

# Reforming our Senedd

## A stronger voice for the people of Wales

May 2022



The Welsh Parliament is the democratically elected body that represents the interests of Wales and its people. Commonly known as the Senedd, it makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

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# **Reforming our Senedd**

A stronger voice for the  
people of Wales

May 2022



# About the Committee

The Committee was established on 6 October 2021. Its remit can be found at: [www.senedd.wales/SeneddReform](http://www.senedd.wales/SeneddReform)

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Current Committee membership:



**Committee Chair:  
Huw Irranca-Davies MS**  
Welsh Labour



**Jayne Bryant MS**  
Welsh Labour



**Jane Dodds MS**  
Welsh Liberal Democrats



**Elin Jones MS**  
Plaid Cymru



**Siân Gwenllïan MS**  
Plaid Cymru

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The following Member was also a member of the Committee during this inquiry:



**Darren Millar MS**  
Welsh Conservatives

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The following policy advisers attended and contributed to committee meetings:

- Geraint Day (Plaid Cymru)
- Owen John (Labour)
- Roger Pratt (Conservative)
- Neil Schofield-Hughes (Liberal Democrat)

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## Chair's foreword

The last few years have taught us much. Politics matters. How we do our politics matters too. Our democracy is precious and it must be nurtured and improved. This report seeks to do that: it sets out a cross party plan for a strengthened parliament to represent the people of Wales and a route map to getting us there. This reform is essential and it is achievable before 2026.

This committee's report stands on the foundations established by the Expert Panel on Electoral Reform and the Committee on Senedd Electoral Reform.

In taking forward our responsibilities, we did not seek to replicate the volume of evidence previously gathered through public consultation and expert deliberation. Rather, we sought to come forward with a cross party proposition on where we go now on electoral reform.

Nevertheless, we are extremely grateful to the wide range of stakeholders who assisted us during the course of our deliberations. Quite simply, it would have been impossible for us to reach our conclusions without their help. An announcement by the Cooperation Agreement parties on 10 May 2022 also informed this Committee's discussions, though the decisions detailed in this report were ours to take.

I am also immensely grateful to my fellow Members, who constantly and constructively engaged with this challenging work. Inevitably we have had a range of views on different issues related to Senedd Reform, some of which have resulted in minority positions (detailed in this report). Nevertheless, there has consistently been a striking will on all sides to try to understand others' positions, and to identify common ground. I would also like to thank our former Committee colleague, Darren Millar, for his many thoughtful contributions to the Committee's deliberations over the past seven months, before his late resignation towards the very final stage of our deliberations.

On behalf of the whole committee, I would also like to thank the integrated team of officials who have provided exemplary service to us. Our task could not have been achieved without the often unseen support of these remarkable public servants.

In our report we have concluded that the Senedd's size should be increased to 96. This is about recognising that the Welsh Government makes critical decisions which affect the lives of millions of people in Wales, and those decisions need to be scrutinised effectively.

We have also recommended a range of measures to increase the diversity of the Senedd, to enable it to better reflect diversity of Wales. This includes the introduction of legislative gender quotas, addressing the underrepresentation of a majority group in Wales.

We have brought forward detailed proposals on our electoral system, addressing the widespread public dissatisfaction with the current Mixed Member Proportional system, whereby we have some Members elected via first past the post, and others via Proportional Representation.

This report is far from the end of the journey to delivering Senedd reform. The next phase - the development of a Welsh Government Bill to effect these legislative changes – will need to be addressed without delay. That legislation must then successfully pass through parliamentary scrutiny before any boundary review processes can begin. The case for change is urgent. Here we have an opportunity to make a difference to generations to come. Completing these steps in advance of the 2026 elections is essential to take our democracy forward, and deliver for the people of Wales. This change is essential and it is achievable before 2026. To this end, we have tabled without delay a motion for a plenary debate on this report (for 8 June 2022). We believe this will provide a clear mandate for the Welsh Government to commence work on legislation to give effect to the recommendations in this report.

We believe that this will in turn provide a clear path to reforming our legislature, thereby providing a stronger voice for the people of Wales.

## Recommendations

- Recommendation 1.** We recommend that Senedd reform is implemented in time for the next scheduled Senedd election in 2026. As a result some aspects will need to be delivered on an interim basis. ....Page 18
- Recommendation 2.** We recommend that the Senedd have 96 Members. ....Page 23
- Recommendation 3.** We recommend that the new size of the Senedd is specified in primary legislation. ....Page 23
- Recommendation 4.** We recommend that the Senedd’s Business Committee and Welsh Government consider how cross-party consideration can be facilitated on the question of whether any increase in the size of the Welsh Government would be appropriate, balanced against the need for enhanced scrutiny. This consideration should then inform the development of legislation to provide for a Senedd of 96 Members. ....Page 24
- Recommendation 5.** We recommend that consideration is given to the question of whether the Senedd should have flexibility through its Standing Orders to elect more Deputy Presiding Officers should it so wish. This consideration should then inform the development of legislation to provide for a Senedd of 96 Members.....Page 25
- Recommendation 6.** We recommend that consideration is given to the question of whether the Senedd should have flexibility through its Standing Orders to elect more than four Members of the Senedd Commission should it so wish. This consideration should then inform the development of legislation to provide for a Senedd of 96 Members. ....Page 25
- Recommendation 7.** We recommend that the Senedd is elected using closed proportional lists. ....Page 34
- Recommendation 8.** We recommend that seats are allocated to parties using the D’Hondt formula. ....Page 37
- Recommendation 9.** We recommend that vacancies arising between elections under the closed proportional list system are filled through the next candidate on a party’s list.....Page 39
- Recommendation 10.** We recommend that the Senedd’s Business Committee gives consideration to the consequences of a Member changing their political party if elected through a closed proportional list system. ....Page 40

- Recommendation 11.** We recommend that the Senedd should be elected with integrated statutory gender quotas. .... Page 44
- Recommendation 12.** We recommend that a legislative requirement is placed upon a devolved Welsh Authority to collect and prominently publish anonymised candidate diversity data..... Page 45
- Recommendation 13.** We recommend that further consideration should be given, on a cross-party basis, to exploring the feasibility and legislative challenges associated with enabling election on the basis of job sharing..... Page 48
- Recommendation 14.** We recommend that the Senedd’s Business Committee considers the practical and procedural issues associated with the two Members job sharing a particular role (such as that of a Committee Chair)..... Page 48
- Recommendation 15.** We recommend that a relevant committee considers how further work can best be undertaken on examining the merits and implications of legislative diversity quotas for characteristics other than gender. We anticipate that this consideration will inform decisions on whether such quotas may, in time, provide effective mechanisms for encouraging the election of a more diverse Senedd, at an appropriate time in the future..... Page 51
- Recommendation 16.** We recommend that Senedd reform legislation includes provisions that encourage each political party standing candidates in a Senedd election to prominently publish a diversity and inclusion strategy, setting out how it has sought to facilitate diversity within its candidates, at least six months prior to the scheduled Senedd election. .... Page 51
- Recommendation 17.** We recommend that the Welsh Government takes appropriate steps to ensure that our recommendations on Senedd reform for 2026 are not put at undue risk of a Supreme Court referral. .... Page 53
- Recommendation 18.** We recommend that the 2026 election uses the final 32 UK Parliament constituencies proposed by the Boundary Commission for Wales once it has concluded its 2023 Parliamentary Review. These constituencies are to be paired to create 16 new multi-member constituencies. .... Page 63
- Recommendation 19.** We recommend that although the Senedd’s constituencies are initially aligned to those of the UK Parliament constituencies for the purpose of the 2026 election, they must not be automatically co-terminous. .... Page 64

**Recommendation 20.** We recommend that the power to review Senedd boundaries, including the power to define multi-member constituencies for the 2026 election should be conferred on the Local Democracy and Boundary Commission for Wales..... Page 67

**Recommendation 21.** We recommend that the Senedd Reform legislation should take steps to reconstitute and rename the Local Democracy and Boundary Commission for Wales to reflect its new functions. This should include any appropriate adjustments to its configuration, governance, staffing and financial resourcing. .... Page 67

**Recommendation 22.** We recommend that a full boundary review should be instigated in this Senedd term, with its recommendations to take effect from the 2031 Senedd election. .... Page 69

**Recommendation 23.** We recommend that Senedd reform legislation includes a requirement for full boundary reviews to be undertaken on a periodic basis, with limited appropriate provisions for interim reviews if necessary. .... Page 70

**Recommendation 24.** We recommend that Senedd reform legislation includes timescales for the processes involved in a full review of the Senedd’s boundaries..... Page 70

**Recommendation 25.** We recommend that the number of Senedd constituencies is specified as 16 in primary legislation. .... Page 73

**Recommendation 26.** We recommend that primary legislation should specify that each constituency should return the same number of Members of the Senedd..... Page 75

**Recommendation 27.** We recommend that Senedd reform legislation should provide that local authority wards are used as the basic building blocks for designing constituencies and that a boundary commission should not normally divide electoral wards between constituencies. .... Page 76

**Recommendation 28.** We recommend that primary legislation should specify as parameters for boundary reviews that Senedd constituencies are to contain a broadly equal number of electors, a tolerable variation in the electorate per constituency and other relevant parameters. .... Page 78

**Recommendation 29.** We recommend that the boundary commission’s recommendations should be implemented without a requirement for Senedd approval and with government ministers having no power to amend such recommendations, other than if requested by the boundary commission to correct errors. .... Page 79

**Recommendation 30.** We recommend that a Welsh Government Bill on Senedd reform requires the Welsh Ministers to make, within a realistic but rapid timescale, subordinate legislation to give effect to boundary commission recommendations. .... Page 79

**Recommendation 31.** We recommend that Senedd reform legislation includes provisions to enable a streamlined boundary review, for the purpose of defining the proposed 16 multi-member constituencies. This should be completed in sufficient time to enable the implementation of its recommendations, and for electoral administrators and political parties to make necessary preparations ahead of the 2026 election. .... Page 81

## 1. Introduction

We are the Special Purpose Committee on Senedd Reform, a cross-party committee of Members of the Senedd established on 6 October 2021, with a remit to:

- consider the conclusions previously reached by *the Committee on Senedd Electoral Reform* in the Fifth Senedd; and
- by 31 May 2022, to make recommendations for policy instructions for a Welsh Government Bill on Senedd reform.

### Our establishment

1. In establishing our Committee, the Senedd also resolved that, where a vote was necessary to dispose of business, voting in the Special Purpose Committee on Senedd Reform would operate as follows:

- the chair may vote only in the exercise of a casting vote;
- the Llywydd may not vote;
- all other members of the Committee may vote and, if they belong to a political group, each member carries one vote for each member of the political group to which they belong (including himself or herself and the Presiding Officer and Deputy if they are members of his or her political group);
- a resolution to agree recommendations to the Senedd must be passed on a vote in which the members voting in favour carry at least 40 votes.

### Our approach to our work

2. We conducted our work in three distinct phases:

- **Phase One:** we identified where there was common ground between the policy positions of our respective political parties, in relation to the Committee on Senedd Electoral Reform’s conclusions on:
  - the Senedd’s size and associated electoral system;
  - the establishment of ongoing boundary and seat apportionment review arrangements; and
  - legislative measures to encourage diversity.
- **Phase Two:** based upon these identified areas of common ground, we gathered further information necessary for us to develop our policy proposals;
- **Phase Three:** we developed recommendations for policy instructions for a Welsh Government Bill on Senedd reform.

3. The Welsh Conservatives were represented on the Committee until Darren Millar MS resigned on 10 May 2022, during our Phase Three discussions.

## Our predecessors

4. In taking forward our work we were indebted to the information and evidence base previously compiled by our immediate predecessors: the Expert Panel on Assembly Electoral Reform (“the Expert Panel”) and the Committee on Senedd Electoral Reform (“CSER”).

### The Expert Panel on Assembly Electoral Reform

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5. The Wales Act 2017 devolved powers to the Senedd in relation to its size and electoral arrangements. In February 2017, in anticipation of such powers coming into effect, the Senedd Commission established the Expert Panel.

6. The Expert Panel’s report, *A Parliament that works for Wales*<sup>1</sup>, recommended 20 to 30 additional Members, elected through a more proportional electoral system with accountability to electors and diversity at its heart. A number of the Panel’s recommendations concerning the Senedd’s electoral franchise (that is, who is eligible to vote in Senedd elections) were previously addressed under the Senedd and Elections (Wales) Act 2020.

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<sup>1</sup> Expert Panel, *A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform*, November 2017.

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## The Committee on Senedd Electoral Reform

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**7.** The Committee on Senedd Electoral Reform was established to examine the recommendations of the Expert Panel. It published its report, *Senedd reform: The next steps*<sup>2</sup> in September 2020.

**8.** The Committee agreed with the Expert Panel that the size of the Senedd should be increased to 80-90 Members, though it stated that this would “need to be informed by decisions on the particular electoral system and boundary models around which political consensus may be built.”<sup>3</sup> It stated that the majority of the evidence it had heard “expressed concern over whether a 60 Member Senedd has sufficient capacity to fulfil its responsibilities effectively.”<sup>4</sup> The Committee heard evidence opposing an increase in Members, but stated that “this was generally because of concerns about potential costs rather than arguments that the current number of Members is appropriate.”<sup>5</sup>

**9.** Having considered the merits of the three electoral system options proposed by the Expert Panel, CSER agreed that Members of the Senedd should be elected by the Single Transferable Vote (‘STV’) system. As guiding principles, it stated that any system should be simpler for voters to complete their ballots, voters should be able to “express nuanced choices between named candidates”<sup>6</sup> and that votes should produce broadly proportional outcomes.

**10.** CSER’s report noted that the Covid-19 pandemic curtailed its work exploring boundary review arrangements and that consequently it had not reached firm conclusions on the matter. However, CSER found it “anomalous and unsustainable”<sup>7</sup> that there was no legislative mechanism in place for reviewing the Senedd’s boundaries. On this basis, it recommended that legislative proposals should be brought forward to establish review arrangements and that responsibility for such review should rest with an independent boundary review body.

**11.** The Committee also made a range of recommendations related to encouraging the election of a more diverse Senedd. These included:

- calling for section 106 of the Equality Act 2010 to be commenced in respect of elections in Wales to oblige political parties to collect, anonymise and publish

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<sup>2</sup> CSER, *Senedd reform: the next steps*, September 2020.

<sup>3</sup> CSER, *Senedd reform: the next steps*, September 2020, paragraph 46.

<sup>4</sup> CSER, *Senedd reform: the next steps*, September 2020, paragraph 22.

<sup>5</sup> CSER, *Senedd reform: the next steps*, September 2020, paragraph 28.

<sup>6</sup> CSER, *Senedd reform: the next steps*, September 2020, paragraph 88

<sup>7</sup> CSER, *Senedd reform: the next steps*, September 2020, paragraph 149.

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candidates' diversity data, or alternatively, for political parties to do this on a voluntary basis;

- the establishment of a cross-party working group to explore in detail the feasibility of enabling election on the basis of job sharing;
- the establishment of an access to elected office fund to support people with disabilities to stand for election, with consideration being given to extending eligibility for such funding to other underrepresented groups;
- exempting expenses relating to the costs of a candidate's childcare or other caring responsibilities from election campaign spending limits;
- that in reaching a decision on whether to include legislative candidate gender quotas in their reform proposals, the Member-in-charge of any Senedd reform legislation should consider the extent to which such provisions would be within the Senedd's legislative competence; and
- that further work on diversity quotas in respect of characteristics other than gender should be undertaken to inform decisions on whether such quotas would be appropriate mechanisms to encourage the election of a more diverse Senedd.

## Our engagement with stakeholders

**12.** During Phase Two, we held a number of private meetings that were not limited by the Senedd's Standing Orders, in order to facilitate frank, open and interactive discussions with a range of stakeholders. We refer to such meetings in this report as 'private meetings.'

**13.** We also invited stakeholders that had previously provided information to our predecessors to update such information if they wished, but otherwise we did not wish to replicate this evidence base. Rather, we utilised this information as a platform for developing agreement across our respective political parties.

**14.** We are very grateful to all the stakeholders who engaged with us as we gathered information necessary for us to develop our policy proposals. Without their contributions it would have been impossible for us to complete this challenging piece of work.

**15.** Annex 1: Private meetings with stakeholders. details our private meetings with various stakeholders.

**16.** Annex 2: List of written information details persons and organisations who submitted written information to the Committee, after we asked if they would wish to update information previously submitted to our predecessors.

## 2. Timescales

The road to Senedd reform has already been a long one, and there are still many miles to go. But we unanimously believe it to be both possible and desirable for the majority of the reforms set out in this report to be implemented in time for the 2026 elections.

**Recommendation 1.** We recommend that Senedd reform is implemented in time for the next scheduled Senedd election in 2026. As a result some aspects will need to be delivered on an interim basis.

