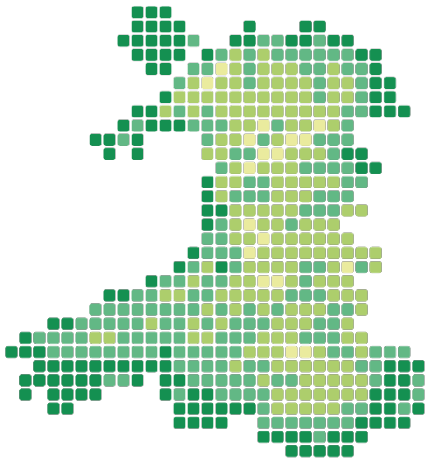


LOCAL DEMOCRACY AND BOUNDARY COMMISSION FOR WALES



Comisiwn Ffiniau a
Democratiaeth Leol
Cymru

Local Democracy and
Boundary Commission
For Wales

SENEDD CYMRU (MEMBERS AND ELECTIONS) BILL
REFORM BILL COMMITTEE – STAGE 1 SCRUTINY
CONSULTATION RESPONSE

3 November 2023

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FOREWORD

This document sets out the response of the Local Democracy and Boundary Commission for Wales (“**the Commission**”) to the Reform Bill Committee’s consultation in relation to the Senedd Cymru (Members and Elections) Bill introduced to the Welsh Parliament on 18 September 2023 (“**the Senedd Bill**”).

In this document the Commission first responds to specific questions posed to it by the Reform Bill Committee (“**the Committee**”) regarding the likely timetable for the review of Senedd constituencies for the first general election after 6 April 2026.

The Commission then provides detailed observations in relation to eight provisions in the Schedules to the Bill.

The Commission welcomes the opportunity to engage in the development of the Bill.

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LOCAL DEMOCRACY AND BOUNDARY COMMISSION FOR WALES

SENEDD CYMRU (MEMBERS AND ELECTIONS) BILL – CONSULTATION RESPONSE

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1. ABOUT THE COMMISSION

- 1.1 The Commission is an independent Welsh Government Sponsored Body. The Commission was established in 1974 under the terms of the Local Government Act 1972, and was known at the time as the Local Government Boundary Commission for Wales. The Commission was renamed by section 2 of the Local Government (Democracy) (Wales) Act 2013 (“**the 2013 Act**”).
- 1.2 At present, the Commission’s principal functions are to monitor and review the areas and electoral arrangements relevant to local government in Wales.
- 1.3 For this purpose, the Commission’s powers include reviewing the boundaries of principal council areas in Wales and the electoral arrangements for principal councils. The Commission also has certain powers in relation to reviews of community boundaries and community electoral arrangements, although the principal councils have primary responsibility for these reviews in their respective areas. The Commission’s principal powers and duties are set out in the 2013 Act.
- 1.4 The Senedd Bill includes provisions designed to rename the Commission as the Democracy and Boundary Commission Cymru, and to confer on the Commission the additional function of reviewing and determining the boundaries of Senedd constituencies. In principle, the Commission is in support of the Senedd Bill. Since the Senedd Bill was introduced to the Welsh Parliament, the Commission has engaged in scrutiny of its provisions, as well as initial preparations for the Commission’s anticipated new functions.

2. TIMING OF THE 2026 BOUNDARY REVIEW

- 2.1 The Commission has been asked to include in its written evidence an overview of the indicative dates for the review of Senedd constituencies for the first general election after 6 April 2026 which should include an estimated earliest date on which the review would be able to begin and the estimated dates of the first and second periods for representations.
- 2.2 When undertaking boundary reviews, the Commission sets out its policies and practice for the review in advance of publishing any proposals. For the first Senedd review, the document will be titled ‘Guide to the 2026 Review’ and will include information on how the Commission will create constituencies, the naming and designation of constituencies as well as factors it will take into account in the pairing exercise. Prior to publishing the guide, the Commission will hold meetings with key stakeholders which include qualifying political parties and existing Members of the Senedd. The Commission anticipates holding these meetings in **August 2024**.
- 2.3 The Commission will then publish its Initial Proposals that will trigger the first period of consultation that will last for 4 weeks. The Commission anticipates publishing its Initial Proposals in the **w/c 16 September 2024**.

