Order 1.3(ii). In accordance with Standing Order 6.17, that guidance must be issued following consultation with the Business Committee.</p>

1.4 The Presiding Officer must decide any question as to whether any Member belongs to a political group or as to which political group he or she belongs.	<b>Retain Standing Order</b> Standing Order included for information.
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## Annex B – Standing Order 1, as amended

### **Political Groups**

- 1.3 For the purposes of the Act, a political group is:
- (i) a group of at least three Members belonging to the same registered political party that won at least one seat at the previous Senedd election; or
  - (ii) three or more Members not satisfying the criteria in Standing Order 1.3(i), who have notified the Presiding Officer of their wish to be regarded as a political group, and satisfied the Presiding Officer that exceptional circumstances apply.
- 1.3A The Presiding Officer must issue guidance to Members under Standing Order 6.17 on the interpretation and application of Standing Order 1.3(ii).
- 1.4 The Presiding Officer must decide any question as to whether any Member belongs to a political group or as to which political group he or she belongs.

## Annex C – Guidance for inclusion in the Llywydd’s Guidance on the Proper Conduct of Senedd Business issued under Standing Order 6.17

### **Political groups**

Standing Order 1.3(i) defines a political group as a “group of at least three Members belonging to the same registered political party that won at least one seat at the previous Senedd election”.

Standing Order 1.3(ii) provides that, in exceptional circumstances, the Llywydd may recognise three Members not satisfying the criteria in Standing Order 1.3(i) as a political group.

Examples of exceptional circumstances include (but are not limited to) a split in a registered political party, a national crisis, or a major event that changes political affiliations. By-elections may also change the Senedd’s political make-up in a way that makes it appropriate to recognise a new group.