**17.** We recognise that this will require a tight and challenging timetable. For illustrative purposes, we have developed the following indicative timetable:

Process	Deadline
<b>Our report</b>	May 2022
<b>Welsh Government introduces a Bill for Senedd reform</b>	July-September 2023
<b>Bill receives Royal Assent</b>	May 2024
<b>Commencement of boundary review</b>	May 2024
<b>Boundary review completion</b>	April 2025 Provides one year to introduce an instrument to implement boundary review recommendations, for electoral administrators and political parties to prepare for election
<b>Senedd Elections</b>	May 2026

### 3. Size

Today's Senedd is a very different institution to the one established in 1999. Then, it had no primary law-making powers and was not formally separated from the Welsh Government. Now, it is responsible for making laws, agreeing Welsh taxes and holding the Welsh Government to account in some of the areas which have the greatest impact on people's lives in Wales.

#### The size of the Senedd

**18.** Accordingly, discussions around the size of the Senedd are not new. In 2004, the Richard Commission recommended an increase in Members as part of the separation of the executive and legislature, and the move towards becoming a primary law-making body.<sup>8</sup>

**19.** The Expert Panel likewise considered that the size of the Senedd should be increased to

*"at least 80 Members, and preferably closer to 90 Members, to ensure that the parliament... has sufficient capacity to fulfil its policy, legislative and financial scrutiny responsibilities, and that Members can also undertake their representative, campaigning, political and other roles."<sup>9</sup>*

**20.** Similarly, CSER considered that:

*"Legislation should be introduced early in the Sixth Senedd to increase the size of the Senedd [...] increasing the number of Members to a figure more appropriate for the legislature's responsibilities would lead to corresponding increases in the effectiveness and impact of the Senedd's scrutiny and oversight work. In a larger institution there could be greater potential for engagement with people and stakeholders across Wales, more scope for Members to specialise and build expertise, more opportunities for creative and strategic thinking, a more resilient committee system, and the chance to*

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<sup>8</sup> [Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, Report of the Richard Commission, Spring 2004](#), page 259

<sup>9</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, Recommendation 1, page 28

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*develop a more positive and constructive political culture which facilitated more cross-party and collaborative working. Such improvements could contribute to improved legislation, more effective policy and spending decisions, better value for money, and most importantly, better outcomes for the people and communities of Wales.*"<sup>10</sup>

**21.** The Expert Panel also commented that while increasing the size of the Senedd to 80 Members would have benefits in terms of its capacity to deliver scrutiny, these benefits would increase further at the upper end of the 80-90 range, stating:

*"A figure close to 80 would undoubtedly strengthen the institution and make it better able to fulfil its responsibilities effectively. However, at the upper end of our range, the benefits would be greater, providing a more meaningful difference in the ability of many Members to specialise, with consequent benefits for scrutiny and representation. The upper end of the range would also lessen the risk that the question of capacity would need to be revisited in the foreseeable future, should the responsibilities of the Assembly increase further."*<sup>11</sup>

**22.** The Expert Panel also considered the merits of increasing the size beyond 90, commenting at the time that:

*"We recognise that the potential public concern about the costs of an increase would grow. On the other hand, we also recognise that the benefits in terms of capacity and potential specialisation would continue to rise. However, in our view, the marginal gains would diminish quite rapidly. We are not, therefore, persuaded that the benefits for enhanced scrutiny of an Assembly of more than 90 Members would necessarily outweigh the resultant increase in costs."*<sup>12</sup>

**23.** CSER similarly recommended that the size of the Senedd should be increased "to between 80 and 90 Members."<sup>13</sup>

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<sup>10</sup> CSER, *Senedd reform: the next steps*, September 2020, Recommendation 1 and paragraph 43

<sup>11</sup> Expert Panel, *A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform*, November 2017, paragraph 3.15

<sup>12</sup> Expert Panel, *A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform*, November 2017, paragraph 3.16

<sup>13</sup> CSER, *Senedd reform: the next steps*, September 2020, Recommendation 1

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**24.** We noted that since these two reports were published, there have been a range of changes in the political landscape of Wales, including:

- increased responsibilities for the Welsh Government and the Senedd, primarily arising from the UK's withdrawal from the EU;
- increased public awareness of the role of the Senedd in holding the Welsh Government to account, primarily as a result of the Covid-19 pandemic;
- changes in ways of working, prompted by the Covid-19 pandemic, which could potentially reduce some of the financial costs associated with increasing the number of Members of the Senedd; and
- confirmation that the number of Welsh MPs will be reduced from 40 to 32.

### **Our view**

**25.** We believe that changes in the political landscape now make it more appropriate to consider a chamber larger than that proposed by the Expert Panel in 2017.

**26.** We believe an increase beyond 90 is essential to future-proof the Senedd's capacity to scrutinise the Welsh Government's increasing powers and responsibilities. We believe the size of the Senedd must not be a constraint upon future decisions around the devolution of powers. For example, we note that the Commission on Justice in Wales previously commented in 2019 that at the time it "would find it difficult to see how there could be proper scrutiny of a Justice Department or of Bills relating to justice if there was no increase in the size of the Assembly."<sup>14</sup>

**27.** We believe an increase will provide greater opportunity for individual Members to prepare for scrutiny, to conduct background research and engage with the people of Wales to better represent their concerns. Currently, it is common for Members to sit on multiple Committees, with both policy and legislative scrutiny responsibilities.<sup>15</sup> Many also have additional responsibilities: of the Senedd's 60 Members, currently only 26 are not a Minister; Llywydd; Deputy Presiding Officer; Party Leader; Business Manager; Senedd Commissioner or Committee Chair.<sup>16</sup> An increase in the Senedd's capacity will enable Members to specialise in an area of policy and legislative scrutiny, to build up greater expertise and knowledge in holding the

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<sup>14</sup> ~~The Commission on Justice in Wales, Justice in Wales for the people of Wales~~, October 2019, paragraph 12.83

<sup>15</sup> As of 16 May 2022, even excluding membership of the Committee for the Scrutiny of the First Minister, the Special Purpose Committee on Senedd Reform and Business Committee, 18 Members sit on 2 committees; and 3 Members sit on 3 committees.

<sup>16</sup> Figure calculated by Senedd Commission officials on 16 May 2022.

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Government to account. We believe that improved scrutiny will result in better governance, more effective policy, more efficient spending, and to better legislation.

**28.** We believe an increase would also recognise the Senedd's increasing role in monitoring and scrutinising UK-wide common frameworks,<sup>17</sup> international agreements (including trade agreements) and UK legislation which affect the interests of Wales.<sup>18</sup>

**29.** The Members on our Committee, have therefore unanimously agreed that the size of the Senedd should be increased to 96 Members.

**30.** We acknowledge that 96 goes beyond the range originally recommended by the Expert Panel, but believe this to be a proportionate adjustment, in light of the wide array of changes in the political landscape of Wales, since the Expert Panel reported. We also believe that increasing the Senedd's capacity to 96 will future proof and mitigate against debates about the appropriate devolution of powers being curtailed by the limits of the Senedd's capacity.

**31.** We also note that 96 Members will still put the Senedd below the size of many of its international comparators. In their 2013 report, *Size Matters*, the UK's Changing Union Project and Electoral Reform Society Cymru had previously undertaken detailed work on the size of the Senedd in an international context. This found that across the EU, the average number of Members for an equivalent legislature would be "around 140 Members."<sup>19</sup>

**32.** A Senedd of 96 Members will mean that there will be one Member per 33,021 people in Wales.<sup>20</sup> The UK's Changing Union and Electoral Reform Society Cymru previously noted in their 2013 *Size Matters* report that by way of comparison:

*"For countries up to 10 million [people] it is [on average] one [Member] per 22,122 [people], and for those in the population range of 1-6 million it is one [Member] per 23,566 [people]."*<sup>21</sup>

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<sup>17</sup> These are 26 intergovernmental agreements setting out how the UK's governments will work together and make decisions in areas previously governed or coordinated at EU level, such as air quality, food safety and cross-border health threats.

<sup>18</sup> In early March 2022, the Welsh Government had laid legislative consent memorandums for 17 UK bills in the Sixth Senedd, covering around 360 clauses and schedules. By comparison, in the first year of the Fifth Senedd (May 2016 to May 2017), the Welsh Government had laid consent memorandums for 10 bills, covering only about 80 clauses and schedules.

<sup>19</sup> UK's Changing Union and Electoral Reform Society Cymru, [Size Matters: making the National Assembly more effective](#), 2013

<sup>20</sup> Population of Wales estimated as 3,170,000 [Population estimates for the UK, England and Wales, Scotland and Northern Ireland - Office for National Statistics \(ons.gov.uk\)](#)

<sup>21</sup>

**Recommendation 2.** We recommend that the Senedd have 96 Members.

**33.** We have also considered whether the size of the Senedd should be specified in primary or secondary legislation.

**34.** In the UK, the usual approach is that the total number of Members is set out in primary legislation. This is currently the case for the UK Parliament, the Scottish Parliament and the Northern Ireland Assembly. This means that the total number of members cannot be varied by any other means other than primary legislation.

**35.** Technically, it would be possible to allow a boundary commission to suggest varying the number of members by a certain number (i.e. with minimum/maximum limits) in order to help achieve equality of representation. This was historically the case for the House of Commons, where the total number of constituencies was not fixed in primary legislation. The number of constituencies in Great Britain (England, Wales, and Scotland) had to “not be substantially greater or less than 613,”<sup>22</sup> of which at least 35 had to be in Wales.<sup>23</sup>

**36.** However, we unanimously believe it would not be appropriate for a matter of such constitutional importance to be varied through subordinate legislation.

**Recommendation 3.** We recommend that the new size of the Senedd is specified in primary legislation.

## The size of the Welsh Government

**37.** The Government of Wales Act 2006 currently limits the number of Welsh Ministers and their deputies to twelve persons.

**38.** We anticipate that our recommendations on an increased size of the Senedd may result in consideration of whether there should be an associated change to this limitation.

**39.** We noted that on this issue, the Expert Panel said that the Senedd should:

*“exercise restraint in the way it makes use of any increase in the size of the institution—for example in relation to... the maximum size of the Welsh Government—in order to ensure that the potential benefits for the quality*

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Assembly more effective, 2013

<sup>22</sup> Parliamentary Constituencies Act 1986, Schedule 2, 1(1)

<sup>23</sup> Parliamentary Constituencies Act 1986, Schedule 2, 1(3).

*and quantity of scrutiny are realised and additional costs are kept to an absolute minimum."*<sup>24</sup>

**40.** The Expert Panel also commented that it had:

*"...received nothing arguing for an increase in the number of Ministers, and we do not believe that there is a compelling case for such an increase. Indeed, should the Assembly choose to legislate to increase the limit on the number of Ministers in line with any increase in the size of the Assembly, the additional scrutiny capacity gained would be significantly affected."*<sup>25</sup>

**41.** Building on this, CSER said that:

*"To inform decisions on whether any increase in the size of the Senedd should be accompanied by a pro rata increase in the limit on the number of Welsh Ministers and Deputy Ministers, the Welsh Government should commission academic research into the structure and capacity of the Welsh Government, including the allocation of responsibilities among Ministers and Deputy Ministers."*<sup>26</sup>

## **Our view**

**42.** The primary purpose of an increase in size must be to enable an improved level of parliamentary representation, legislation and scrutiny of government.

**43.** We recognise that the Government may wish to make a case for an associated increase in the size of the Government too, particularly if there is a change to the devolution settlement. We anticipate that any such proposal would need to be carefully considered, proportionate and subject to detailed legislative scrutiny. The time constraints of our work have meant that it has not been possible for us to come to a conclusion on this issue. Nevertheless, we believe that this should not be a decision for government alone, because any increase in its size will mean a corresponding decrease in the Senedd's capacity for delivering scrutiny.

**Recommendation 4.** We recommend that the Senedd's Business Committee and Welsh Government consider how cross-party consideration can be facilitated on the question of whether any increase in the size of the Welsh Government would be appropriate, balanced

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<sup>24</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, Recommendation 3, page 89

<sup>25</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 8.28

<sup>26</sup> Committee on Senedd Electoral Reform, [Senedd Reform: The Next Steps](#), Recommendation 3, page 41.

against the need for enhanced scrutiny. This consideration should then inform the development of legislation to provide for a Senedd of 96 Members.

### **The number of Deputy Presiding Officers and Senedd Commissioners**

**44.** We believe that it should be for the Senedd to determine how to best make use of the additional capacity we have recommended.

**45.** The Government of Wales Act 2006 currently requires that the Senedd elect a Presiding Officer and Deputy Presiding Officer.

**46.** An argument can be made that the Senedd should have flexibility through its Standing Orders to elect more Deputy Presiding Officers should it so wish (and any criteria relating to the party to which they may come from).

**Recommendation 5.** We recommend that consideration is given to the question of whether the Senedd should have flexibility through its Standing Orders to elect more Deputy Presiding Officers should it so wish. This consideration should then inform the development of legislation to provide for a Senedd of 96 Members.

**47.** The Government of Wales Act 2006 currently also requires that the Senedd appoint the Llywydd and four other Members of the Senedd as Members of the Senedd Commission. An argument can be made that the Senedd should have flexibility through its Standing Orders to appoint additional Members of the Senedd Commission, should it so wish.

**Recommendation 6.** We recommend that consideration is given to the question of whether the Senedd should have flexibility through its Standing Orders to elect more than four Members of the Senedd Commission should it so wish. This consideration should then inform the development of legislation to provide for a Senedd of 96 Members.

## 4. Electoral System

Electoral systems are one of the fundamental building blocks of democracy, determining how an individual's right to vote relates to the ultimate composition of their political representatives.

**48.** To assess which systems might be most suitable for Senedd elections, the Expert Panel established key principles (Annex 3: Key principles of the Expert Panel on Assembly Reform) against which it evaluated a range of different electoral systems.

**49.** CSER said it heard no evidence which persuaded it that the principles set out by the Expert Panel did not continue to provide a suitable framework upon which to develop proposals for reform of the Senedd's electoral arrangements<sup>27</sup>.

**50.** The electoral systems which met the Expert Panel's principles were:

- Mixed Member Proportional ('MMP');
- Single Transferable Vote ('STV'); and
- Flexible List Proportional Representation.

**51.** In addition, we decided to consider the feasibility of a Closed List Proportional Representation system. Although this was not one of the Expert Panel's recommended systems, we considered that this had a number of potential benefits.

**52.** We did not give consideration to First Past the Post as a viable option, on the basis that it would be less proportional than current electoral system (MMP), and was unlikely to encourage diversity of representation.

### Mixed Member Proportional

**53.** The Mixed Member Proportional system currently used in Senedd elections met the Expert Panel's key principles and was its 'status quo' option.

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<sup>27</sup> CSER, *Senedd reform: the next steps*, September 2020, paragraph 85, page 56

**54.** CSER said that only one party advocated the current MMP system during its work.<sup>28</sup> It also said that stakeholders had raised concerns about the extent to which voters fully understood the way in which the system operates, criticised the inherent disproportionality in the First Past the Post element of the system, and suggested that the system gives too much control to parties rather than voters.

**55.** The strengths and limitations of MMP, as previously identified by the Expert Panel, are summarised in Table 1: Strengths and limitations of MMP.

**Table 1: Strengths and limitations of MMP**

Strengths	Limitations
<ul style="list-style-type: none"> <li>▪ Expert Panel’s modelling indicated broad proportionality, which suggested expectation would be relatively stable coalition governments.</li> <li>▪ Expert Panel’s modelling under D’Hondt suggested the results would be at least as proportional as the current system based on 40 constituencies returning one Member, and five electoral regions returning seven to nine Members.</li> <li>▪ First Past The Post (constituency) Members retain direct link between single local representative and a constituency.</li> <li>▪ Measures to support and encourage diversity of representation could be integrated into the system, for example candidate quotas or list zipping.</li> <li>▪ Voters can separately vote for a constituency candidate and a party for their region.</li> <li>▪ Apportionment of seats to regions could be on the basis of</li> </ul>	<ul style="list-style-type: none"> <li>▪ Closed lists for regional Members can result in confusion about whether individual Members are accountable to voters or party.</li> <li>▪ Two different routes for election can result in tension between Members and confusion for voters.</li> <li>▪ Closed regional lists limits voter choice of regional candidates.</li> <li>▪ Regional Members each represent a larger electorate than constituency Members.</li> <li>▪ Without either substantial boundary review work or the number of regional Members exceeding the number of constituency Members, the maximum size of the Senedd is limited to 80.</li> </ul>

<sup>28</sup> CSER, *Senedd reform: the next steps*, September 2020, paragraph 67, page 47

Strengths	Limitations
<p>electorate numbers, or take account of local political geography.</p> <ul style="list-style-type: none"> <li>▪ System has been used since 1999 in Wales, and is familiar to voters.</li> </ul>	

### Our view

**56.** We unanimously concluded that if the size of the Senedd was to increase, it would be desirable to change the current electoral system.

**57.** MMP is not a viable system for a Senedd of more than 80 Members without either increasing the number of constituencies or having a larger number of regional Members than constituency Members. We do not consider either of the possibilities to be desirable, and also noted that it would be impossible to increase the number of constituencies in time for the 2026 election.