- 2.4 Due to the level of public interest around the expansion of the Senedd, the Commission anticipates receiving a high number of representations. In order to ensure that the Commission receives relevant responses to its proposals, the Commission will set out specific questions as part of the consultation process. It will seek out respondents to provide an answer to whether they agreed to the pairings within the proposals and the reasoning behind the agreement or if they do not agree with the pairings, what alternative pairings should the Commission consider and the reasoning for the alternative pairings. The specific consultation questions will assist the Commission in its deliberations of the representations received.
- 2.5 Following the end of the first consultation period, the Commission will consider all representations received and prepare them for publication. The preparation process includes redacting identifiable information of private individuals and translation. The Commission will publish the representations received as soon as this process is completed and anticipates publishing the representations within the first two weeks of **December 2024**.
- 2.6 On the basis that changes should be made to the pairing arrangements, the Commission will then prepare a second report setting out the revised proposals. This will trigger the second period of consultation which will last for 4 weeks. The Commission intends to publish its second report **w/c 6 January 2025**.
- 2.7 The Commission will carry out the same processing procedures as outlined in 2.5 on the representations received in the second period of consultation and anticipates publishing the representations in early **March 2025**.
- 2.8 The Commission will consider all the representations received and prepare its final report. The Commission intends to publish its final report on the **31st March 2025**.
- 2.9 The Commission acknowledges the challenge of the compressed timescale for the 2026 Review, however as outlined in the Commission's Regulatory Impact Assessment submission, the Commission is confident that if the appropriate level of financial resource is provided, the review can be completed before 1 April 2025.

3. DETAILED OBSERVATIONS ON THE BILL

- 3.1 Schedule 1 to the Bill lays down detailed provisions for the Commission's conduct of the first review of Senedd constituencies, which must be completed by 1 April 2025 (known as "**the 2026 boundary review**"). Schedule 2 lays down detailed provisions for subsequent reviews of Senedd constituencies, including the second review which must be completed by 30 November 2028. The following sections of this document set out the Commission's detailed observations in relation to the provisions of those two Schedules.

Schedule 1 – publication of representations following the second period for representations

- 3.2 Schedule 1 lays down a process by which new Senedd constituencies will be created for the purposes of the first general election after 6 April 2026. That process involves the carrying out of the 2026 boundary review by the Commission, followed by the implementation of the outcome of that review by the Welsh Ministers by means of Regulations.
- 3.3 The 2026 boundary review involves a two-stage public consultation by the Commission, leading to the publication of a final report by the Commission containing determinations which the Welsh Ministers will implement.
- 3.4 At the first consultation stage, the Commission (having consulted the Welsh Language Commissioner) will publish an initial report containing the Commission's proposals for Senedd constituencies, then will invite representations in response to the initial report during a four-week period known as the "first period for representations". The Commission will then publish the representations it receives and consider whether, in the light of those representations, its proposals ought to be amended.
- 3.5 Thereafter, at the second stage of the Commission's public consultation process, the Commission will publish a second report setting out its proposals for Senedd constituencies, and will invite representations in response to that second report during a four-week period known as the "second period for representations".
- 3.6 Paragraph 7(5)(a) of Schedule 1 to the Bill currently provides that, at the end of the second period for representations, the Commission must "*publish any representations received*". The Commission suggests that, at this stage, its duty should be to publish representations received *during the second period for representations* only, rather than to publish *all representations received during the first and second periods for representations*. To this end, the Commission suggests that paragraph 7(5)(a) should be amended by the addition of the words "*during that period*" after the current wording and before the comma.
- 3.7 The principal reason for this suggestion is that, by this stage of the process, the Commission will already have published representations which it received during the first period for representations, since this is required by paragraph 7(1)(a). There seems to be little reason to require the Commission to *re-publish* at the end of the second period for representations any representations which it received during the *first* period for representations.
- 3.8 The Commission therefore **suggests that paragraph 7(5)(a) of Schedule 1 should be amended as follows** (by the addition of the text underlined):

"(a) publish any representations received during that period."

Schedule 1 – linkage with final report stage

3.9 As noted above, after the Commission has completed the two-stage consultation process required under Schedule 1, it is required to publish a final report setting out the Senedd constituencies for the first general election after 6 April 2026. The Commission’s determinations must then be implemented by the Welsh Ministers in regulations.

