

**Reform Bill Committee**

**Senedd Cymru**

Bae Caerdydd, Caerdydd, CF99 1SN

SeneddDiwygio@senedd.cymru

senedd.cymru/SeneddDiwygio

0300 200 6565

**Welsh Parliament**

Cardiff Bay, Cardiff, CF99 1SN

SeneddReform@senedd.wales

senedd.wales/SeneddReform

0300 200 6565

Mick Antoniw MS

Counsel General and Minister for the  
Constitution, Welsh Government

16 October 2023

Dear Mick

**Senedd Cymru (Members and Elections) Bill: follow up questions after oral evidence session on 5 October 2023**

Thank you for attending the Committee's meeting on 5 October 2023 and responding to our questions on the Welsh Government's Senedd Cymru (Members and Elections) Bill.

Following the evidence session, Members agreed to write to you with follow up questions on the issues outlined in the annex to this letter

It would be helpful to receive your response **by 8 November 2023**.

Yours sincerely



David Rees MS

Chair, Reform Bill Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.



## Annex: follow up questions after oral evidence session on 5 October 2023

Following the oral evidence session on the Senedd Cymru (Members and Elections) Bill on 5 October 2023, we would welcome further information on the matters listed below. It would be helpful to receive your response **by 8 November 2023**.

### Political support for the proposals

---

As discussed during the evidence session, the First Minister and the then leader of Plaid Cymru issued a joint position statement on 10 May 2022 setting out their proposals for, among other matters, a Senedd of 96 Members, elected by closed list proportional representation on the basis of pairings of the 32 UK Parliamentary constituencies. They wrote to the Special Purpose Committee on the same day to draw the statement to the Committee's attention, stating:

*"We are grateful for the hard work of your committee in exploring some of the core elements of Senedd reform. We are confident that the statement below will enable you to make recommendations on these fundamental issues."*

You said during the evidence session that you had "no knowledge" of the letter (paragraph 36).

1. Could you clarify when you became aware of the letter sent by the First Minister and the then leader of Plaid Cymru to the Special Purpose Committee on 10 May 2022.
2. What information are you able to provide about the evidence underpinning the May 2022 joint position statement, how its conclusions were reached, or the influence it had on the recommendations made by the Special Purpose Committee.

During the evidence session you referred on a number of occasions to the need for the legislation and its provisions to command a supermajority of support within the Senedd. You also said that you consider your role as Member in charge of this Bill to be:

*"...implementing what actually emerges from the Senedd, from the parliamentary process itself. [...] My function and my interest are solely to actually create viable, effective and in-competence legislation for the Senedd to consider, to implement the wishes of the Senedd". (paragraph 39)*

3. On this basis, what approach will you take to considering any recommendations made by this Committee, or other Senedd committees, that call for you to bring forward amendments to the Bill.
4. What approach will you take to engaging with Cooperation Agreement partners and other political parties within the Senedd during the legislative scrutiny process to (i) assess whether the proposals in the Bill as introduced continue to command a supermajority, and



(ii) assess whether any alternatives recommended by Senedd committees or put forward as amendments by Members of the Senedd could command a supermajority.

### Public support for the proposals

---

5. What steps the Welsh Government is taking to assess public support for the proposals in the Bill.
6. What preparations the Welsh Government is making to work with partners to raise public awareness and understanding of the new electoral arrangements it is proposing be implemented for 2026.

### The Elections and Elected Bodies (Wales) Bill

---

7. An overview of the areas of interaction and interdependency between the Senedd Cymru (Members and Elections) Bill and the Elections and Elected Bodies (Wales) Bill.
8. Your views on the potential impact of the introduction of three Bills that amend and reform electoral reform in quick succession, and whether this could present risks to the clarity and accessibility of the law (for example if one or more of the Bills were not passed, or as a result of the scope and scale of the changes to be implemented).

### Number of Deputy Presiding Officers

---

9. Whether the approach taken in the Bill risks creating a hierarchy between the Deputy Presiding Officer elected under 25(1)(b) of GOWA 2006 and any DPO elected under new section 25(1A) to be inserted by section 4 of the Bill.
10. Whether the Welsh Government gave any consideration to arrangements in other legislatures for the election of additional DPOs. For example, the Scottish Parliament has the flexibility to elect one or more DPOs, and the House of Commons has provision in place both for a hierarchy of Deputy Speakers and to ensure that the cohort of Speaker and Deputy Speakers includes at least one man and at least one woman.
11. Whether having an additional DPO could have an impact on the political balance of a future Senedd.