**58.** Our own experience of the current MMP system is also that regional Members cover very large geographic areas, while constituency Members receive a disproportionate share of constituency casework. This disparity in casework between constituency and regional Members has similarly arisen in Scotland, leading us to believe that this is a structural consequence of a system that elects both constituency and regional Members.

**59.** We also believe that the current system’s requirement of separate ballot papers for constituency and regional votes creates undesirable complexity.

**60.** We also consider that the significant element of ‘first past the post’ within the MMP system does not facilitate proportionality.

### Single Transferrable Vote

**61.** STV was the Expert Panel’s preferred electoral system, if their recommendations on legislative interventions to support and encourage diversity of representation were implemented.

**62.** Having considered the Expert Panel’s report, CSER also recommended that legislation should be introduced to elect Members of the Senedd by STV. It was the only electoral system recommended by CSER. The strengths and limitations of STV, as previously identified by the Expert Panel, are summarised in Table 2: Strengths and limitations of STV.

**Table 2: Strengths and limitations of STV**

Strengths	Limitations
<ul style="list-style-type: none"> <li>▪ Expert Panel’s modelling indicated broad proportionality, which suggested expectation would be relatively stable coalition governments.</li> <li>▪ Expert Panel’s modelling suggested that the outcomes in Wales would be more proportional than the current system, given the parameters it set for district magnitudes.</li> <li>▪ Maximises power of voters to express nuanced preferences for individual candidates (including independent candidates) rather than parties.</li> <li>▪ Members returned for each constituency would have a direct constituency link with their electorate.</li> <li>▪ All Members are elected by the same route and have the same mandate.</li> <li>▪ Measures to support and encourage diversity of representation could be integrated into the system, for example candidate quotas.</li> <li>▪ Maximises voter choice, enabling voters to express as many or as few nuanced preferences as they wish.</li> <li>▪ Increased proportionality at a constituency level increases the potential for voters to be represented by a local representative of their choice.</li> <li>▪ Might be used in future Welsh local elections.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Voting by ranking preferences is unfamiliar in Wales.</li> <li>▪ Method of translating votes into seats could be perceived as complex.</li> <li>▪ Maximises power of voters to express nuanced preferences for individual candidates (including independent candidates) rather than parties. It can be argued that this could lead to an imbalance in Members’ focus on constituency matters to the detriment of other elements of their roles.</li> </ul>

**63.** In a private meeting with us on 23 March 2022, Professor David Farrell noted that while STV was sometimes seen as complex:

*"it's a bit like a washing machine- if it's not working, I rely on an engineer to come and fix it, but all I need to know is which button to press and where the powder goes. With any electoral system, the voters don't need to know about the droop quota or whether it's the Gregory method for transferring surpluses [...] all the voter needs to know is that there is a ballot paper and they rank 1, 2, 3, etc."*<sup>29</sup>

**64.** Professor Alan Renwick commented that there was also positive evidence to be drawn from the experience of countries that already used STV, where it was widely seen to work well.<sup>30</sup>

**65.** Professor David Farrell also commented that electronic counting systems were not integral to the use of STV (noting that the Republic of Ireland already used STV without electronic counting systems). A key element of counting STV votes is the transfer of votes between candidates on the basis of voter preferences. There are various methodologies available to determine which votes are transferred. Professor Farrell outlined that if there was a desire to minimise the level of chance in deciding, which votes were transferred; it would be possible to utilise rules for the transfer of votes (weighted inclusive Gregory) which required electronic counting systems.<sup>31</sup>

### **Our view**

**66.** A minority in our committee (Jane Dodds MS) favoured the introduction of STV as the Senedd's new electoral system. She considered that STV would enable broad proportionality, facilitate voters in expressing preferences for individual candidates across party lines, provide for all Members to be elected on an individual mandate and maximise voter choice (by being able to indicate as many or as few preferences as they wished). She noted that under the existing system, voters are able to vote both for an individual constituency Member and for a party list: STV would allow voters to continue to exercise that choice. She did not believe that a compelling case had been made for moving away from the recommendations of the Expert Panel and CSER in favour of STV.

**67.** A second minority within our committee (Siân Gwenllïan MS) also favoured the introduction of STV as the Senedd's new electoral system. However, in the spirit of achieving the supermajority required to deliver Senedd reform, including the transformative measure of an

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<sup>29</sup> Private meeting of Special Purpose Committee on Senedd Reform, 23 March 2022

<sup>30</sup> Private meeting of Special Purpose Committee on Senedd Reform, 23 March 2022

<sup>31</sup> Private meeting of Special Purpose Committee on Senedd Reform, 23 March 2022

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expanded and more proportional Senedd in time for the 2026 Senedd election, she considered that a proportional list system would also have acceptable merits in a way that the current MMP system - incorporating as it did a substantial element of first past the post - did not.

**68.** As a result, a majority of Members did not favour this option. Concerns expressed by this majority included that voting by ranked preferences was an unfamiliar system in Wales and that the method of translating votes into seats would be seen as complex and difficult to explain. A concern was also expressed that an incentive to appeal to supporters of other candidates for their second and further preferences could have the unintended effect of limiting public debate, or proposing policy alternatives. It was also noted that a potential unintended consequence of STV was that parties might potentially vary the number of Members that they stood in particular constituencies, to maximise the likelihood of votes being cast for its Members. It was also noted that because the public would be able to make nuanced preferences between candidates, under STV the public could potentially favour candidates of one gender over another, which could impact on the application of gender quotas (which are recommended in chapter 5), or otherwise any quotas that parties might voluntarily choose to adopt.

## Proportional Representation Lists

**69.** A Flexible List Proportional Representation electoral system was the Expert Panel's "viable alternative"<sup>32</sup> to STV, if their recommendations on legislative interventions to support and encourage diversity of representation were not implemented.

**70.** The strengths and limitations of a Flexible List electoral system, as recognised by the Expert Panel, are summarised in Table 3: Strengths and limitations of a Flexible List electoral system.

**Table 3: Strengths and limitations of a Flexible List electoral system**

Strengths	Limitations
<ul style="list-style-type: none"> <li>▪ Expert Panel's modelling indicated broad proportionality.</li> <li>▪ Members returned for each constituency would have a direct constituency link with their electorate.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Voters would cast only one vote, but the choice between voting for a party or for a candidate could potentially cause confusion.</li> <li>▪ Method of translating votes into seats won by a party, and which candidates take up those seats, could be perceived as complex,</li> </ul>

<sup>32</sup> Expert Panel, *A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform*, November 2017, page 104

Strengths	Limitations
<ul style="list-style-type: none"> <li>▪ All Members are elected by the same route and have the same mandate.</li> <li>▪ Measures to support and encourage diversity of representation could be integrated into the system, for example candidate quotas or requirements for lists to be zipped.</li> <li>▪ Voters have flexibility to choose either a party or an individual candidate, providing a balance between voter choice and party influence.</li> </ul>	<p>although an outcome by which parties win broadly the same proportion of votes and seats could equally be seen to be simple.</p> <ul style="list-style-type: none"> <li>▪ Degree of voter choice is influenced by the level at which the threshold for candidates' personal votes is set and the campaign strategies adopted by parties.<sup>33</sup></li> </ul>

**71.** We also considered the possibility of a closed list proportional representation system, while noting that it was one of the electoral systems rejected by the Expert Panel, on the basis that they were “not confident [it] could adequately deliver”<sup>34</sup> against their principles.

**72.** The strengths and limitations of a Closed List electoral system, as recognised by the Expert Panel, are summarised in Table 4: Strengths and limitations of a Closed List electoral system.

**Table 4: Strengths and limitations of a Closed List electoral system**

Strengths	Limitations
<ul style="list-style-type: none"> <li>▪ Familiar to voters.</li> <li>▪ Single route to election for all Members.</li> <li>▪ Could secure high proportionality.</li> <li>▪ Could facilitate strong, cohesive political parties.</li> </ul>	<ul style="list-style-type: none"> <li>▪ No choice for voters between individual candidates.</li> <li>▪ No accountability for individual Members directly to voters.</li> </ul>

<sup>33</sup> The Flexible List system developed by the Expert Panel was of the ‘threshold’ form. Under this system, parties determine the order in which candidates’ names appear on the ballot paper. If no candidate receives sufficient personal votes to meet a specified candidate threshold, the party’s preferred order is the order in which candidates take up any seats won by the party. If a candidate’s personal votes pass the threshold, she or he moves to the top of the list. If several candidates pass the threshold, they are ordered by the number of votes they have each received.

<sup>34</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 13.01

Strengths	Limitations
<ul style="list-style-type: none"> <li>▪ Could enable parties to implement arrangements to prioritise particular groups of candidates.</li> <li>▪ Potential, if combined with diversity measures, to remove the risk of one gender being favoured above the other by the electorate (compared to flexible list).</li> </ul>	

### Our view

**73.** A majority of Members on our Committee, representing a legislative supermajority within the Senedd as a whole, favoured the introduction of a proportional list system. It was noted that this system would provide a single route to election for all Members and would enable a proportionate election of Members.

**74.** This left us with a decision as to whether we would recommend a flexible or closed list system.

**75.** A minority in our Committee (Jane Dodds MS) did not favour the adoption of closed lists, believing that they would reduce choice for voters and concentrate too much power in the hands of party machines, and, in particular, believing that the adoption of closed lists would weaken the lines of accountability between an individual Member and their electorate. This minority accepted that there was a theoretical risk that not using closed lists could dilute the effect of gender quotas, but believed in practice that effect would be offset by the greater choice that an open system would offer, which would also allow voters who wished to express a preference for candidates with protected characteristics to do so.

**76.** A second minority in our Committee (Siân Gwenllian MS) favoured an open or flexible list proportional system. She noted that these systems would enable Members to be elected with an individual mandate, but simultaneously provide for a party to exert influence in the selection of its candidates. However, in the spirit of achieving a negotiated set of outcomes on the supermajority required to deliver Senedd reform, she considered that a closed list proportional system would be acceptable. She also considered that such a system would facilitate the introduction of statutory integrated gender quotas.

**77.** Consequently, a majority on our Committee, representing a legislative supermajority within the Senedd, favoured a closed list proportional system. This majority considered that

ballots used under a closed list proportional system would already be very familiar to voters (being akin to those currently used to elect Regional Members) and would facilitate strong, cohesive political parties. It was also noted that this system would readily integrate with the introduction of legislative gender quotas, and facilitate parties in putting forward a more diverse list of candidates on a broader basis.

**78.** This majority recognises that this system will not provide for the public to directly elect individual Members. However, it is considered that Members would ultimately still be accountable to the electorate, because their performance as individual Members will have a bearing upon the votes cast for their parties, which in turn will determine their likelihood of election.

**Recommendation 7.** We recommend that the Senedd is elected using closed proportional lists.

### The translation of votes into seats

**79.** A significant element of any list proportional electoral system is the formula which is used to translate votes into seat allocations. We have considered whether seats should be allocated to parties using the D'Hondt or Sainte-Laguë formulae.

**80.** For each round of voting (whereby a seat is awarded to the party with the most votes), the D'Hondt method divides the total number of votes received by each party by the number of seats they have already won, plus one. This means that once a party has won one seat, their total vote share is divided by two for the next rounds of voting (one seat, plus one). Once a party has won two seats, their total vote share will be divided by three (two seats, plus one), and so on.

**81.** The Sainte-Laguë method operates in much the same way as D'Hondt; the only difference being that a different formula is used to divide a party's total number of votes for each round. The Sainte-Laguë formula divides the votes by twice the number of seats already won, plus one. This means that where the D'Hondt divisors are 1, 2, 3, etc, the Sainte-Laguë divisors are 1, 3, 5, etc.

**82.** The tables below demonstrate how electoral outcomes may vary, depending on the system used. In both tables Party A is awarded 10,000 votes, Party B: 7,000, and Party C: 1,500, with a total of 6 seats available.

**Table 5: Simulation of three parties being allocated six seats using D’Hondt**

	Party A			Party B			Party C		
Total votes	10000			7000			1500		
	Divisor (seats won + 1)	Votes counted	Seat awarded?	Divisor (seats won + 1)	Votes counted	Seat awarded?	Divisor (seats won + 1)	Votes counted	Seat awarded?
Round 1	1	10000	1st	1	7000	No	1	1500	No
Round 2	2	5000	No	1	7000	2nd	1	1500	No
Round 3	2	5000	3rd	2	3500	No	1	1500	No
Round 4	3	3333	No	2	3500	4th	1	1500	No
Round 5	3	3333	5th	3	2333	No	1	1500	No
Round 6	4	2500	6th	3	2333	No	1	1500	No
<b>Total seats</b>	<b>4</b>			<b>2</b>			<b>0</b>		

**Table 6: Simulation of three parties being allocated six seats using Sainte-Laguë**

	Party A			Party B			Party C		
Total votes	10000			7000			1500		
	Divisor (2x seats won, +1)	Votes counted	Seat awarded?	Divisor (2x seats won, +1)	Votes counted	Seat awarded?	Divisor (2x seats won, +1)	Votes counted	Seat awarded?
Round 1	1	10000	1st	1	7000	No	1	1500	No
Round 2	3	3333	No	1	7000	2nd	1	1500	No
Round 3	3	3333	3rd	3	2333	No	1	1500	No
Round 4	5	2000	No	3	2333	4th	1	1500	No
Round 5	5	2000	5th	5	1400	No	1	1500	No
Round 6	7	1429	No	5	1400	No	1	1500	6th
<b>Total seats</b>	<b>3</b>			<b>2</b>			<b>1</b>		

## Our view

**83.** A minority of Members on our Committee (Jane Dodds MS) favoured the use of the Sainte-Laguë formula, considering that Sainte-Laguë would offer greater proportionality and more accurately reflect the votes cast for smaller parties. This minority considered that the rationale for the D'Hondt formula under the existing Senedd electoral system – which was essentially to correct disproportionality in the constituency election results – would not apply in a Senedd that did not contain a mix of single-member constituencies and lists. She also noted that Expert Panel's modelling had previously suggested the Sainte-Laguë formula would produce more proportional outcomes than the current electoral system. She noted that the Expert Panel's modelling had previously indicated that the D'Hondt electoral formula generally produces outcomes which are less proportional than those using the Sainte-Laguë formula, and sometimes less proportional than the current electoral system.

**84.** A second minority of Members on our Committee (Siân Gwenllïan MS) also favoured the use of the Sainte-Laguë formula. However, in the spirit of achieving the supermajority required to deliver Senedd reform, she considered that allocating seats to parties via the D'Hondt formula would be acceptable and would be more proportional than the current system of election to the Senedd.

**85.** Consequently, a majority on our Committee, representing a legislative supermajority within the Senedd, considered that seats should be allocated to parties using the D'Hondt formula. It was noted that this is the formula currently used for allocating regional seats to parties, and therefore has some familiarity.

**Recommendation 8.** We recommend that seats are allocated to parties using the D'Hondt formula.

## Vote Thresholds

**86.** The Expert Panel previously noted that higher district magnitudes create greater potential for proportionality, and that if constituencies become too big, it can result in 'hyperproportionality.'<sup>35</sup> Hyperproportionality describes the circumstance whereby a party that gained a very low level of public support nevertheless secures seats in the legislature- and thereby the legitimacy of elected platform. In such circumstances this very limited portion of the public may be seen to be given a disproportionate voice – especially as such parties may sometimes be in a strong bargaining position to influence government formation and policy.

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<sup>35</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 10.19

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Hyperproportionality creates a fragmentation of representation which tends to result in difficulties in forming stable governments.

**87.** There are two potential mechanisms to guard against hyperproportionality. The first is simply to limit the maximum district magnitude of a constituency. For this reason, the Expert Panel previously concluded that:

*"... constituencies should return at least four Members. Ideally they should return no more than six Members, although a small number of seven seat constituencies may be tolerable."<sup>36</sup>*

**88.** The second mechanism would be to set a minimum percentage of votes for a constituency being gained, in order for a party to be eligible to have seats allocated to it under the D'Hondt formula.

**89.** As set out in Chapter 7, we have recommended that key parameters of future boundary reviews are that the Senedd has 16 constituencies, each returning the same number of Members. As such, we have not considered it necessary to recommend either tolerable variations of district magnitude, or a threshold of votes being necessary for a party to have seats allocated to it under the D'Hondt formula.

## Other matters associated with a closed proportional list system

### Ballot Papers

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**90.** We have not sought to make recommendations on the design of ballot papers arising from a closed proportional list system. However, in general terms we would anticipate that at least some of the names of parties' individual candidates will appear on the ballot papers for voters' information.

### Vacant seats

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**91.** If a vacant seat arises (for example, due to a Member resigning or passing away) under a closed proportional list system we would anticipate that this would be filled through the next candidate on a party's list gaining that seat. Given that this will be a proportional system, we would see little merit in a by-election being run.

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<sup>36</sup> Expert Panel, *A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform*, November 2017, paragraph 10.21

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**Recommendation 9.** We recommend that vacancies arising between elections under the closed proportional list system are filled through the next candidate on a party's list.