3.10 Paragraph 8(1) of Schedule 1 to the Bill currently lays down the obligation on the Commission to publish its final report in the 2026 boundary review by 1 April 2025. The Commission suggests that, as presently drafted, the wording of this provision does not obviously indicate that the publication of the final report follows the end of the second period for representations and the process of taking into account representations received during that second period.

3.11 The Bill may therefore be more readily understood if the text currently in paragraph 7(5) of Schedule 1 were moved into paragraph 8(1) (with consequential re-numbering of the subsequent subparagraphs in paragraph 8). This would create a more obvious linkage between the end of the second period for representations and the preparation and publication of the final report. It would also mirror the approach taken in paragraph 7(1) of Schedule 1, which creates an obvious linkage between the end of the first period for representations and the preparation and publication of the second report.

3.12 The Commission therefore suggests that **paragraph 7(5) of Schedule 1 should be moved into paragraph 8, with the consequence that the first two sub-paragraphs in paragraph 8 should read as follows** (with the changes shown underlined) and the subsequent sub-paragraphs in paragraph 8 should be re-numbered accordingly:

- “8 (1) At the end of the second period for representations the Commission must –
- (a) publish any representations received during that period¹,
 - (b) consider its proposals having regard to those representations, and
 - (c) if it is considering any changes to the proposals set out in the second report for the names of the Senedd constituencies for communication through the medium of Welsh –
 - (i) consult the Welsh Language Commissioner on the orthography of the proposed names, and
 - (ii) have regard to any representations made by the Commissioner.
- (2) After taking the steps in sub-paragraph (1), and before 1 April 2025, the Commission must –

¹ The reasons for this suggested addition are set out in paragraphs 3.4 to 3.7 above

- (a) *make and publish a final report, and*
- (b) *send it to the Welsh Ministers.”*

Schedule 2 – principle of minimal change to Senedd constituencies

- 3.13 Schedule 2 lays down a process by which Senedd constituencies will be reviewed periodically by the Commission following the completion of the 2026 boundary review. Schedule 2 inserts new provisions into the Local Government (Democracy) (Wales) Act 2013 (the name of which will be changed by the Bill to the Democracy and Boundary Commission Cymru etc. Act 2013) (“**the 2013 Act**”) to this effect.
- 3.14 Under the new provisions, the Commission will be required to complete a review of Senedd constituencies during the period from 1 April 2025 to 30 November 2028, and thereafter once in every 8-year period.²
- 3.15 When it conducts a review pursuant to the new provisions in Schedule 2, the Commission’s task will be to determine whether the boundaries of the Senedd constituencies should change.³ The Commission’s determinations must be implemented by the Welsh Ministers by means of Regulations.⁴
- 3.16 The new provisions entail that, when the Commission determines whether the boundaries of the Senedd constituencies should change, the Commission:
- 3.16.1 must ensure that each constituency complies with the statutory electorate range – in other words, that its electorate is no less than 90% and no greater than 110% of the electoral quota (which in turn is one sixteenth of the electorate of Wales);
 - 3.16.2 must “*seek to minimise the amount of change*” to the Senedd constituencies as they exist at the start of the Commission’s review;
 - 3.16.3 must “*have regard to the inconveniences caused by making changes to the Senedd constituencies*”; and
 - 3.16.4 may have regard to other specific listed factors, namely (in broad summary) local government boundaries, geographical considerations and local ties.⁵

² Proposed new section 49A(1) and (5) of the 2013 Act, to be inserted by paragraph 1 of Schedule 2 to the Bill

³ Proposed new section 49A(2) of the 2013 Act, to be inserted by paragraph 1 of Schedule 2 to the Bill

⁴ Proposed new section 49J(1) of the 2013 Act, to be inserted by paragraph 1 of Schedule 2 to the Bill

⁵ Proposed new section 49C(1) to (3) of the 2013 Act, to be inserted by paragraph 1 of Schedule 2 to the Bill

3.17 The Commission considers that, in practice, the obligation to “*seek to minimise the amount of change*” to existing Senedd constituencies is likely to lead to a narrow focus on electorate numbers in its future reviews and thereby to bring about inferior outcomes in its determination of Senedd constituency boundaries.