### Size of the Welsh Government

---

12. What the rationale is for providing in new section 51(4) of GOWA 2006 (as inserted by section 5 of the Bill) that the power to increase the limit on the number of Welsh Ministers under new section 51(3) may not be used to reduce the maximum number of Welsh Ministers.

13. How the Welsh Government sees the use of the power working in practice should a First Minister wish to raise the maximum number of Welsh Ministers, for example to accommodate new powers being devolved to the Senedd, to respond to events, or to reflect coalition arrangements.

### Increasing the frequency of Senedd elections

---

The proposal to increase the frequency of Senedd elections is not based on the Special Purpose Committee's recommendations. The EM to the Bill notes that the Welsh Government has considered the balance between "democratic renewal, voter fatigue and providing a sufficient amount of time for an administration to implement its agenda". It states that:

*"...it is considered that four-year terms sufficiently balance these considerations and were in fact the "norm" in Welsh democracy at the point of devolution and continued until relatively recently".*

However, it does not explain why the Welsh Government considers that four year terms provide a more appropriate balance than five year terms.

14. Please provide further information about the evidence base for your decision to include provision within the Bill to increase the frequency of Senedd elections from every five years to every four years.
15. Please outline any Equality Impact Assessment that has been undertaken in relation to this provision, in particular any consideration of whether the proposal could have a differential impact on the basis of age as to whether people may be more or less likely to stand for election to the Senedd as a result of a change in the frequency of Senedd elections.
16. What discussions or engagement have taken place to date or are planned with local government representatives about the potential impact of increasing the frequency of Senedd elections. This should include any discussions or engagement about (i) the impact of administering more frequent Senedd elections, (ii) the impact of every fifth Senedd election coinciding with every fourth local government election (absent of any change in the frequency of local elections), and (iii) whether there should be any change to the frequency of local government elections in Wales

### Requirement for candidates and Members to be registered to vote at an address in Wales

---

The proposal to require candidates and Members to be registered to vote at an address in Wales is not based on the Special Purpose Committee's recommendations. During the evidence session you indicated that part of the reason you are proposing that residency in Wales for the purpose of standing for election or being a Member of the Senedd is assessed solely through registration on an

electoral register at an address in Wales rather than models similar to those in use for other purposes such as eligibility for housing is because of the potential for legal challenges (paragraphs 86-97).

You also indicated that in order for a candidate on a party's list to be eligible to take up a seat that became vacant between ordinary general elections they would need to be registered to vote at an address in Wales at the time at which the vacancy arose i.e. they would have no opportunity to reestablish their residency before the Returning Officer passed on to the next candidate on the list (paragraphs 172-175).

Will Whitely, the Welsh Government's Deputy Director for Senedd Reform, confirmed that no public consultation had been undertaken on the proposal because there had not been sufficient time before the Welsh Government introduced the Bill (paragraphs 99-100).

17. Could you provide more information about the nature of the potential "legal challenges" you referred to during the evidence session.
18. In reaching your decisions on the provisions in the Bill, what consideration did you give to section 79 of the Local Government Act 1972, which provides that a person may only be qualified to be elected to serve on a local authority in England and Wales if they have a connection to the local authority area, and that such a connection may be established in a number of ways including, among others: electoral registration, land or property ownership, employment, or residence.
19. Has the Welsh Government considered whether the absence of any 'grace period' or other mechanism to enable a candidate on a party's list to reestablish their residency within a reasonable period should a vacancy arise between ordinary general elections which they would otherwise be qualified to fill could dissuade people from putting their names forward for selection or from agreeing to be nominated if selected lower down on parties' lists.
20. In the absence of any public consultation prior to the inclusion of this provision in the Bill, what discussions or engagement does the Welsh Government plan to undertake (and with whom) in respect of this requirement, how it would operate in practice, and whether it could give rise to any unintended consequences.