### **Changes of political party**

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**92.** We recognise that Members may potentially change political party during the course of a Senedd term. This could occur voluntarily, such as by a Member leaving one party for another. It could also happen involuntarily, such as by a Member being expelled from their party.

**93.** We recognise that an argument can be made that under a closed proportional list system, an elected Member, having been elected on a party list, should not then be able to switch party outside of an election. A counter-argument can be made that the electorate may reasonably expect their representatives to exercise judgment on their behalf: which may include leaving or changing party if the representative believes this to be in the electorate's interest.

**94.** We note that some form of sanction against Members changing party could be seen to have a number of advantages, such as:

- greater parliamentary stability and order, as a result of a less volatile political composition during a parliamentary term;
- making it more likely that the parliament would continue to reflect the views expressed by electors at the time of the preceding election;
- strengthened party leadership; and
- a degree of protection for smaller political groups, which could cease to exist due to Members leaving.

**95.** We also note that there would be a range of potential disadvantages to such a sanction, such as:

- prohibiting individual Members from leaving their party if they felt it no longer reflected the views of their electors (e.g. if it was reneging on manifesto commitments);

- prohibiting individual Members from dissenting from a party line (if expulsion from a party or group resulted in the same consequences as voluntarily leaving<sup>37</sup>) and expressing their personal political opinion; and
- ossifying the parliament so that it could not reflect potential changes in the political landscape since the last election.

**96.** We anticipate that this issue will need to be given further consideration alongside the development of legislation to provide for elections based on a closed proportional list system.

**Recommendation 10.** We recommend that the Senedd's Business Committee gives consideration to the consequences of a Member changing their political party if elected through a closed proportional list system.

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<sup>37</sup> It may be noted that if expulsion from a party did not have the same sanction as voluntarily choosing to leave a party, this could create an incentive for a Member who wished to change parties seeking to get themselves expelled, rather than voluntarily leave.

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## 5. Diversity Measures

In this chapter we have considered a range of measures that could help to increase the diversity of the Senedd.

**97.** From the outset of our initial discussions on common ground between our political parties, there was a clear desire to explore both legislative and non-legislative measures that could help to increase the diversity of the Senedd, and thereby enable it to better reflect the diversity of Wales. However, we recognised that in the course of this exploration we would necessarily also need to consider the Senedd’s legislative competence to pass legislation related to such matters. Our consideration of legislative competence is set out at the end of this chapter.

### Gender quotas

**98.** As part of its work, the Expert Panel considered how its proposals for electoral systems could support and encourage the election of a diverse legislature. The Expert Panel focused primarily on ways to support and encourage balanced gender representation.

**99.** Whilst the Expert Panel recognised that the Senedd had a “well-established international reputation for promoting gender equality”, it found that this reputation was “vulnerable” and that ‘reform of the electoral system provides an opportunity to embed equality into the future of political life in Wales”.

**100.** The Expert Panel recommended that prescriptive gender quotas should be integrated into the electoral system. It also said that such quotas should, as far as possible, include targets with embedded penalties and incentives. The Panel concluded that the Senedd has some scope to legislate in a way which encouraged gender-balanced representation, but stated that “there are significant constraints on its competence.”<sup>38</sup>

**101.** The Panel also proposed that if a gender quota was not implemented, either through lack of political will or competence reasons:

*“[...] political parties [should] be expected to take steps to ensure their candidate selection processes support and encourage the election of a*

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<sup>38</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 12.22

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*gender-balanced parliament for Wales. This should include the voluntary adoption by parties of the quotas we have outlined.*"<sup>39</sup>

**102.** CSER was likewise "persuaded by clear and compelling evidence that gender quotas [...] can increase the diversity of candidates."<sup>40</sup>

**103.** To help us develop our thinking on potential recommendations related to gender quotas we spoke with a number of stakeholders about their application.

**104.** The Equality and Human Rights Commission ("EHRC") noted that quotas are one tool in addressing under representation, but that there are other actions that could be taken that address some of the underlying barriers to achieving greater diversity. It also suggested that taking action for one protected characteristic would not necessarily mean representation would improve for other characteristics too. Whilst the Committee heard that seven out of the ten best performing countries for female representation do not use quotas, Dr Fiona Buckley and Dr Meryl Kenny identified that of these, many had a well-established system of voluntary party quotas.<sup>41</sup>

**105.** Other stakeholders considered that quotas drove action. For example, the Women's Equality Network ("WEN") suggested in a private meeting that quotas were "the single most effective tool"<sup>42</sup> to encourage representation of women in parliaments. Chwarae Teg likewise noted the value of legally binding quota to push forward action.<sup>43</sup>

**106.** Dr Fiona Buckley noted that after gender quotas were introduced in the Dáil Éireann (the House of Representatives in the Irish Parliament) in 2012, the next general election in 2016 saw a 40 per cent increase in the number of women elected. She also noted that by way of comparison, in local government and European elections in Ireland, where no such quotas were in place, the percentage of women selected did not meet the same thresholds as the quotas in place for Dáil Éireann elections.<sup>44</sup>

**107.** In developing quotas, Dr Meryl Kenny and Dr Fiona Buckley commented that we should think not only about the proportion of candidates but also the winnability of seats. For example, in a list system, if a party expected to win only one seat for a particular constituency, the 'top spot' in a list would be much more critical than whether the candidates below it were balanced.

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<sup>39</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, Recommendation 10, page 125

<sup>40</sup> CSER, [Senedd reform: the next steps](#), September 2020, paragraph 281

<sup>41</sup> Private meeting of Special Purpose Committee on Senedd Reform, 16 February 2022.

<sup>42</sup> Private meeting of Special Purpose Committee on Senedd Reform, 16 February 2022.

<sup>43</sup> Private meeting of Special Purpose Committee on Senedd Reform, 16 February 2022.

<sup>44</sup> Private meeting of Special Purpose Committee on Senedd Reform, 16 February 2022.

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They argued that we should aim for both vertical and horizontal parity of lists, both within each constituency and across the constituencies as a whole.<sup>45</sup>

**108.** Professor Mona Lena Crook advocated aiming for quotas as close to 50% as mathematically possible, and considered that financial sanctions for non-compliance with quotas were not as effective as candidates not being eligible if a list did not meet the required quota. She noted the value of using language in legislation that was gender-neutral, and not implying the women were 'the other.'<sup>46</sup>

### **Our view**

**109.** Our Committee unanimously concludes that legislative integrated gender quotas and mandatory zipping should be developed as part of the new list system. Whilst recognising that further discussion will be needed in the course of developing such quotas, we consider that this should include the rejection of candidate lists by Returning Officers as a sanction for non-compliance with legislative quotas.

**110.** In reaching this conclusion, we noted a range of advice on the Senedd's legislative competence to introduce gender quotas. It is evident that the issue of gender quotas is complex and could, depending upon the detail of the policy developed around these recommendations, raise a variety of competence issues that would need to be fully considered. We recognise that the ability of the legislation to deliver on this recommendation, as with all recommendations, is whether it can be delivered within the constraints of the Senedd's competence.

**111.** In determining whether a Senedd Bill relates to a reserved matter, we note that the purpose of the Bill is key. Therefore, when developing any proposal for gender quotas, the purpose of the proposal will have to be carefully considered.

**112.** The proposal for legislative gender quotas here is high level. Full consideration will need to be given to the detail of the policy that is developed around this recommendation and we recognise that only once the detail is known will it be possible to accurately assess the Senedd's legislative competence to legislate in this area. At the end of this chapter, we have recommended that the Welsh Government should take appropriate steps to ensure that our recommendations on Senedd reform for 2026 are not put at undue risk of a Supreme Court referral or other legal challenge. Subject to this, our Committee makes the following recommendation:

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<sup>45</sup> Private meeting of Special Purpose Committee on Senedd Reform, 16 February 2022.

<sup>46</sup> Private meeting of Special Purpose Committee on Senedd Reform, 16 February 2022.

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**Recommendation 11.** We recommend that the Senedd should be elected with integrated statutory gender quotas.

## Candidate Diversity Data

**113.** The Expert Panel's report noted that there is currently no requirement to collect or publish information about the diversity of candidates for Senedd elections, although parties may do so on a voluntary basis.

**114.** It noted that:

*"[d]uring the course of our work we sought data on Assembly election candidates to inform our thinking on electoral systems; such information is not readily available. The lack of such information presents a barrier for parties and for campaigners who seek to encourage and support the selection and election of diverse candidates and representatives."<sup>47</sup>*

**115.** It also noted that the publishing of candidate diversity information could usefully inform measures (legislative or otherwise) to encourage the election of a more diverse Senedd.

**116.** CSER likewise called for the publishing of candidate diversity information. It considered that the publication of such information could in-and-of-itself be a driver for parties to seek to be more diverse, commenting in its report that "transparency drives change."<sup>48</sup>

**117.** The power to require political parties to publish the diversity information of their electoral candidates is already on the statute book in section 106 of the Equality Act 2010 ("section 106"). However, the provision is not in force as it has never been commenced.

**118.** Both the Expert Panel and CSER called for section 106 to be commenced. In the absence of legislative provision, CSER called for political parties to collect, anonymise and publish candidates' diversity data on a voluntary basis.<sup>49</sup>

**119.** The power to commence section 106 resides with the UK Government. However, it has repeatedly resisted calls to commence the provision; most recently, during an International Women's Day debate in March 2022, where it was stated:

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<sup>47</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 12.05

<sup>48</sup> CSER, [Senedd reform: the next steps](#), September 2020, paragraph 195

<sup>49</sup> CSER, [Senedd reform: the next steps](#), September 2020, Recommendation 10

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*"The Government continue to keep Section 106 of the Equality Act 2010 under review but remain of the view that political parties should lead the way in improving diverse electoral representation through their own selection".<sup>50</sup>*

**120.** During our work, we noted that there is a requirement on local authorities in Wales to survey candidates within six months of local government elections<sup>51</sup>. The survey questions are prescribed in regulations made by the Welsh Ministers and may include questions about a candidate's protected characteristics. The survey was last updated in time for the local elections held on 5 May 2022.<sup>52</sup> Part 4 asks questions about a candidate's sex, age, caring responsibilities, ethnic group, religion and sexual orientation. Under the Local Government (Wales) Measure 2011, the Welsh Ministers must collate and publish the information within 12 months of a relevant local government election.

### **Our view**

**121.** Commencing section 106 is outside both the Senedd's and Welsh Government's direct control. It is also evident that there is little prospect of the provision being commenced by the current UK Government in the foreseeable future.

**122.** However, we have been advised that imposing duties on a devolved Welsh authority, such as Returning Officers for Senedd elections, to collect and publish diversity information in a way that does not modify the Equality Act 2010 could, with careful drafting, be within the legislative competence of the Senedd.

**123.** On this basis, we have unanimously concluded that it would be appropriate for Senedd reform legislation to include provision for the collection and publication of candidate diversity data.

**Recommendation 12.** We recommend that a legislative requirement is placed upon a devolved Welsh Authority to collect and prominently publish anonymised candidate diversity data.

### **Job Sharing**

**124.** The Expert Panel considered measures to embed 'family friendly working' in the Senedd's ethos. It recommended that:

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<sup>50</sup> [Hansard, Volume 820, House of Lords Grand Committee, 17 March 2022, Baroness Stedman-Scott](#)

<sup>51</sup> [Local Government \(Wales\) Measure 2011, Section 1](#)

<sup>52</sup> [The Local Election Survey \(Wales\) \(Amendment\) Regulations 2022](#)

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*"Electoral law and Assembly procedures [...] should be changed to enable candidates to stand for election on the basis of transparent job-sharing arrangements."<sup>53</sup>*

**125.** As part of this recommendation, the Panel stated that the guiding principle behind job-sharing should be that partners are treated as if they are one person and that the arrangement "should give rise to no additional costs beyond those of a single... Member."<sup>54</sup>

**126.** CSER likewise considered that:

*"[...] job sharing could help to remove barriers which might otherwise prevent some people from standing for election or serving as a Member of the Senedd."<sup>55</sup>*

**127.** While it found that job sharing in many professions and executive political roles was beginning to emerge, CSER acknowledged that election on the basis of job sharing would be novel. However, the Committee did not believe that job-sharing was insurmountable and suggested that consideration should be given to trialling job sharing on the basis of pilot schemes.

**128.** In particular, it recommended that:

*"A cross-party working group should be established early in the Sixth Senedd to explore in detail the feasibility of enabling election on the basis of job sharing and/or executive job sharing within the Welsh Government or other Senedd offices such as Llywydd, Commissioner, committee chair, or business manager."<sup>56</sup>*

## **Our view**

**129.** In considering the issue of job sharing, we have noted that job sharing could enable a greater diversity of candidates to stand for election, including those with family and caring responsibilities; those with disabilities; and those who are geographically based further away from the Senedd. We noted that it could have intersectional benefits, expanding the opportunity

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<sup>53</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, Recommendation 11, page 127

<sup>54</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 12.26

<sup>55</sup> CSER, [Senedd reform: the next steps](#), September 2020, paragraph 219

<sup>56</sup> CSER, [Senedd reform: the next steps](#), September 2020, Recommendation 11, page 111

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to become a Member of the Senedd to multiple communities, and to people of multiple communities.

**130.** We have also identified that the following issues would need to be resolved before an effective job-sharing system could be put in place:

- A 'dispute resolution mechanism' would need to be developed to determine how disputes between partners would be resolved.
- Leaving office: a decision would need to be taken on the position of a partner in the event of the other partner unexpectedly leaving office. Potentially, the remaining partner could have the option of remaining as an individual Member. Alternatively, in the event of one job partner leaving office, the position of Member could be considered vacant.
- Sanctions for misconduct would need to be considered in the light of job sharing partnerships. On the one hand, it could be considered unreasonable to penalise one partner for the actions or omissions of the other. On the other hand, it should not be possible to avoid the effects of any sanction imposed by transferring rights to the other partner.
- Information and data handling: the Partnership Members would need to be very clear with their constituents and others about the way in which data would be handled and who controlled it.

**131.** Finally, we have noted that while legislating to enable Members to job-share is likely to be within the Senedd's competence, the Llywydd has previously stated that she had received legal advice casting doubt on the Senedd's competence to legislate for Ministers to job-share.<sup>57</sup> Legislating only for Members to job-share could create a two-tier system of Members: those who job-shared, and those who were eligible to become Ministers.

**132.** Due to the limited timescale available to this Committee in formulating its recommendations, we do not believe we have sufficiently considered the feasibility of enabling election on the basis of job sharing to make a recommendation that provisions for such should be included in a Welsh Government Bill on Senedd reform.

**133.** Instead, we believe that further consideration of this issue should take place, to inform potential changes to legislation (to enable election on the basis of job sharing) or Senedd

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<sup>57</sup> Llywydd, Written Statement: The Commission's Assembly Reform priorities following the outcome of the public consultation, "Creating a Parliament for Wales", 18 July 2018

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Standing Orders and procedures (to enable job sharing of particular roles- such as that of a Committee Chair).

**134.** We anticipate that this could usefully take account of the job-sharing experiences of relevant local authorities in Wales, which will be required by the Local Government and Elections (Wales) Act 2021 to make provision in their executive arrangements to enable two or more members to share the office on an executive, including the office of executive leader.<sup>58</sup>

**Recommendation 13.** We recommend that further consideration should be given, on a cross-party basis, to exploring the feasibility and legislative challenges associated with enabling election on the basis of job sharing.

**Recommendation 14.** We recommend that the Senedd's Business Committee considers the practical and procedural issues associated with the two Members job sharing a particular role (such as that of a Committee Chair).

## Wider measures to increase diversity

**135.** The Expert Panel:

*"strongly believe[d] that the selection and election of a more diverse Assembly across the full range of protected characteristics<sup>59</sup> would enhance the operation of the Assembly, and the way it works for and represents the people of Wales."<sup>60</sup>*

**136.** However, it also considered that

*"[...] there is a distinction which can be drawn between gender and some other protected characteristics. For example, a specific ethnic group might be marginalised on the basis that they form a very small minority of the population within their constituency or within Wales... Nevertheless, women constitute 52 per cent of the adult population, and are, therefore, an underrepresented majority."<sup>61</sup>*

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<sup>58</sup> The Local Government and Elections (Wales) Act 2021, Section 58.