3.18 For example, if an existing Senedd constituency has an electorate which is 110.5% of the electoral quota, the Commission will be required to reduce the size of that constituency in order to comply with its obligation to observe the statutory electorate range.⁶ The Commission’s general approach, as in its reviews of local government electoral boundaries under the existing terms of the 2013 Act, would be to seek to remove from the oversized constituency an existing local government electoral unit, such as a principal area electoral ward or a community.⁷ In choosing which electoral unit to remove, the Commission would have regard to geographical considerations and local ties. In this way, the Commission would reduce the oversized constituency in a manner which respected specific local considerations and would create new constituency arrangements which comply with the electoral quota, are easily identifiable geographically, and avoid the confusion which can result from different electoral units for different elections in the same area. The Commission’s general policy in local government electoral reviews is that it will depart from this approach, and “split” an existing local government electoral unit, only where it would otherwise be impossible to comply with the statutory electorate range.⁸

3.19 This approach may not be lawful in relation to Senedd constituencies if the Commission is subject to an obligation to “*seek to minimise the amount of change*” to the example Senedd constituency which has an electorate of 110.5% of the electoral quota. The *minimal change* required to bring that constituency within the statutory electorate range is the removal of 0.5% of the electorate from the constituency. In practice, it is very unlikely that there will be an existing local government electoral unit containing precisely that number of electors, which can be removed from the constituency in a manner which respects local ties and creates boundaries which are easily identifiable geographically. Instead, the Commission is likely to be forced to split an existing local government electoral unit, in a manner which may not respect specific local considerations. This would create a situation in which there are different electoral units for local government elections and Senedd elections (as well as Westminster parliamentary elections) which can generate confusion for voters, and is likely to represent an inferior outcome.

3.20 The Commission therefore **suggests that the obligation to “*seek to minimise the amount of change*” to Senedd constituencies be removed from the Bill** (by the deletion of the new proposed section 49C(2)(b)(i) of the 2013 Act). This is because, in the Commission’s view, the obligation to “*have regard to the inconveniences caused by making changes to the Senedd constituencies*”

⁶ See above, paragraph 3.16.1

⁷ This is also the normal practice of the Boundary Commission for Wales (“**BCW**”) in its reviews of Westminster parliamentary constituencies under the Parliamentary Constituencies Act 1986 – see for example BCW’s *Guide to the 2023 Review* at paragraphs 3.8 to 3.10 and 3.14 to 3.15 (available at <https://bcomm-wales.gov.uk/sites/bcomm/files/review/Guide%20to%20the%20Review%20E.pdf>)

⁸ This is also the general policy of the Boundary Commission for Wales – see above, fn. 7

contained in the new proposed section 49C(2)(b)(ii) of the 2013 Act will itself be sufficient to ensure that the Commission exercises due caution before determining that Senedd constituency boundaries should be changed; yet that provision will not risk generating the undesirable outcomes described above.

3.21 Alternatively, the Commission suggests that the new proposed section 49C(2)(b) is amended in order that the *desirability* of minimising change to Senedd constituencies is a relevant factor for the Commission's consideration, alongside other factors. This will enable this factor to be taken into account, while avoiding placing an obligation on the Commission to split existing local government electoral units. The Commission therefore suggests that the new proposed section 49C(2)(b) be worded as follows (with changes shown underlined):

"in any event the Commission must have regard to –

- (i) the desirability of minimising the amount of change to the Senedd constituencies that exist on the review date, and*
- (ii) the inconveniences caused by making changes to the Senedd constituencies."*

Schedule 2 – time management in public hearings

3.22 The review process laid down by the provisions in Schedule 2 of the Bill involves three stages of public consultation by the Commission. In summary, the Commission will first publish an initial report describing any changes it proposes to the Senedd constituencies, and invite representations in response to that report during the first period for representations. Second, the Commission will publish any representations it receives, then (during the second period for representations) both invite representations in response to those representations and hold public hearings. Third, the Commission must prepare and publish a second report describing any changes it proposes to the Senedd constituencies, and invite further representations during a final period for representations. After that final period for representations the Commission will prepare and publish its final report.

