

A recall mechanism for poorly performing Members of the Senedd

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Reference: SR22/ 2618

Petition Number: P-06-1267

Petition title: Create a recall mechanism for poorly performing Members of the Senedd

Text of petition: We call on the Senedd to urge the Welsh Government to introduce a mechanism where constituents are able to recall their MS and call a subsequent by-election, similar to the mechanism introduced by The Recall of MPs Act 2015. If a Member of the Senedd fails in his/her duty a mechanism should be in place to replace him/her.



1. Background

There is currently only a recall procedure for MPs in the Westminster Parliament. No such procedure exists in the Senedd, the Scottish Parliament or the Northern Ireland Assembly. In the House of Commons procedure, constituents cannot trigger a recall of their MP. This power lies with the Speaker of the House, and relies on certain conditions being met.

1.1. Disqualification from the Senedd

The Government of Wales Act 2006, as amended by the Wales Act 2017, sets out rules for when a person is disqualified from being a Member of the Senedd. Under Section 16 and schedule 1A of the Act, a person is disqualified from being a Member under the following conditions:

- Is under the age of 18;
- Doesn't fulfil citizenship criteria;
- Has been declared bankrupt;
- Has been found guilty of corrupt or illegal practices at elections;
- Has been imprisoned or detained followed convictions (minimum 12 month sentence); or
- Has been subject to orders under part 2 of the Sexual Offences Act 2003.

A person is also disqualified from being a Member of the Senedd if they are already an existing member of other UK legislatures.

If a Member of the Senedd is disqualified, that person ceases to be a Member and their seat becomes vacant. For constituency vacancies, by-elections are held. If a Member of the Senedd vacating a regional list seat was elected from a party list, the Member who fills the seat must be from that list.

1.2. The UK Recall of MPs Act 2015

The Recall of MPs Act 2015 is a UK Act which came into force on 4 March 2016. The Act does not allow constituents to trigger a recall process. Instead, the Speaker of the House of Commons must notify the local returning officer (known

in this process as the petitions officer), if one of three conditions are met. These are:

- Conviction in the UK of any offence and sentenced or ordered to be imprisoned or detained (if the sentence is over 12 months they are automatically disqualified from being an MP under the Representation of the People Act 1981);
- Suspension from the House following report and recommended sanction from the Committee on Standards (minimum 10 sittings days suspension); or
- Convicted of an offence under section 10 of the Parliamentary Standards Act 2009.

The petitions officer will then arrange for the recall petition to be open for six weeks. At least 10% of eligible registered voters in the constituency are required to sign the petition for it to be successful. People are permitted to campaign for or against the recall petition, with spending limits in place and regulated by the Electoral Commission. If the 10% threshold is reached, the petition officer informs the Speaker, the seat becomes vacant, and a by-election is required. The disqualified MP is allowed to stand in the subsequent by-election.

Since it came into force, recall petitions under the Act have been triggered on three occasions. Two of these reached the required 10% threshold, and both MPs involved lost their seat.

2. Welsh Parliament action

In 2014 the Constitutional and Legislative Affairs Committee carried out an inquiry into disqualification from the National Assembly. However, the Committee did not address any recall mechanism for Members. The Commissioner for Standards handles complaints against individual members of the Senedd.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.