<sup>59</sup> For example: age, disability, race, religion, sexual orientation

<sup>60</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 12.07

<sup>61</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 12.07

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**137.** On this basis, the Expert Panel “focused primarily on ways to support and encourage balanced gender representation.”<sup>62</sup>

**138.** In addressing barriers to the selection and election of marginalised groups other than women, the Expert Panel said that these should be addressed through mechanisms such as political parties’ candidate selection processes, stating that:

*“[...] in selecting their candidates, parties should have regard to broader issues of diversity across all the protected characteristics, to help support and encourage the election of an Assembly which truly reflects the communities it serves.”*<sup>63</sup>

**139.** CSER’s said that it had not:

*“been able to gather sufficient evidence on which to reach a firm view as to whether diversity quotas would be an appropriate mechanism by which to achieve greater diversity within the Senedd.”*<sup>64</sup>

**140.** It also noted that:

*“the particular quota model recommended by the Expert Panel for an underrepresented majority in respect of gender will not necessarily be appropriate in respect of underrepresented minority groups.”*<sup>65</sup>

**141.** Professor Mona Lena Crook commented to us that there are international examples of quotas for the other protected characteristics. She highlighted, for example, that Tunisia applied two quotas simultaneously for gender and age, and that this had boosted the representation of young women. She also noted that quotas could potentially be embedded within quotas (for example, requiring a percentage of candidates to be below a particular age, and then a requirement for a percentage of those young people to be a particular gender). She also noted that such combinations of quotas could have unintended consequences (e.g. creating a Parliament made up of younger women and older men).<sup>66</sup>

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<sup>62</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 12.08

<sup>63</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 13.15

<sup>64</sup> CSER, [Senedd reform: the next steps](#), September 2020, paragraph 282

<sup>65</sup> CSER, [Senedd reform: the next steps](#), September 2020, paragraph 282

<sup>66</sup> Private meeting of Special Purpose Committee on Senedd Reform, 16 February 2022.

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**142.** In addition to recommending measures aimed at encouraging a more gender-balanced Senedd, CSER also recommended certain measures to address financial barriers to standing for election. For example, it recommended that:

- the Welsh Government should establish an Access to Elected Office Fund to support people with disabilities to stand for election, and that consideration should be given to extending eligibility for the fund to other underrepresented groups;
- consideration should be given to exempting disability-related expenditure from election campaign spending limits; and
- the Welsh Government should bring forward subordinate legislation to exempt expenses relating to the cost of a candidate's childcare or other caring responsibilities from election campaign spending limits.

**143.** We endorse these recommendations, which were previously accepted by the Welsh Government in its written response to the CSER report.<sup>67</sup>

**144.** During our work, we noted that a pilot Access to Elected Office Fund to support people with disabilities was in place for the Senedd elections in May 2021, and the local government elections in May 2022.<sup>68</sup> However, our understanding is that the fund was not available to other underrepresented groups. We also noted that while the Welsh Government has made regulations to exempt disability-related expenditure from election campaign spending limits,<sup>69</sup> the exemption does not yet extend to the cost of a candidate's childcare or other caring responsibilities.

**145.** We understand that there will be an evaluation period following the local government elections to reflect on the relative success of the pilot Access to Elected Office fund. Following such evaluation, our understanding is that the Welsh Government intends to develop a suite of measures to address financial barriers to standing for election in time for the next scheduled Senedd elections in 2026.

## **Our view**

**146.** The time constraints of our work have limited our opportunity to consider the implications of legislative quotas for protected characteristics other than gender.

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<sup>67</sup> Welsh Government [written response](#) to the CSER report, October 2020

<sup>68</sup> [Written Statement](#): Access to Elected Office Fund, 22 October 2021

<sup>69</sup> [The Representation of the People \(Election Expenses Exclusion\) \(Wales\) \(Amendment\) Order 2020](#)

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**147.** As a result, at the current time, we do not believe that we are in a position to recommend that quotas should be introduced for protected characteristics other than gender, and do not envisage such quotas being implemented alongside our recommendations for legislative gender quotas.

**148.** Instead, we do think that there is need for a further work to be undertaken within the Senedd, to look in detail at both legislative and non-legislative ways in which greater diversity in the Senedd can be achieved across a wider range of protected characteristics. We anticipate that a relevant committee will determine how this can best be given further consideration (for example, through an inquiry being undertaken by the Equality and Social Justice Committee).

**Recommendation 15.** We recommend that a relevant committee considers how further work can best be undertaken on examining the merits and implications of legislative diversity quotas for characteristics other than gender. We anticipate that this consideration will inform decisions on whether such quotas may, in time, provide effective mechanisms for encouraging the election of a more diverse Senedd, at an appropriate time in the future.

**149.** In addition, we believe it would be appropriate to take actions where possible to more broadly encourage diversity within the Senedd.

**150.** We concur with Dr Meryl Kenny's comment to us, in a private meeting, that a legislative gender quota should be seen as part of a wider strategy around diversity, inclusion and equality.<sup>70</sup> For example, we asked the EHRC whether political parties should be expected to develop diversity and inclusion strategies. They suggested going further, with a requirement to publish such strategies sending a wider message about the importance of inclusivity.<sup>71</sup>

**151.** However, to the extent that such proposals amount to encouragement of equal opportunities, we note that the equal opportunities reservation<sup>72</sup> does not allow the Senedd to legislate for such encouragement by prohibition or regulation.

**Recommendation 16.** We recommend that Senedd reform legislation includes provisions that encourage each political party standing candidates in a Senedd election to prominently publish a diversity and inclusion strategy, setting out how it has sought to facilitate diversity within its candidates, at least six months prior to the scheduled Senedd election.

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<sup>70</sup> Private meeting of Special Purpose Committee on Senedd Reform, 16 February 2022.

<sup>71</sup> Private meeting of Special Purpose Committee on Senedd Reform, 16 February 2022.

<sup>72</sup> As set out in paragraph 187 of [Schedule 7A to the Government of Wales Act 2006](#).

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## Management of legislative competence risks

**152.** In considering the measures detailed in this chapter, we were conscious that any Bill introducing diversity measures would have to be drafted in a way that does not relate to any reserved matter, including the reserved matter of 'equal opportunities'.<sup>73</sup> However, the equal opportunities reservation contains exceptions and there is scope for diversity measures to be adopted that either come within those exceptions or avoid the equal opportunities reservation entirely.

**153.** We were also conscious that without a detailed legislative proposal to consider, it is not possible to come to a definitive view as regards competence. At the time of any Bill's introduction, the Llywydd<sup>74</sup> must publish a statement indicating whether or not they consider that the Senedd has the power to make the Bill (a determination on the Senedd's legislative competence). As such, this report does not anticipate, prejudice or have a bearing upon the Llywydd's judgement in determining the legislative competence of any legislation on Senedd reform.

**154.** We also noted that if the Senedd passed legislation where its legislative competence was ambiguous, there is a risk that it could be referred to the Supreme Court. In the event of a referral, there is no option for the Senedd to amend a Bill while it awaits the Supreme Court's judgment.

**155.** To date, three Senedd Bills have previously been referred to the Supreme Court.<sup>75</sup> On average, the Supreme Court took 10 months to hand down judgment for each Bill from the time of its referral. Regardless of the outcome of any referral, a delay of 10 months would almost certainly mean that the legislation would not be passed in time to affect our intended reforms for the 2026 election.

**156.** At a private meeting on 9 February, Welsh Government officials concurred that a Supreme Court referral would likely "create significant delay."<sup>76</sup>

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<sup>73</sup> Under the [Government of Wales Act 2006](#), the Senedd cannot pass laws that relate to any of the matters reserved in Schedule 7A to the Act. Equal opportunities is a reserved matter under paragraph 187 of Schedule 7A.

<sup>74</sup> This may alternatively be undertaken by the Deputy Presiding Officer: Standing Order 6.18 states that "In the absence or at the request of the Presiding Officer, the Deputy must exercise the functions of the Presiding Officer, so far as permitted by the Act."

<sup>75</sup> [The Recovery of Medical Costs for Asbestos Diseases \(Wales\) Bill](#), the [Local Government Byelaws \(Wales\) Act 2012](#), and the [Agricultural Sector \(Wales\) Act 2014](#).

<sup>76</sup> Private meeting of Special Purpose Committee on Senedd Reform, 9 February 2022.

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## **Our view**

**157.** Consideration of the legislative competence risks associated with our various proposals is set out in the sub-sections of this chapter above.

**158.** However, as an overarching comment, it is vital the other Senedd reforms we have proposed for 2026 are not put at risk by a Supreme Court referral.

**Recommendation 17.** We recommend that the Welsh Government takes appropriate steps to ensure that our recommendations on Senedd reform for 2026 are not put at undue risk of a Supreme Court referral.

## 6. Constituency boundaries for the 2026 Senedd election

Our recommendations on the Senedd's size and electoral system will necessarily require changes to the Senedd's boundaries for the 2026 election.

**159.** The following chapter (Chapter 7) sets out our proposals for reviewing all of the Senedd's electoral boundaries (a 'full boundary review') on a periodic basis after the 2026 election. However, the current absence of a boundary review body with statutory responsibility for reviewing Senedd boundaries, means that there is insufficient time for a full boundary review to take place before the 2026 election.<sup>77</sup> Consequently, the boundaries for the 2026 Senedd election will need to be based on an existing set of 'electoral building blocks' made up of existing electoral or administrative areas.

**160.** The Expert Panel<sup>78</sup> previously considered two potential sets of building blocks for Senedd constituencies: the 40 existing Senedd constituencies; and the 22 local authority areas of Wales. Our consideration of these building blocks - and a third option, of basing them on the 32 proposed Westminster constituencies- is set out below.

**161.** In considering these options, we also took note of the Expert Panel's overarching observation that:

*"Three is generally accepted in the academic literature on electoral systems to be the absolute minimum constituency size. However, to fulfil our principles*

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<sup>77</sup> As set out in chapter 7, we anticipate that a full review of Senedd constituency boundaries would take an approximately equivalent length of time to that required for reviews of UK Parliamentary constituencies: 2 years and 7 months. As set out in chapter 7, this review could not be initiated until primary legislation was first passed by the Senedd. The Welsh Government has previously stated that it would require 12-18 months to develop a Senedd reform Bill, following the report of this Committee. Even if it is assumed that the Government took the minimum time possible for a Bill's development, the earliest the Bill could be introduced would therefore be May 2023, receiving Royal Assent at the earliest in early 2024. This already leaves insufficient time for a 2 year and 7 month review to be completed before elections in May 2026. Moreover, there would be insufficient time to prepare an instrument to implement the boundary review's recommendations, and for electoral administrators and political parties to prepare for the elections.

<sup>78</sup> CSER did not recommend a specific boundary model, explaining in its report that "[t]he circumstances under which we have concluded our work mean that we have not reached a firm view on this matter." page 83, Senedd reform: the next steps

*of proportionality and diversity of representation, and future-proof our proposals against demographic change, we believe that four should be the minimum district magnitude for any of our proposed multimember constituencies.*<sup>79</sup>

## Pairing the 40 existing Senedd constituencies to create 20 multi-Member constituencies

**162.** The Expert Panel recommended that:

*"[s]hould the Assembly implement either a Single Transferable Vote or Flexible List electoral system in 2021, we recommend that an Assembly of 89 or 90 Members should be elected on the basis of 20 Assembly constituencies formed by pairing the current 40 Assembly constituencies.*<sup>80</sup>

**163.** The strengths and limitations of this model, as recognised by the Expert Panel, are summarised in Table 7: Strengths and limitations of this model.

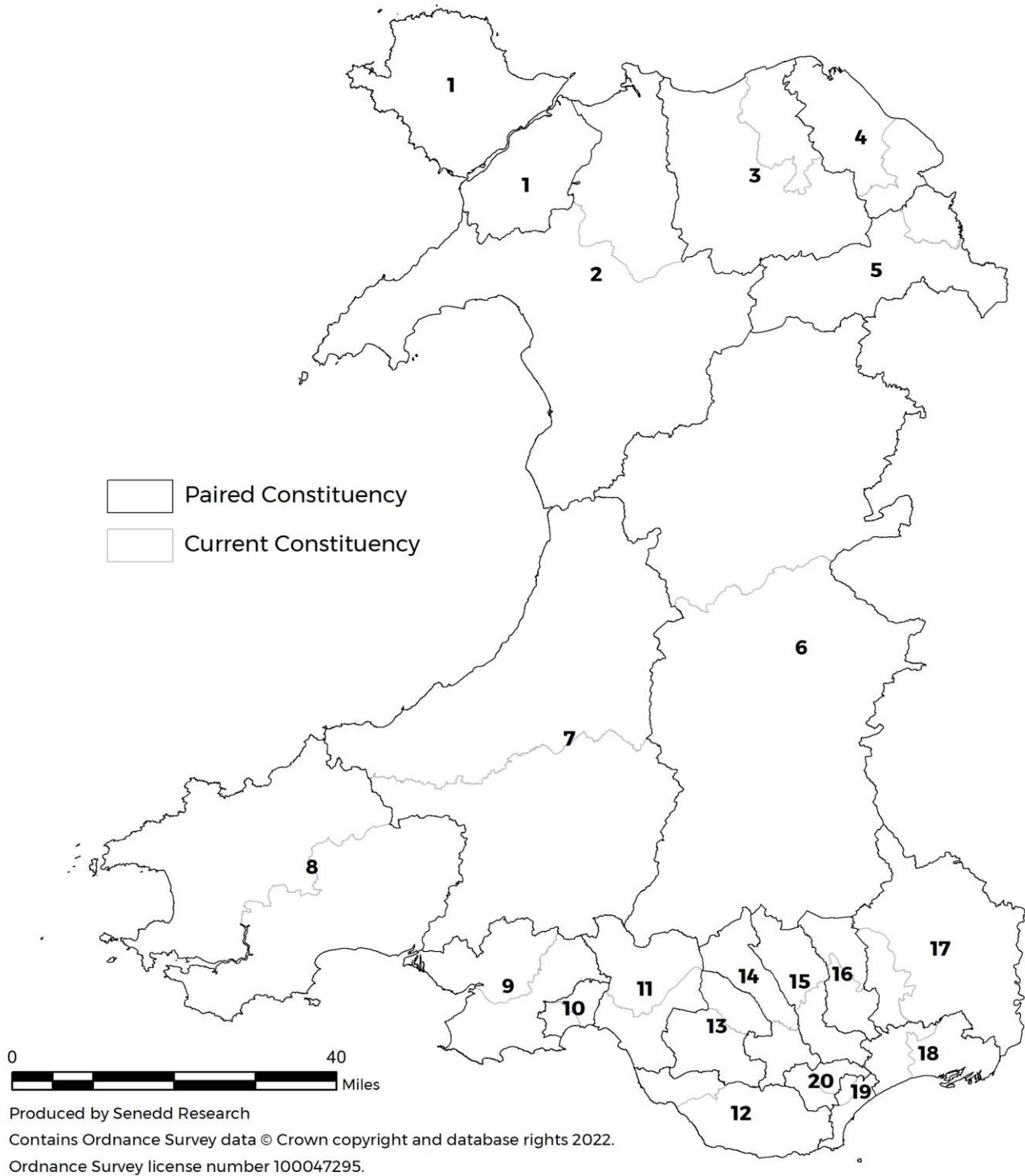
**Table 7: Strengths and limitations of this model**

Strengths	Limitations
<ul style="list-style-type: none"> <li>▪ Familiar to voters.</li> <li>▪ Narrow variance in district magnitudes as a result of similar electorate sizes.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Separate boundary review mechanisms required</li> <li>▪ Potential for future disjointedness between Senedd constituencies and other electoral or administrative areas.</li> </ul>

<sup>79</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 14.18, page 165.

<sup>80</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, Recommendation 6, page 106.

**Figure 1: 20 Multi-member constituencies based on pairings of existing Senedd constituencies as proposed by the Expert Panel.<sup>81</sup>**



<sup>81</sup> 20 Multi-member constituencies based on pairings of existing Senedd constituencies as proposed by the Expert Panel, Senedd Research, May 2022

## Our view

**164.** We unanimously rejected the idea of pairing the existing Senedd constituencies to create 20 new constituencies.

**165.** We noted that this option would not provide any efficiencies or benefits in terms of co-terminosity or alignment with another set of electoral or administrative boundaries.

## Using the 22 local authority areas to create 17 multi-Member constituencies

**166.** As an alternative to the 20 constituency model, the Expert Panel recommended that:

*"[a] multimember constituency model based on combining or splitting local authority areas could be a viable alternative for the election of an Assembly of 83 or 84 Members on the basis of either STV or Flexible List, should the Assembly decide that variations in district magnitude were acceptable."<sup>82</sup>*

**167.** This recommendation was based on the creation of 17 multi-Member constituencies, created by combining small and medium local authority areas and splitting the largest.