3.23 The public hearings which must be held during the second period for representations will be chaired by an individual appointed by the Commission, who will determine the procedure that is to govern the hearing.⁹

3.24 Under the new proposed section 49G(8) of the 2013 Act, the chair "*must allow representations to be made*" by qualifying political parties, as well as "*by any other person considered by the chair to have an interest in any of the proposals with which the hearing is concerned*". However the new proposed section 49G(9)(c)

⁹ Proposed new section 49G(5) and (6) of the 2013 Act, to be inserted by paragraph 1 of Schedule 2 to the Bill

states that the chair may, “*if necessary because of shortage of time*”, determine that interested persons “*are not allowed to make representations*”.

3.25 The Commission considers that these provisions, as they are currently worded, risk raising expectations of an unqualified right to make representations at its public hearings, especially among lay readers who may not notice the qualification in section 49G(9)(c). The Commission therefore **suggests that the new proposed section 49G(8)(b) should be expressly qualified by a cross-reference to section 49G(9)**, for example by the insertion of the following underlined words:

“(8) *The chair must allow representations to be made –*

[...]

(b) (subject to section 49G(9)) by any other person considered by the chair to have an interest in any of the proposals with which the hearing is concerned.”

3.26 This mirrors the approach taken in paragraph 7(b) of Schedule 2A to the Parliamentary Constituencies Act 1986 (which was inserted into that Act by amending legislation in 2011), on which the new proposed section 49G of the 2013 Act has been modelled.

Schedule 2 – contents of the second report

3.27 Following the second period for representations, the Commission will be required to “*consider its proposals having regard to the representations made during the first and second periods for representations*”, and then to prepare and publish a second report setting out any changes which the Commission proposes to the boundaries and names of the Senedd constituencies.¹⁰

3.28 Specifically, the new proposed section 49H(2) of the 2013 Act provides that:

“the Commission must make a second report—

(a) setting out any representations [received in response to representations made during the first period for representations];

(b) containing records of the public hearings held under section 49G;

(c) setting out –

(i) the Commission’s proposals for change to the boundaries and names of the Senedd constituencies, or

¹⁰ Proposed new section 49H of the 2013 Act, to be inserted by paragraph 1 of Schedule 2 to the Bill

(ii) *if the Commission does not consider any change appropriate, a statement to that effect;*

(d) *specifying details of any changes the Commission has made to the proposals set out in the initial report, and an explanation of why those changes have been made.*”

3.29 As it is currently worded, this provision will require that the Commission’s second report *contains* any representations received by the Commission *and* records of the Commission’s public hearings. The second report is therefore likely to be a very large document, which may reduce its user-friendliness.

3.30 The Commission therefore suggests that, instead of forming part of the second report, the records of its public hearings and the representations it receives during the second period for representations should be published *separately* and *at the same time* as the second report, rather than forming part of that report. This would mirror section 5(4B) and (5) of the Parliamentary Constituencies Act 1986 (as inserted into that Act by amending legislation in 2011 and 2020), which provides for the publication of records of public hearings *alongside* any revised proposals report which the Boundary Commission for Wales publishes in the course of a review of Westminster parliamentary constituencies.

3.31 The Commission also suggests that, in order to avoid ambiguity, its obligation to publish representations at this stage of its review process should be expressly limited to those representations it received *during the second period for representations*. This reflects the express limitation imposed by section 49H(1)(a) on the Commission’s obligation to take representations into account.

3.32 The Commission therefore **suggests that the new proposed section 49H(2) and (3) of the 2013 Act should be worded as follows** (with changes shown by underlining):

“(2) *After taking the steps in subsection (1), the Commission must make a second report –*

(a) *setting out –*

(i) *the Commission’s proposals for change to the boundaries and names of the Senedd constituencies, or*

(ii) *if the Commission does not consider any change appropriate, a statement to that effect; and*

(b) *specifying details of any changes the Commission has made to the proposals set out in the initial report, and an explanation of why those changes have been made.*

- (3) *The Commission must—*
- (a) *publish the second report,*
 - (b) *publish any representations (of the kind described in section 49F(2)(b)) received during the second period for representations;*
 - (c) *publish records of the public hearings held under section 49G;*
 - (d) *inform any person it considers appropriate of how to access the report and the representations and records the Commission has published;*
 - (e) *invite representations on the report, including representations in respect of the representations made during the public hearings, and*
 - (f) *notify any person it considers appropriate of the final period for representations.”*

Schedule 2 – publication of representations following the final period for representations

3.33 The new proposed section 49H(5) of the 2013 Act will require that, at the end of the final period for representations, the Commission “*publish any representations received*”, “*consider its proposals having regard to those representations*”, and (in certain circumstances) consult further with the Welsh Language Commissioner. Thereafter the Commission will prepare and publish its final report.