## Electoral system

---

21. The rationale for reducing the maximum length of parties' candidate lists from the current 12 (for 4 seats in each region) to 8 (for 6 seats in each new constituency), and what assessment has the Welsh Government made of the potential impact on the ability to fill vacant seats arising between ordinary general elections, especially given the proposed new residency requirement.

22. Why the Bill does not include express provision that the names of candidates on parties' lists will be included on ballot papers (in line with the recommendation of the Special Purpose Committee), and whether any consideration has been given to amending the Bill in this respect.

### Democracy and Boundary Commission Cymru ("DBCC")

---

23. Whether any additional commissioners will need to be appointed to enable the DBCC to undertake its 'pairing' review of Senedd constituencies ahead of the 2026 election.
24. Could you outline the appointment process that will apply to DBCC commissioners, including whether the Welsh Government has considered (and/or discussed with the Senedd) whether the process for appointing the Chair of the DBCC should include a pre-appointment hearing with a Senedd committee.

### Boundaries for the 2026 Senedd election

---

25. Whether the process outlined in Schedule 1 to the Bill will provide sufficient opportunities for the public and interested stakeholders to engage in the boundary review process given the curtailed consultation periods for which the Bill provides.
26. What assessment has the Welsh Government made of the impact of the difference between the UK electoral franchise (on which the UK Parliamentary boundaries are based) and the local government electoral franchises (on which Senedd elections take place) on the equality or otherwise of representation across the 16 paired constituencies for 2026.
27. Whether the Welsh Government will provide a definition of "contiguous" to support the DBCC's pairing considerations.
28. Whether the Welsh Government intends to provide any further definition or guidance on which matters the DBCC should consider to be "local ties" when conducting its pairing review. For example, the EM suggests the Welsh language will be a local tie, but this is not included in the Bill.

### Future boundary reviews

---

29. The rationale for setting the electoral quota for ongoing reviews of the Senedd's boundaries at  $\pm 10\%$ .
30. Whether there is any tension between the requirement in new section 49C(1) of the 2013 Act (as inserted by Schedule 2 to the Bill) to equalise the size of Senedd constituencies, and the requirements in new section 49C(2)(b) to minimise the amount of change to Senedd constituencies and have regard to the inconvenience of making changes.

31. Whether such tension may be particularly acute in the first 'full' review under new Part 3A of the 2013 Act on the basis that the review that takes place between 2025 and 2028 will be based on a different franchise from the 2023 UK Parliamentary review, and will need to take account of potentially significant changes to the constituency containing Ynys Môn.

#### Review of provisions

---

32. The rationale behind the requirement in section 19 for the Llywydd to propose the establishment of a Senedd committee to undertake a review of the operation and effect of the Welsh Government's legislation, rather than placing a requirement on the Welsh Government to undertake such a review.
33. Whether it is appropriate for the Welsh Government to require in legislation that the Llywydd should propose the establishment of a Senedd committee to undertake an inquiry into the "extent to which the elements of a healthy democracy are present in Wales", and for the Welsh Government to propose in the EM what such an inquiry might consider.

#### Diversity provisions

---

We have previously written to you to ask for information about the Welsh Government's proposals to introduce a further Bill to introduce candidate gender quotas and require the publication of candidate diversity information. We look forward to receiving a response by 3 November 2023 as previously requested.

34. Could you outline the rationale for the Welsh Government's intention to issue guidance to political parties on diversity and inclusion strategies, rather than including provision relating to these matters in the Bill.

#### Financial implications

---

35. Why does the EM not include financial estimates for alternative proposals, particularly for those provisions that are not based on the recommendations of the Special Purpose Committee.
36. What assurance can you give that the figures in the EM are robust and an accurate reflection of the potential cost of the proposals.
37. The EM notes that some costs have not been estimated on the basis that they are subject to decisions to be taken by the Seventh Senedd and the Welsh Government in place after 2026. Are you able to provide a ballpark estimate for these unknown additional costs that could come as a result of the Bill's implementation.

38. What consideration has the Welsh Government given to issues relating to mechanisms to enable constituents to recall Members of the Senedd, including, for example, the extent of public and political support for such provisions, and how such provisions could be incorporated within the Welsh Government's proposed closed list proportional representation electoral system.

Resourcing and funding for opposition party policy development

---

39. What consideration has the Welsh Government given to developing proposals to support policy development by political parties in opposition in Wales.