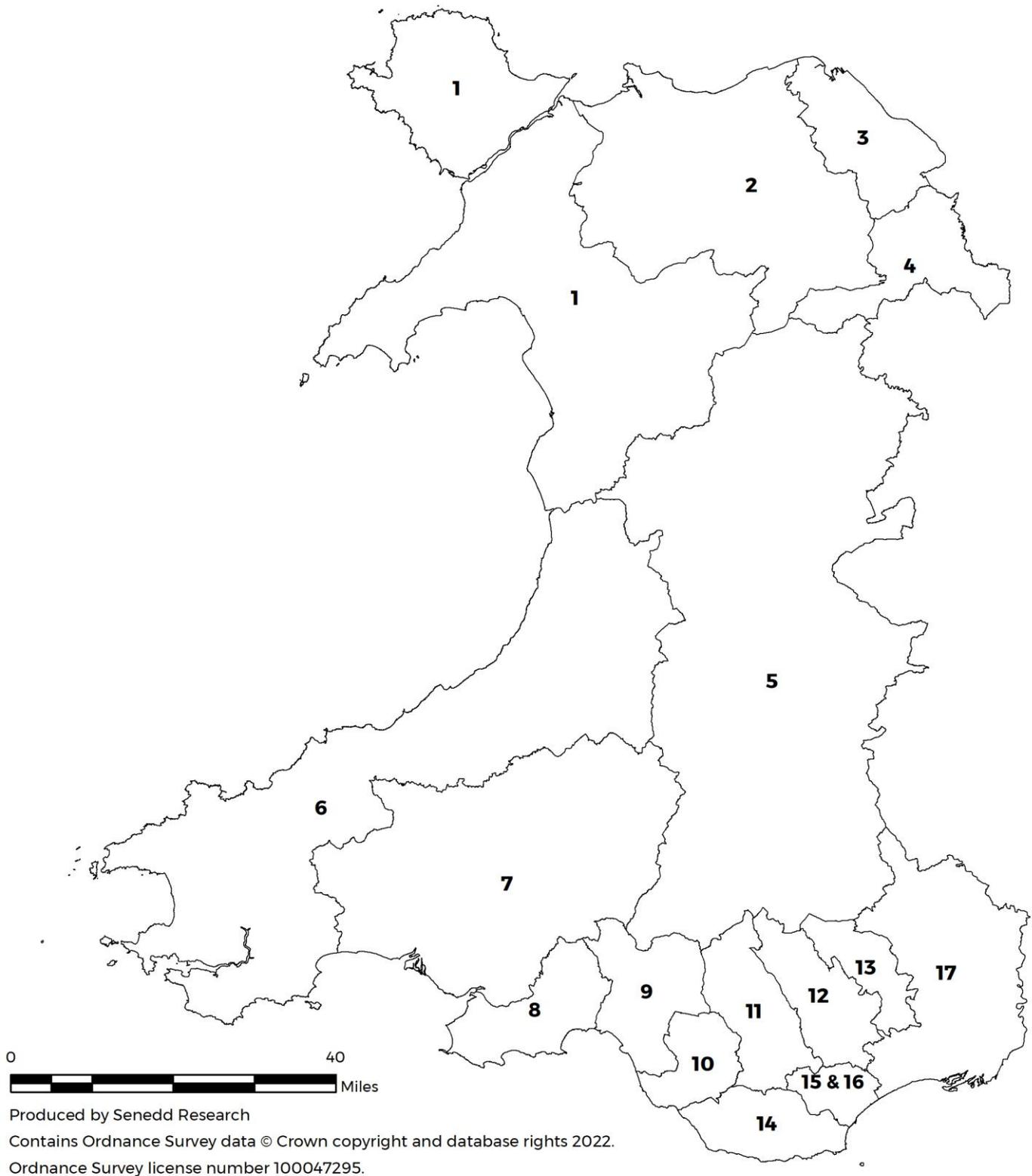
**168.** The strengths and limitations of this model, as recognised by the Expert Panel, are summarised in Table 8: Strengths and limitations of this model.

**Table 8: Strengths and limitations of this model**

Strengths	Limitations
<ul style="list-style-type: none"> <li>▪ Familiar and meaningful to voters.</li> <li>▪ Simplicity for voters, electoral administrators and political parties resulting from co-terminosity.</li> <li>▪ Future change within control of the Senedd.</li> <li>▪ Existing boundary review mechanisms could be used.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Variance in district magnitude between constituencies as a result of size and population differences.</li> </ul>

<sup>82</sup> Expert Panel, *A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform*, November 2017, Recommendation 6, page 106.

**Figure 2: 17 Multi-member constituencies based on local authority areas as proposed by the Expert Panel.<sup>83</sup>**



<sup>83</sup> 17 Multi-member constituencies based on local authority areas as proposed by the Expert Panel, Senedd Research, May 2022

**Our view**

**169.** A minority (Jane Dodds MS) within our committee favoured using the 22 local authority areas to create 17 multi-Member constituencies.

**170.** This minority noted that Wales has had 22 local authorities since 1996, making their boundaries familiar and meaningful to voters, with alternative boundary options potentially leading to a disconnect between the electorate and its representatives. This minority considered that co-terminosity with such boundaries would provide simplicity for voters, electoral administrators and political parties, and could provide efficiencies in future boundary reviews as the boundaries would be fixed on a permanent basis, meaning that the issue for periodic review would be the number of members per constituency. It also believed that simplifying the boundary review process (compared to taking decisions on which Westminster constituency was paired with which) would ease the process of achieving reform in time for the 2026 Senedd election.

**171.** It was noted that if this boundary option was chosen, co-terminosity could potentially be built into future boundary reviews as a key priority. The primary objective of Senedd boundary reviews could then be to adjust the numbers of Members representing particular constituencies to respond to population shifts, rather than to deviate from the boundaries provided by local authorities. While the minority understood that there was a theoretical risk that in the long term this approach could result in the mathematically appropriate district magnitude of a particular constituency becoming lower or greater than the variance recommended by the Expert Panel, she felt that in practice that this risk was small. Jane Dodds MS believed that any benefits from equalising the number of members per constituency were likely to be outweighed by the benefits of clear, familiar and permanent electoral boundaries, as long as the total number of electors per Member remained broadly consistent. She noted that electors were already familiar with, and accepting of, differences in the numbers of councillors per local government ward that were likely to be greater than those obtaining to the Senedd, on the basis of the calculations made by the Expert Panel.

**172.** However, a majority of the Committee, representing a legislative super-majority within the Senedd, did not favour this approach. A key concern of this majority was that this approach would necessarily entail variances in the district magnitudes of constituencies as a result of size and population differences. This majority favoured using constituencies that were broadly similar in population, to enable zero variance in the district magnitudes of different constituencies. This majority considered that it would be undesirable for some areas of Wales to have less representation than others (i.e. as some areas would have fewer Members than others).

## Using the 32 proposed Westminster constituencies to create 16 Multi-Member Constituencies

**173.** Under the Parliamentary Constituencies Act 2020, a mathematical formula has determined that the number of UK Parliament constituencies allocated to Wales under the Act is 32. Although, in accordance with the Act, it is certain that the number of constituencies allocated to Wales will be reduced from 40 to 32, the composition of the constituencies is currently under review.

**174.** An alternative boundary model for the Senedd was therefore to use these 32 constituencies as a set of building blocks, pairing them to create 16 multi-member constituencies.<sup>84</sup> This would result in 16 new constituencies, each with 6 Members, to produce a 96 Member Senedd. We noted that in Wales the proposed Westminster boundaries crossed local authority county boundaries but did not cross local authority ward boundaries.

**175.** The Expert Panel previously rejected using the (then proposed 29) Westminster constituencies on the basis that at time of its report, there was “uncertainty about whether or when the boundary review [would] be implemented,”<sup>85</sup> and concern that it would be inappropriate for constituency boundaries to be subject to change as a result of factors outside Senedd control. The Expert Panel commented that:

*“We recognise the advantages of co-terminosity between Assembly and Westminster constituencies for the public, electoral administrators and political parties. However, these advantages are outweighed by the lack of flexibility the 29 proposed constituencies provide for the size of the Assembly and for the electoral system which could be put in place. It would also not be desirable for Assembly constituencies to be sensitive to demographic or other changes elsewhere in the UK, rather than factors directly relevant to Wales.”<sup>86</sup>*

**176.** However, since the Expert Panel reported, the Parliamentary Constituencies Act 2020 has received Royal Assent – meaning the uncertainty around whether the review would be implemented is no longer a factor. Also as a result of the Parliamentary Constituencies Act 2020, Boundary Commission recommendations no longer require Parliamentary approval and

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<sup>84</sup> We have discounted the idea of not pairing the constituencies, and this would mean they would have 3 Members per constituency, which would be less proportional than regional seats elected under the current system.

<sup>85</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 10.17

<sup>86</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 14.07, page 153

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government ministers have no power to alter such recommendations. This has further reduced the uncertainty surrounding this process.

**177.** We also noted that in *Reshaping the Senedd*, the Wales Governance Centre and Electoral Reform Society had previously argued that:

*"Electoral boundaries that mirror others (or, 'co-terminosity' as it is termed) are preferable as they make things simpler for both voters and parties. Therefore, using either Westminster boundaries or local government units as the basic geographic unit of representation is preferable to having differently-sized units for local, devolved and Westminster elections (as now happens in Scotland)."*<sup>87</sup>

**178.** We noted that if we wished to utilise this model, a decision would also be needed on whether:

- The Senedd's constituencies should automatically be co-terminous with UK Parliament constituencies (i.e. automatically reflecting any future changes made to Westminster's boundaries in the Senedd's boundaries); or
- The Senedd's constituencies should be initially aligned with UK Parliament constituencies— but not linked to them (to allow for deviation as and when necessary).

**179.** The strengths and limitations of reinstating the automatic link between the Senedd's constituencies and UK Parliament constituencies (i.e. co-terminosity) were recognised by the Expert Panel, and are summarised in Table 9: Strengths and limitations of reinstating the automatic link between the Senedd's constituencies and UK Parliament constituencies.

**Table 9: Strengths and limitations of reinstating the automatic link between the Senedd's constituencies and UK Parliament constituencies**

Strengths	Limitations
<ul style="list-style-type: none"> <li>▪ Similar electorate size.</li> <li>▪ Simplicity for voters, electoral administrators and political parties resulting from co-terminosity.</li> <li>▪ Restoring the automatic link would negate the need for</li> </ul>	<ul style="list-style-type: none"> <li>▪ Subject to future changes as a result of factors not necessarily relevant to Wales.</li> <li>▪ Uncertainty about the timing and likelihood of the proposals' implementation.</li> </ul>

<sup>87</sup> Wales Governance Centre and Electoral Reform Society, *Reshaping the Senedd*, page 6

Strengths	Limitations
separate boundary review arrangements.	<ul style="list-style-type: none"><li>▪ Limited flexibility to set district magnitudes at levels which would encourage proportionality or diversity of representation.</li></ul>

**Figure 3: Map of 32 Westminster constituencies proposed by the Boundary Commission for Wales, January 2022**



## Our view

**180.** A majority of Members on our Committee, representing a legislative supermajority within the Senedd, have agreed that the boundaries for the 2026 election should be based upon the final 32 UK Parliament constituencies proposed by the Boundary Commission for Wales once it has concluded its 2023 Parliamentary Review. They considered that these constituencies should be paired<sup>88</sup> to create 16 new constituencies.

**181.** This majority considered that there would be value in using the constituencies that had most recently been reviewed, given that a swift process would be necessary for pairing them. This majority also considered that there would be value in providing for Senedd constituencies to contain a broadly equal number of electors,<sup>89</sup> with each electing the same number of MSs. They considered that this would avoid any perception that particular areas of Wales had less representation than others.

**182.** However, this majority considered that although the Senedd's constituencies should initially be aligned to those of the UK Parliament constituencies, they should not be co-terminous (i.e. automatically linked) to them. This would mean that deviation from the UK's constituencies could occur in future full Senedd boundary reviews.

**183.** This majority considered that this approach of initial alignment, but not co-terminosity, would initially provide the benefits of simplicity for voters, electoral administrators and political parties. They also considered that this approach avoids the risks associated with future changes to Westminster constituencies (such as a change in their number), over which the Senedd does not have direct control.

**Recommendation 18.** We recommend that the 2026 election uses the final 32 UK Parliament constituencies proposed by the Boundary Commission for Wales once it has concluded its 2023 Parliamentary Review. These constituencies are to be paired to create 16 new multi-member constituencies.

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<sup>88</sup> As set out in chapter 7, this would be through a short review process conducted by the renamed Local Democracy Boundary Commission for Wales.

<sup>89</sup> For UK boundary reviews, the Parliamentary Constituencies Act 1986 (as amended) sets out in Schedule 2 a number of Rules for the development of proposals for individual constituencies. Rule 2 provides that – apart from five specified exceptions in the UK, including one in Wales – every constituency must have an electorate that is no less than 95% and no more than 105% of the 'UK electoral quota'. As a result, apart from Ynys Môn, every UK Parliament constituency in Wales must have an electorate as at the review date that is no smaller than 69,724 and no larger than 77,062. However, it may be noted that the electorates of the UK Parliament and Senedd are not identical, including divergences on the voting eligibility of 16 and 17 year olds, EU and foreign nationals.

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**Recommendation 19.** We recommend that although the Senedd’s constituencies are initially aligned to those of the UK Parliament constituencies for the purpose of the 2026 election, they must not be automatically co-terminous.

## 7. Boundary Reviews

We have recommended that the next election of the Senedd is based on the 32 UK Parliament boundaries. However, it is important that we also consider the long-term needs of Wales, for 2031 and beyond.

### The legal power to undertake reviews

**184.** Across the UK, boundary review arrangements are specified in primary legislation which provide for reviews to be carried out by independent boundary review commissions.<sup>90</sup> Such legislation also specifies the parameters which apply to the reviews, the methodology by which they are undertaken, and the mechanisms by which they are given effect.

**185.** Before 2011, the Senedd's boundaries were automatically linked to Westminster boundaries, with any changes made to the Westminster boundaries replicated in the Senedd's boundaries. The Parliamentary Voting System and Constituencies Act 2011 severed this link. As a result, there are currently no legislative provisions or mechanisms in place for reviewing either the Senedd's boundaries or the apportionment of seats to Senedd constituencies and regions.

**186.** Primary legislation, passed by the Senedd, would be required to confer powers and duties on a new or an existing commission to undertake boundary reviews.

### Who should have responsibility for the Senedd's boundary reviews?

**187.** CSER identified that responsibility for boundary reviews could be given either to:

- a new boundary review body; or
- the (only) existing boundary review body within the Senedd's legislative competence: the Local Democracy and Boundary Commission for Wales ("LDBCW").<sup>91</sup>

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<sup>90</sup> For example, provision for reviews of Westminster constituencies is specified in the [Parliamentary Constituencies Act 1986](#) (as amended), provision for reviews of Scottish Parliament constituencies is specified in the [Scottish Parliament \(Constituencies\) Act 2004](#), and provision for the review of local authority boundaries in Wales is specified in the [Local Government \(Democracy\) \(Wales\) Act 2013](#).

<sup>91</sup> CSER, [Senedd reform: the next steps](#), September 2020, paragraph 150.

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**188.** The secretariat of the LDBCW<sup>92</sup> (the “secretariat”) indicated to us that either of these options would be viable from their perspective, but that: “in either case, consideration would need to be given to the configuration, governance, staffing and financial resourcing of the boundary review body.”<sup>93</sup>

**189.** The Counsel General, in correspondence to us on 25 March, stated that:

*“In terms of supporting the recruited Commissioners, there might in principle be an option to share the existing Secretariat (expanded as necessary) that currently supports both the Boundary Commission for Wales (BCW) and the LDBCW. There would likely be efficiency and rationalisation benefits from doing so.”*<sup>94</sup>

**190.** The Counsel General also stated that:

*“If setting up a new commission, the legislation and accompanying documents would need to cover issues such as the name and status of the body, appointments process, payments to members, other terms and conditions, budgets, governance, and audit. These reflect the range of issues relevant for establishing new public bodies.*

*While some of these documents, policies and processes could be prepared in parallel with the passage of the Senedd reform Bill, some elements could not be begun or confirmed until after the Bill has received Royal Assent. In particular, an appointments process for Commissioners of a new body could not begin before this point.*

*[...] past public appointments using open competition and established protocols to the existing Local Democracy and Boundary Commission for Wales (LDBCW) have generally taken between six to eight months.”*<sup>95</sup>

**191.** In summary, the Counsel General stated that:

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<sup>92</sup> The two boundary commissions operating in Wales- the Boundary Commission for Wales, which reviews Westminster parliamentary boundaries, and the LDBCW, which reviews local authority boundaries – are both serviced by the same secretariat.

<sup>93</sup> Private Meeting, Special Purpose Committee on Senedd Reform, 12 January 2022.

<sup>94</sup> Counsel General and Minister for the Constitution, Correspondence to Chair of Special Purpose Committee on Senedd Reform, 25 March 2022.

<sup>95</sup> Counsel General and Minister for the Constitution, Correspondence to Chair of Special Purpose Committee on Senedd Reform, 25 March 2022.

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*"[...] it is highly likely that conferring powers on an existing Commission would take less time than establishing a wholly new Commission, in particular because of the time taken to make public appointments to a new Commission. This will be an important part, but far from the sole element, of the overall time required to implement Senedd Reform."<sup>96</sup>*

**192.** We noted that in Scotland, the reserved Boundary Commission for Scotland ('BCS') previously had responsibility for reviewing both UK Parliament constituencies in Scotland and the Scottish Parliament's boundaries. In 2017 responsibility for reviewing Scottish Parliament boundaries was transferred<sup>97</sup> from BCS to the Local Government Boundary Commission for Scotland ('LGBCS'). In 2021, the LGBCS changed its name<sup>98</sup> to Boundaries Scotland.<sup>99</sup>

### **Our view**

**193.** We have concluded unanimously that it would be appropriate for powers to be conferred upon the Local Democracy and Boundary Commission for Wales to undertake reviews of the Senedd's boundaries.