3.34 The Commission suggests that its obligation to publish representations at this stage should be expressly limited to representations which it received *during the final period for representations*. This is because the Commission will already have published representations which it received during the first period for representations (at the end of that period – see proposed section 49F(1) of the 2013 Act) as well as representations which it received during the second period for representations (at the end of that period – see proposed section 49H(2)(a) as it is currently set out in Schedule 2, and further the suggestions in paragraphs 3.30 and 3.31 above). For the Commission to be required to publish, at the end of the final period for representations, all the representations it has received during the entirety of the review would therefore involve needless duplication of effort.

3.35 The Commission therefore **suggests that the new proposed section 49H(5)(a) of the 2013 Act be amended as follows** (with additions shown underlined):

“publish any representations received during that period [...]”.

Schedule 2 – linkage with final report stage

- 3.36 After the Commission has completed the three-stage public consultation process required by the provisions contained in Schedule 2, the Commission will be required to publish a final report setting out any changes to be made to the Senedd constituencies. Any changes set out in the Commission’s final report must then be implemented by the Welsh Ministers by means of regulations.
- 3.37 The obligation to publish the final report is currently laid down by the new proposed section 49I(1) in the 2013 Act. The Commission suggests that, as that provision is presently drafted, it does not obviously indicate that the publication of the final report follows the end of the final period for representations and the process of taking into account representations received during that period.
- 3.38 The Bill may therefore be more readily understood if the text currently in the new proposed section 49H(5) were moved into section 49I(1) (with consequential re-numbering of the subsequent subsections in section 49I). This would mirror the approach taken in the new proposed sections 49F(1) and 49H(1), which create obvious linkages with previous stages in the consultation process.
- 3.39 The Commission therefore suggests that the new proposed section 49H(5) of the 2013 Act **should be moved into section 49I(1), with the consequence that the first two subsections in section 49I should read as follows** (with the changes shown underlined) and the subsequent subsections in section 49I should be re-numbered accordingly:

- “49I (1) At the end of the final period for representations the Commission must –
- (a) publish any representations received during that period¹¹,
- (b) consider its proposals having regard to those representations, and
- (c) if it is considering any changes that were not set out in the second report to the names of the Senedd constituencies –
- (i) consult the Welsh Language Commissioner on the orthography of the proposed names for communication through the medium of Welsh, and
- (ii) have regard to any representations made by the Commissioner.
- (2) After taking the steps in subsection (1), before 1 December 2028, and before 1 December every eighth year after that, the Commission must –
- (a) make and publish a final report, and

¹¹ The reasons for this suggested addition are set out in paragraph 3.34 above

(b) send it to the Welsh Ministers.”

Schedule 2 – contents of the final report

3.40 The new proposed section 49I(2) of the 2013 Act (which will be inserted by paragraph 1 of Schedule 2 to the Bill) provides that the Commission’s final report in a review of Senedd constituencies must:

“(a) *either –*

(i) set out the details of any changes that are required to be made to the Senedd constituencies, or

(ii) state that no alteration is required to be made to the Senedd constituencies”.

3.41 The new proposed section 49I(3) further specifies that, if changes are to be made to the boundaries of Senedd constituencies, the Commission’s final report must set out (among other things) *“the boundaries of the Senedd constituencies that are to be changed”*, as well as the names of those constituencies.

3.42 The new proposed section 49J(1) then provides that *“[w]here a final report sets out changes that are required to be made to the Senedd constituencies, the Welsh Ministers must make regulations giving effect to the determinations in the Commission’s final report”*.