**194.** In the short term, we believe this to be beneficial in not requiring a lengthy process for establishing a new Commission, which would put at risk the rapid timetable required for delivering reforms by 2026. In the long term, we believe it would be beneficial to concentrate in one body the expertise related to reviewing the boundaries for local government and Senedd elections.

**Recommendation 20.** We recommend that the power to review Senedd boundaries, including the power to define multi-member constituencies for the 2026 election should be conferred on the Local Democracy and Boundary Commission for Wales.

**Recommendation 21.** We recommend that the Senedd Reform legislation should take steps to reconstitute and rename the Local Democracy and Boundary Commission for Wales to reflect its new functions. This should include any appropriate adjustments to its configuration, governance, staffing and financial resourcing.

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<sup>96</sup> Counsel General and Minister for the Constitution, Correspondence to Chair of Special Purpose Committee on Senedd Reform, 25 March 2022.

<sup>97</sup> [Scotland Act 2016, Section 8. Review of electoral boundaries by the Local Government Boundary Commission for Scotland](https://legislation.gov.uk/ukpga/2016/11/section/8) (legislation.gov.uk)

<sup>98</sup> [Scottish Elections \(Reform\) Act 2020](https://legislation.gov.uk/ukpga/2020/11) (legislation.gov.uk)

<sup>99</sup> [About us | Scottish Boundary Commission](https://boundaries.scot/) (boundaries.scot)

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## How often should Senedd boundaries be reviewed?

**195.** The Expert Panel's report stated that:

*"Any legislation reforming the Assembly's electoral system must put in place arrangements for boundary or seat apportionment review before 2026, and at suitable intervals thereafter [...] The Venice Commission<sup>100</sup> suggests intervals of no more than ten years between reviews of the distribution of seats or the definition of electoral boundaries."<sup>101</sup>*

**196.** The CSER report noted that:

*"The Council of Europe's European Commission for Democracy Through Law recommends that, in order to ensure that all voters have equal voting power, there should be intervals of no more than ten years between reviews of a legislature's boundaries or the distribution of seats between its electoral areas. This helps to ensure that the equality of voting power and representation is not eroded over time as a result of any geographic or demographic changes, or of any changes to the electoral franchise."<sup>102</sup>*

**197.** Boundary commission secretariat officials indicated to us that it would be appropriate for Senedd boundary reviews to take place around every two Senedd cycles; this would tie in with the current local authority electoral review programme. They noted that linking reviews to a specific time period (e.g. every 10 years) rather than Senedd terms would be preferable, in case for any reason the electoral cycle was altered.

**198.** For UK Parliamentary boundaries, reviews are undertaken every 8 years. The period for reviews is set out in the Parliamentary Constituencies Act 1986, as amended by the Parliamentary Constituencies Act 2020.<sup>103</sup>

**199.** In setting out its intention to legislate for 8 year reviews, the UK Government explained that this was linked to its intention to repeal the Fixed-term Parliaments Act 2011.<sup>104</sup> Whilst 5

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<sup>100</sup> The European Commission for Democracy through Law - better known as the Venice Commission is the Council of Europe's advisory body on constitutional matters.

<sup>101</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 14.27

<sup>102</sup> CSER, [Senedd reform: the next steps](#), September 2020, paragraph 130

<sup>103</sup> "Each Boundary Commission must submit a report under subsection (1)—

(a) before 1 July 2023,

(b) before 1 October 2031, and

(c) before 1 October of every eighth year after that."

<sup>104</sup> [The Dissolution and Calling of Parliament Bill; Written Statement](#) by Minister of State for the Cabinet Office 24 March 2020

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years is the maximum term for Westminster parliaments, historically, 4 has been the usual pattern. The UK Government stated that:

*"The Government is minded to consider that conducting boundary reviews every eight years strikes the right balance. An eight-year review cycle would generally allow for updated constituencies to be in place for two general elections before being reviewed in time for a third general election."*<sup>105</sup>

**200.** We noted that Boundaries Scotland conducts a periodic review of Scottish Parliament boundaries every 8 to 12 years. It can also conduct an Interim Review of Scottish Parliament boundaries between periodic reviews if it judges it necessary, with a discretionary power under the Scotland Act 1998 that Boundaries Scotland may:

*"[...] from time to time submit to the Scottish Ministers reports with respect to the area comprised in any two or more constituencies showing the constituencies into which it recommends the area should be divided in order to give effect to the constituency rules".*<sup>106</sup>

**201.** In addition, the Act states that:

*"Boundaries Scotland may if it thinks fit cause a local inquiry to be held in respect of any constituency or constituencies."*<sup>107</sup>

**202.** In practice, Interim Reviews have only taken place in the past when there has been a change to a council area boundary which coincides with a constituency boundary.<sup>108</sup>

## **Our view**

**203.** We consider that a full boundary review should be conducted in advance of the 2031 election.<sup>109</sup>

**Recommendation 22.** We recommend that a full boundary review should be instigated in this Senedd term, with its recommendations to take effect from the 2031 Senedd election.

**204.** We anticipate that full reviews of the Senedd's boundaries would normally then take place at least once during two Senedd terms. As a Senedd term is currently five years, this would mean a boundary review at least once every ten years. However, we consider that it would be

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<sup>105</sup> [Written Statement](#) by Minister of State for the Cabinet Office, 24 March 2020

<sup>106</sup> [Scotland Act 1998, Schedule 1, 3\(6\)](#)

<sup>107</sup> [Scotland Act 1998, Schedule 1, 9\(1\)](#)

<sup>108</sup> [Boundaries Scotland FAQs](#)

<sup>109</sup> If for any reason this could not take place, the election would be based on the boundaries previously determined for the 2026 elections.

appropriate for the specific frequency of full boundary reviews to be determined in the course of the Welsh Government developing the legislation.

**205.** We also note the position in Scotland and think that conferring a limited discretion on a boundary commission to conduct interim reviews, as it deems necessary, is sensible.

**Recommendation 23.** We recommend that Senedd reform legislation includes a requirement for full boundary reviews to be undertaken on a periodic basis, with limited appropriate provisions for interim reviews if necessary.

### **The need for timescales in boundary and seat apportionment reviews**

**206.** As noted above, legislation providing the powers underpinning boundary reviews also normally set out timescales for conducting the review.

**207.** We anticipate that the timescales required for a full review of Senedd constituencies would be broadly comparable to those required for UK Parliamentary boundaries, which is around two and a half years.

#### **Our view**

**208.** We have unanimously concluded that it would be appropriate for the timescales of full boundary reviews to be determined in the course of the Welsh Government developing appropriate legislation.

**Recommendation 24.** We recommend that Senedd reform legislation includes timescales for the processes involved in a full review of the Senedd's boundaries.

### **Parameters of boundary and seat apportionment reviews**

**209.** The parameters under which the UK and Scottish Parliament constituency boundaries are currently reviewed are set out at Annex 5: Parliamentary boundary review arrangements elsewhere in the UK.

**210.** The parameters and options for reviewing multi-member constituencies are more complex than those for first past the post, single member constituencies. As previously noted, in a multi-member constituency, equality of representation (i.e. the ratio of Member to electorate) can variously be achieved by adjusting constituency boundaries, or the number of Members per multi-member constituency (i.e. seat apportionment), or both.

**211.** This approach was highlighted in the CSER report:

*"[...] an alternative approach used in a number of countries is to adjust the number of Members elected to represent each constituency. This approach is used in Norway, for example, where the distribution of 150 Members across the 19 multimember constituencies is calculated every eight years on the basis of an electoral formula which is weighted to take account of the population and geographical area of each constituency [...] Reviewing seat apportionments rather than constituency boundaries may be particularly appropriate in very proportional electoral systems which operate on the basis of multimember constituencies which each return large numbers of Members. However, where the district magnitudes of multimember constituencies are lower—such as within the range of four to six Members recommended by the Expert Panel—it may be difficult to take account of smaller, but nonetheless potentially significant, changes in population or franchise. In any case, were the Senedd to adopt such an approach, initial boundary review arrangements would still be required to establish appropriate multimember constituencies."<sup>110</sup>*

**212.** The CSER Report set out that the potential parameters of boundary reviews might include:

- The overall number of Members to be returned to the Senedd;
- The number of constituencies, regions or other electoral areas, including whether the number is fixed, or could vary as a result of other parameters, and, if so, any minimum or maximum limits;
- The tolerable variation in the number of Members to be returned per electoral area, and/or any minimum or maximum limits;
- The tolerable variation in the number of electors or population per electoral area, and/or any minimum or maximum limits;
- The tolerable variation in the geographic size of electoral areas, and/or any minimum or maximum limits;
- Whether any special arrangements applied to particular geographic areas or communities, for example on the basis of their geographic situation, their distance from Cardiff Bay, deprivation, rurality, or any other factors;

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<sup>110</sup> CSER, *Senedd reform: the next steps*, September 2020, paragraph 132.

- The ‘building blocks’ on which Senedd constituencies should be based, for example electoral wards or communities, and the extent to which account could be taken of changes to the building blocks as a result of local authority or Westminster boundary reviews which were pending but not yet implemented; and
- The extent to which co-terminosity with local authority or Westminster boundaries should be taken into account, including whether account could be taken of changes to those boundaries which were pending but not yet implemented.

**213.** We have previously recommended that the total number of Members should be 96, and specified in primary legislation. However, the other parameters are considered below.

### **The number of constituencies, regions or other electoral areas**

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**214.** In the UK, the usual approach is that the total number of constituencies or regions are set out in primary legislation. This is currently the case for the UK Parliament, the Senedd, the Scottish Parliament and the Northern Ireland Assembly. In each case the number is either set out in the relevant legislation or through reference to co-terminosity with UK parliamentary constituencies.

**215.** We noted that an alternative approach would be for the legislation to create a power for the total number of constituencies to be varied either by secondary legislation or the Boundary Commission. Under this approach, as the total number of Members would be fixed, but the number of constituencies would be variable, variations in the number of constituencies would necessitate alterations to the district magnitudes of constituencies.

**216.** We noted also the concerns identified by the Expert Panel that too much variance in district magnitude:

*“could lead to a perception of greater representation for particular areas in Wales, or greater likelihood of proportional outcomes or diversity of representation in some constituencies compared to others.”<sup>111</sup>*

### **Our view**

**217.** We have previously recommended that for the 2026 Senedd election there will be 16 constituencies.

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<sup>111</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 14.22

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**218.** We consider that in a multi-member constituency system, the number of constituencies are of such fundamental importance to the operation of the electoral system and the representation of the electorate that this should be specified in primary legislation and should not be altered either by a Boundary commission or through secondary legislation.

**Recommendation 25.** We recommend that the number of Senedd constituencies is specified as 16 in primary legislation.

### **The tolerable variation in the number of Members to be returned per electoral area**

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**219.** The Expert Panel previously identified that a key factor for consideration in determining the optimum size of the Senedd would be the variation in district magnitude of the multi-member constituencies:

*"Higher district magnitudes create greater potential for proportionality. However, if constituencies become too big, it can result in hyperproportionality."<sup>112</sup>*

**220.** In a private meeting with us on 23 March 2022, Professor Alan Renwick noted that the two key risks associated with hyperproportionality were that parties which received a very small portion of the total vote could gain seats, meaning that their voices were unreasonably represented in debates, and that the fragmentation of the party system could make governing harder.<sup>113</sup> Professor David Farrell commented that there was a balance to be struck between enabling a wider diversity of voices and the risks associated with hyper-proportionality.<sup>114</sup>

**221.** The Expert Panel reported that:

*"Three is generally accepted in the academic literature on electoral systems to be the absolute minimum constituency size. However, to fulfil our principles of proportionality and diversity of representation, and future-proof our proposals against demographic change, we believe that four should be the minimum district magnitude for any of our proposed multimember constituencies."<sup>115</sup>*

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<sup>112</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 10.19

<sup>113</sup> Private meeting of Special Purpose Committee on Senedd Reform, 23 March 2022

<sup>114</sup> Private meeting of Special Purpose Committee on Senedd Reform, 23 March 2022

<sup>115</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 14.18

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**222.** The potential effect of hyperproportionality was also highlighted by the Wales Governance Centre and Electoral Reform Society Cymru in their Reshaping the Senedd report:

*"While a strong democracy requires the inclusion of a diversity of voices, there are also potential negative consequences for a political system when elected representation 'fractionalises' into a large number of small parties. Among these consequences can be that extremist parties, with limited public support, gain the legitimacy of an elected platform; that such parties may sometimes be in a strong bargaining position to influence government formation and policy; and that effective governments become more difficult to form and sustain across the multitude of parties."*<sup>116</sup>

**223.** As such, the Expert panel concluded that:

*"[...] constituencies should return at least four Members. Ideally they should return no more than six Members, although a small number of seven seat constituencies may be tolerable."*<sup>117</sup>

**224.** In a private meeting on 23 March 2022, Professor David Farrell commented that if the size of the Senedd was such that large district magnitudes were necessary, the other mechanism for mitigating against the worst effects of hyperproportionality was to include a threshold: i.e. specifying that a party had to receive a minimum percentage of the vote in order to be eligible to gain seats. He commented that this had not been necessary under the Expert Panel's recommended proposals, because they did not necessitate constituencies larger than seven. The Expert Panel considered specifically the risks around hyper-proportionality in their modelling of their local authority boundaries model and concluded that "[...] there is not strong argument that this would be the case."<sup>118</sup>

**225.** In a private meeting on 16 February 2022, Dr Fiona Buckley commented to us that generally speaking, larger district magnitudes would enable greater diversification within the Senedd. She favoured a district magnitude of seven, but considered that a magnitude of five or more would be beneficial.<sup>119</sup>

**226.** In a private meeting on 9 February 2022, Welsh Government officials suggested to us that while there was a strong case for the Senedd determining in primary legislation the overall

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<sup>116</sup> Wales Governance Centre and Electoral Reform Society, [Reshaping the Senedd](#), page 9

<sup>117</sup> Expert Panel, [A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 10.21

<sup>118</sup> Private meeting of Special Purpose Committee on Senedd Reform, 23 March 2022

<sup>119</sup> Private meeting of Special Purpose Committee on Senedd Reform, 16 February 2022

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number of Members, and the minimum and maximum numbers of Members per constituency, it could be for the boundary commission, via boundary review, to determine the specific numbers of members per constituency.<sup>120</sup>

**227.** Similarly, Professor David Farrell considered that as a new system bedded down there would be value in reviewing its operation, considering variations to the district magnitude if it was considered to favour larger or smaller parties too much.<sup>121</sup>

### **Our view**

**228.** We consider that by allocating 6 members per multi-member constituency, this would strike a balance between allowing for greater diversification of representation whilst mitigating against the risks of hyperproportionality, reflecting the view of the Expert Panel that ideally constituencies should return no more than 6 Members.

**229.** We noted previously the concerns identified by the Expert Panel that too much variance in district magnitude:

*"could lead to a perception of greater representation for particular areas in Wales, or greater likelihood of proportional outcomes or diversity of representation in some constituencies compared to others."<sup>122</sup>*

**230.** We therefore consider that it would be appropriate for all constituencies to return an equal number of Members per multi-member constituency and that this should be specified in primary legislation and should not be altered either by a Boundary Commission or through secondary legislation.

**Recommendation 26.** We recommend that primary legislation should specify that each constituency should return the same number of Members of the Senedd.

### **The extent to which co-terminosity with local authority wards should be maintained**

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**231.** We envisage that local authority wards should form a building block for any boundary review. That is, that the boundary commission would not split any wards into separate constituencies. This principle is widely observed in other UK boundary review processes. The larger multi-member constituencies being proposed would make this a readily attainable criterion.

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<sup>120</sup> Private meeting of Special Purpose Committee on Senedd Reform, 9 February 2022

<sup>121</sup> Private meeting of Special Purpose Committee on Senedd Reform, 23 March 2022

<sup>122</sup> Expert Panel, *A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform*, November 2017, paragraph 14.22

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**Recommendation 27.** We recommend that Senedd reform legislation should provide that local authority wards are used as the basic building blocks for designing constituencies and that a boundary commission should not normally divide electoral wards between constituencies.

### **The extent to which co-terminosity with Westminster boundaries should be maintained**

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**232.** As previously noted, although we have recommended that the Senedd's constituencies should initially be aligned to those of the UK Parliament constituencies, they should not be automatically linked to them. This would mean that deviation from the UK's constituencies could occur in future full reviews.

**233.** While continued alignment with the UK Parliament's constituencies would have administrative benefits, we do not consider this to be a high priority compared to the other parameters we have considered.

### **The interaction of other parameters, including the tolerable variation in the electorate per constituency**

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**234.** We set out above a number of parameters that a boundary commission could potentially be asked to take into consideration (as identified by CSER). These included:

- variation in the number of electors;
- variation in the geographic size of constituencies;
- whether special arrangements should be applied to particular geographic areas or communities; and
- the extent to which co-terminosity with local authority or Westminster boundaries should be taken into account.

**235.** UK boundary reviews are governed by rules set out in the Parliamentary Constituencies Act 1986 (as amended). Foremost among these is Rule 2, which provides that – apart from, in Wales, Ynys Môn – every constituency must have an electorate that is no less than 95 per cent and no more than 105 per cent of the 'UK electoral quota'<sup>123</sup>.

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<sup>123</sup> The UK electoral quota is calculated by dividing the registered electorate of the UK (minus the five protected island seats) by the number of seats (minus the five protected island seats). The UK electoral quota for the 2023 Review is, to the nearest whole number, 73,393. Therefore, apart from Ynys Môn, every constituency in Wales must have an electorate as at the review date that is no smaller than 69,724 and no larger than 77,062. This is referred to as the 'statutory electorate range'

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**236.** Other factors that may be taken into consideration in UK boundary reviews are also set out in primary legislation. These are:

- special geographical considerations, including, in particular, the size, shape and accessibility of a constituency
- local government boundaries
- boundaries of existing constituencies
- any 'local ties' that would be broken by changes in constituencies
- the inconveniences attendant on such changes.

**237.** However, Rule 2 has primacy. The Boundary Commission for Wales has commented that:

*"While the Commission will seek to take account of principal council external boundaries as far as practicable, it may nevertheless frequently be necessary to cross these boundaries to form constituencies that comply with the statutory electorate range."*

**238.** The relative geographic size of parliamentary constituencies can vary hugely within Wales. This is already the case for UK Parliamentary and Senedd elections with constituencies in rural Wales covering enormous distances of over 100 square miles.

**239.** The impact of large constituencies is increased with the use of multi-member constituencies. Geographically, the Mid and West Wales Region is the largest of Wales' five existing electoral regions - being larger in area than the other four regions put together. It contains Snowdonia in the north, the west coast of Wales down to the Pembrokeshire Coast National Park and the Brecon Beacons National Park.

### **Our view**

**240.** The UK electorate quota ensures that constituencies are of similar size. We agree that constituencies should contain a broadly equal number of electors. However, other factors such as local ties, and geography are relevant too.

**241.** We have already set out our recommendations that the number of constituencies, each electing an equal number of members, should be set out in legislation. Likewise we have made a recommendation that a boundary commission should not divide electoral wards between constituencies. Beyond this, the Welsh Government will need to consider carefully the balance

between these other criteria, ensuring that a boundary commission has the flexibility to produce credible proposals whilst taking into account any particular local factors.

**Recommendation 28.** We recommend that primary legislation should specify as parameters for boundary reviews that Senedd constituencies are to contain a broadly equal number of electors, a tolerable variation in the electorate per constituency and other relevant parameters.

## Review implementation

**242.** Officials from the secretariat of the Local Democracy and Boundary Commission for Wales identified to us the importance of legislation setting out whether the boundary commission responsible for Senedd boundaries was a decision making body or a recommending body.<sup>124</sup>

**243.** There are different legislative mechanisms by which boundary or seat apportionment reviews could be given effect, including the applicable scrutiny processes and the respective roles of the boundary commission, the Welsh Government and the Senedd. Traditionally, UK parliamentary boundaries have been subject to final parliamentary approval. However, for UK elections, as a result of the Parliamentary Constituencies Act 2020, recommendations of the Boundary Commissions no longer require Parliamentary approval and government ministers have no power to alter recommendations, other than if requested by the Boundary Commission to correct errors.

**244.** The House of Lords Select Committee on the Constitution, in their Report on the Parliamentary Constituencies Bill, recommended that:

*"Constituency boundaries ought to be determined independently of political influence and in accordance with rules protecting a robust and impartial determination process. The removal of Parliament's power to block Boundary Commission recommendations is constitutionally appropriate and therefore welcome."*<sup>125</sup>

## Our view

**245.** We have unanimously concluded that it would not be appropriate for the Boundary Commission's recommendations to be subject to the Senedd's approval or, when implementing recommendations, for the Welsh Ministers to have power to alter them, other than if requested by the Boundary Commission to correct errors.

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<sup>124</sup> Private meeting of Special Purpose Committee on Senedd Reform, 12 January 2022

<sup>125</sup> House of Lords Select Committee on the Constitution 13th Report of Session 2019–21 [Parliamentary Constituencies Bill](#)

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**246.** We believe that specifying this would helpfully remove any perception that elected Members might seek to influence electoral matters that would be more appropriately left to an independent body.

**Recommendation 29.** We recommend that the boundary commission's recommendations should be implemented without a requirement for Senedd approval and with government ministers having no power to amend such recommendations, other than if requested by the boundary commission to correct errors.

### **Giving effect to the proposals of a boundary commission**

**247.** Since the Parliamentary Constituencies Act 2020, once a commission has completed its review, it submits a report to the appropriate Secretary of State who lays it before Parliament. Once all four reports have been submitted, an Order in Council (which gives effect to the recommendations) must be submitted to Her Majesty as soon as is reasonably practicable (and in any case within four months, unless there are exceptional circumstances).

**248.** We believe it would be possible to adopt a similar process for implementing boundary commission recommendations in respect of Senedd boundaries and to do so significantly more quickly than within four months. This may become important in the context of introducing reform in advance of 2026.

**Recommendation 30.** We recommend that a Welsh Government Bill on Senedd reform requires the Welsh Ministers to make, within a realistic but rapid timescale, subordinate legislation to give effect to boundary commission recommendations.

### **Specific parameters for a review to be conducted before the 2026 Senedd election**

**249.** As previously noted, having spoken with the secretariat of the Boundary Commission for Wales and Local Democracy and Boundary Commission for Wales (the 'secretariat'), and the Counsel General, we have concluded that there is insufficient time to carry out a full boundary review prior to the 2026 elections.<sup>126</sup>

**250.** Instead, we anticipate that a short review would be carried out by a boundary commission, with the purpose of pairing the 32 Westminster constituencies to create 16 multi-member constituencies.

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<sup>126</sup> The Counsel General commented at our private meeting with him on 9 February 2022, that the process of establishing a Boundary Commission and conducting a full-scale review could run to beyond the beginning of the Seventh Senedd.

**251.** The secretariat advised us that the creation of multi-member constituencies based on existing constituencies would allow for a more streamlined review process. They have estimated that this could potentially be completed within 12 months.<sup>127</sup>

**252.** We anticipate that this streamlined review could incorporate:

- minimum periods of consultation of four weeks;
- three rounds of consultation; and
- after each consultation, the LDBCW having three, rather than six, months to analyse responses and prepare for the next stage.

**253.** An illustrative timetable based on these assumptions is set out below.

Date	Activity
<b>May 2024</b>	Legislation receives Royal Assent
<b>May 2024</b>	Work to prepare initial proposals begins (3 months before consultation launched)
<b>Jul 2024</b>	Publication of initial proposals for a 4 week consultation period
<b>Aug 2024</b>	Close of consultation on initial proposals
<b>Oct 2024</b>	Publication of consultation responses for a further 4 week consultation
<b>Nov 2024</b>	Close of consultation on representations made by others (allows 3 months for review of consultation and preparation of revised proposals for consultation)
<b>Jan 2025</b>	Publication of revised proposals for 4 week consultation
<b>Feb 2025</b>	Close of consultation on revised proposals (allows 3 months for review of consultation responses and preparation of final proposals)
<b>Apr 2025</b>	Boundaries finalised to enable electoral community one year to prepare and for parties to select candidates.

### Our view

**254.** We consider that it would be appropriate for the Senedd reform legislation to prescribe timescales for the specific review, to be conducted before the 2026 election, for the purpose of defining, naming and consulting upon the proposed 16 multi-member constituencies.

<sup>127</sup> Private meeting of Special Purpose Committee on Senedd Reform, 12 January 2022

**255.** We consider that it would be appropriate for this review to provide for multiple rounds of public consultation, to facilitate public awareness and understanding of the new constituencies. This awareness should then be reinforced with appropriate public information once the boundaries are finalised.

**256.** We consider that including provisions for such a review on the face of the Bill would provide both clarity during the scrutiny process, and remove the need for (and timescales associated with) secondary legislation to initiate such a review.

**Recommendation 31.** We recommend that Senedd reform legislation includes provisions to enable a streamlined boundary review, for the purpose of defining the proposed 16 multi-member constituencies. This should be completed in sufficient time to enable the implementation of its recommendations, and for electoral administrators and political parties to make necessary preparations ahead of the 2026 election.

## Annex 1: Private meetings with stakeholders.

The following stakeholders privately met with the committee on the dates noted below.

Date	Name and Organisation
12 January 2022	<p><b>Shereen Williams MBE, Chief Executive and Accounting Officer,</b> Boundary Commission for Wales and Local Democracy and Boundary Commission for Wales</p> <p><b>Tom Jenkins, Head of Policy and Programme,</b> Boundary Commission for Wales and Local Democracy and Boundary Commission for Wales</p>
9 February 2022	<p><b>Mick Antoniw MS, Counsel General and Minister for the Constitution,</b> Welsh Government</p>
16 February 2022	<p><b>Ruth Coombs, Head of Wales,</b> The Equality and Human Rights Commission</p> <p><b>Geraint Rees, Principal,</b> Policy and External Affairs Wales Team, The Equality and Human Rights Commission (EHRC)</p> <p><b>Catherine Fookes, Director,</b> Women’s Equality Network (WEN) Wales</p> <p><b>Evelyn James, Diverse 5050 Campaign Manager,</b> Women’s Equality Network (WEN) Wales</p> <p><b>Jessica Leimann, Policy and Public Affairs Officer,</b> Women’s Equality Network (WEN) Wales</p> <p><b>Natasha Davies, Policy and Research Lead,</b> Chwarae Teg</p> <p><b>Dr Meryl Kenny, Senior Lecturer in Gender and Politics,</b> University of Edinburgh</p>

	<p><b>Prof. Mona Lena Krook,</b> Department of Political Science, Rutgers University</p> <p><b>Dr Fiona Buckley,</b> Department of Government and Politics, University College Cork</p>
<b>9 March 2022</b>	<p><b>Dr Jac Larnier,</b> School of Law and Politics, Cardiff University</p>
<b>23 March 2022</b>	<p><b>David Farrell,</b> School of Politics and International Relations, University College Dublin</p> <p><b>Alan Renwick, Professor of Democratic Politics and Deputy Director</b> Constitution Unit</p> <p><b>Rhys George, Chair,</b> Association of Electoral Administrators (AEA) Wales</p> <p><b>Claire Sim, Members Support and Advice Manager,</b> Association of Electoral Administrators (AEA)</p> <p><b>Colin Everett, Chair,</b> Wales Electoral Coordination Board (WECB)</p> <p><b>Catherine Uphill,</b> The Electoral Commission Wales</p>

Additionally, on 21 December 2021, the Chair engaged in a private technical briefing with Professor Laura McAllister on behalf of the committee.

## Annex 2: List of written information

The following people and organisations provided written information to the Committee, after we asked if they would wish to update information previously submitted to our predecessors.

- The Association of Electoral Administrators
- Boundary Commission for Wales and Local Democracy and Boundary Commission for Wales
- Lord Lisvane
- Make Votes Matter
- Peter Varley
- Professor Paul Chaney
- Wales Elections Coordination Board (WECB)
- The Electoral Commission
- The Electoral Reform Society
- Women's Equality Network (WEN) Wales
- The Equality And Human Rights Commission
- The campaign in support of gender quotas and stronger diversity measures
- The Counsel General and Minister for the Constitution
- The Welsh Government
- Plaid Cymru

## Annex 3: Key principles of the Expert Panel on Assembly Reform

The Expert Panel on Assembly Reform established the following key principles, against which they assessed the different electoral systems:

- **Government accountability and effectiveness:** the system should encourage the return of effective, accountable and stable governments, whether majorities or coalitions.
- **Proportionality:** the system should be no less proportional than the Assembly's current electoral arrangements, and preferably be more proportional.
- **Member accountability:** the system should ensure that all Members are clearly accountable to voters and able to represent them effectively and appropriately in the national interest.
- **Equivalent status:** as far as possible, the system should ensure that all Members are elected with broadly equivalent mandates which afford them equal status.
- **Diversity:** the system should encourage and support the election of a body of representatives which broadly reflects the population.
- **Voter choice:** where appropriate within its design, the system should allow voters to select or indicate a preference for individual candidates.
- **Equivalent mandates:** the system should reflect the general principle of electoral system design that votes should have approximately the same value, with seats apportioned taking electorate numbers and geography into account.
- **Boundaries:** the system should be based on clearly defined geographic areas which are meaningful to people and take into account existing communities of interest, and existing electoral and administrative boundaries.
- **Simplicity:** the system should be designed with simplicity and intelligibility for voters in mind.

- **Sustainability and adaptability:** the system should be able to be implemented in 2021, and subsequently respond and adapt to changing political, demographic and legislative trends, needs and circumstances.

## Annex 4: List Proportional Representation electoral systems

### What are List Proportional Representation electoral systems?

As stated by the Expert Panel:

*"While there are many different types of List PR systems, each of which operates in a different way, the common feature is that parties present lists of candidates to the electorate in multimember constituencies. Independent candidates are treated as a list of one. Voters commonly have one vote (although in some variants they may have more than one vote). Whether voters may cast their vote for a party or for an individual candidate depends on whether the list system is open, closed or flexible. In all cases, votes are aggregated across parties to determine the number of seats each party receives. Which candidates take up those seats depends on the degree to which parties control who appears on the ballot and the final ranking order of candidates."<sup>128</sup>*

Whilst open and closed list systems sit at opposite ends of the spectrum, anything in between may be viewed as a flexible list. Given the variability of flexible list systems, the Expert Panel designed and proposed a specific flexible list system (see below), recommending it as a viable alternative to their preferred Single Transferable Vote system.

A brief description of each type of list system (open, flexible, and closed) is provided below.

#### Open List

In an open list system voters must vote for an individual candidate. Parties will be awarded seats on the basis of how many votes their candidates collectively receive. If a party is awarded one seat, the candidate from that party who receives the most votes will win a seat; if the party is awarded two seats, the two candidates from that party who receive the most votes will win 2 seats etc.

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<sup>128</sup> Expert Panel, *A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform*, November 2017, paragraph 13.33.

## Closed List

In a closed list system voters must vote for a party (independent candidates are classified as a party of one). Parties are awarded seats on the basis of how many votes they receive. If a party is awarded one seat, the first candidate listed for that party will win a seat; if the party is awarded two seats, the first two candidates will win seats, etc.

## Flexible list

There are various different ways in which Flexible List systems can operate. As an example, the Expert Panel gave the following description of the system they recommended (as a viable alternative to STV):

*"[...] voters would have a single vote. They could choose whether to cast the vote for a party—which would be interpreted as a vote for the party's preferred candidate order—or for an individual candidate within a party's list. Votes cast for individual list candidates would first be counted as part of the aggregate total for the party to determine how many seats it won, and then separately to determine whether any candidate had received sufficient personal votes to move to the top of the party list. This is similar to the system used in Sweden."<sup>129</sup>*

The ballot paper for the Flexible List system designed by the Expert Panel could effectively be viewed as a combination of the ballot papers for open and closed lists, whereby the voter would be asked to 'Vote for one of the parties or candidates below'. The paper would therefore be designed so as to allow a vote to be indicated against parties or individual candidates.

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<sup>129</sup> Expert Panel, *A Parliament that works for Wales: Report of the Expert Panel on Assembly Electoral Reform*, November 2017, page 145.

## Annex 5: Parliamentary boundary review arrangements elsewhere in the UK

### UK parliamentary boundary review arrangements

The arrangement for the Westminster boundary review sets out the factors that may be taken into account by the Boundary Commissions.

Foremost among these is Rule 2, which provides that – apart from five specified exceptions in the UK<sup>130</sup> – every constituency must have an electorate that is no less than 95% and no more than 105% of the ‘UK electoral quota’.<sup>131</sup>

Other factors that may be taken into consideration are also set out in primary legislation. These are:

- special geographical considerations, including, in particular, the size, shape and accessibility of a constituency
- local government boundaries that existed or were prospective on 1 December 2020 (see 2.5 above)
- boundaries of existing constituencies
- any ‘local ties’ that would be broken by changes in constituencies
- the inconveniences attendant on such changes.

However, Rule 2 has primacy. The Boundary Commission for Wales comments: “While the Commission will seek to take account of principal council external boundaries as far as practicable, it may nevertheless frequently be necessary to cross these boundaries to form constituencies that comply with the statutory electorate range.”

### Scottish Parliamentary Boundary Review Parameters

Scottish rules require that the electorate of each constituency has to be as near the numerical average as is practicable. Other rules include avoiding excessive disparities between neighbouring constituencies, taking account of local authority boundaries, of special

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<sup>130</sup> The only Welsh constituency that is not subject to the operation of the UK electoral quota is Ynys Môn

<sup>131</sup> [Boundary Commission for Wales 2023 Review of Parliamentary Constituencies Guide to the 2023 Review p. 7, paragraph 3.1](#)

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geographical considerations, and of inconveniences and any local ties which would be broken by changes to constituencies.