3.43 The Commission considers that, as a result of these provisions, when regulations are made by the Welsh Ministers under section 49J, those regulations will not lay down a full new set of Senedd constituencies. Instead those regulations will simply make amendments to existing constituency arrangements, such as are necessary to give effect to the changes set out in the Commission’s final report. This appears to be the case because:

3.43.1 the regulations will simply *give effect to determinations in the Commission’s final report*;¹² and

3.43.2 the final report will *set out the details of any changes that are required to be made to the Senedd constituencies*, and will describe the boundaries and names of the Senedd constituencies *that are to be changed*, as is required by the new proposed provisions.¹³

¹² See above, paragraph 3.42

¹³ See above, paragraphs 3.40 and 3.41

- 3.44 This limitation in the scope of regulations made under section 49J(1) has knock-on effects for the Bill more widely. For example, clause 2 of the Bill would amend the Government of Wales Act 2006 in such manner as to define Senedd constituencies as “*the constituencies specified in regulations under section 49J*”, once a first set of regulations is made under that provision (with regulations made following the 2026 boundary review having effect for this purpose only *until* the first set of regulations is made under section 49J). This mechanism perhaps neglects the fact that the first set of regulations under section 49J will not necessarily define a complete set of Senedd constituencies for Wales (but rather are likely simply to amend arrangements made following the 2026 boundary review) – so that the first set of regulations under section 49J cannot be used as the sole reference point for Senedd constituencies.
- 3.45 A similar concern affects paragraph 1(b) of Schedule 1 to the Bill, as well as the definition of “Senedd constituency” in the new proposed section 49L(1) of the 2013 Act (inserted by section 1 of Schedule 2 to the Bill) and the transitional provision in paragraph 3 of Schedule 2 to the Bill.
- 3.46 The Commission suggests that this problem can be most easily overcome if the Commission is required to set out a *full set* of Senedd constituencies for Wales in its final report following a review under the new provisions in the 2013 Act. On this basis, when the Welsh Ministers make regulations under section 49J “*giving effect to the determinations in the Commission’s final report*”, those regulations *would* lay down a complete new set of Senedd constituency arrangements. This would resolve the problems referred to in paragraphs 3.44 to 3.45 above, and would avoid the need for cross-referencing against older regulations in order to arrive at a complete overview of the Senedd constituencies.
- 3.47 This proposed approach reflects the wording of section 3(1)(a) of the Parliamentary Constituencies Act 1986, which governs the content of reports prepared by the Boundary Commission for Wales following its reviews of Westminster parliamentary constituencies under that Act.
- 3.48 The Commission **therefore suggests that the new proposed section 49I(2)(a) of the 2013 Act is amended as follows** (with new wording shown underlined):
- “(2) *The final report must –*
- (a) *either –*
- (i) *set out the constituencies into which Wales should be divided for the purposes of the election of Members of the Senedd; or*
- (ii) *state that no alteration is required to be made to the Senedd constituencies [...].*

Summary – the Commission’s suggested modifications of the Bill

3.49 First, the Commission **suggests that paragraph 7(5)(a) of Schedule 1 should be amended as follows** (by the addition of the text underlined):

“(a) publish any representations received during that period.”

3.50 Second, the Commission suggests that **paragraph 7(5) of Schedule 1 should be moved into paragraph 8 of Schedule 1, with the consequence that the first two sub-paragraphs in paragraph 8 should read as follows** (with changes shown underlined) and the subsequent sub-paragraphs in paragraph 8 should be re-numbered accordingly:

“8 (1) At the end of the second period for representations the Commission must –

(a) publish any representations received during that period¹⁴.

(b) consider its proposals having regard to those representations, and

(c) if it is considering any changes to the proposals set out in the second report for the names of the Senedd constituencies for communication through the medium of Welsh –

(i) consult the Welsh Language Commissioner on the orthography of the proposed names, and

(ii) have regard to any representations made by the Commissioner.

(2) After taking the steps in sub-paragraph (1), and before 1 April 2025, the Commission must –

(a) make and publish a final report, and

(b) send it to the Welsh Ministers.”

3.51 Third, the Commission **suggests that the obligation to “seek to minimise the amount of change” to Senedd constituencies be removed from the Bill** (by the deletion of the new proposed section 49C(2)(b)(i) of the 2013 Act from paragraph 1 of Schedule 2 to the Bill). **Alternatively, the Commission suggests that the new proposed section 49C(2)(b) is amended in order that the desirability of minimising change to Senedd constituencies is a relevant factor for the Commission’s consideration, alongside other factors**, so that the new proposed section 49C(2)(b) is worded as follows (with changes shown underlined):

¹⁴ This addition of three words is the same amendment suggested in paragraph 3.49 above

“in any event the Commission must have regard to –

- (i) the desirability of minimising the amount of change to the Senedd constituencies that exist on the review date, and*
- (ii) the inconveniences caused by making changes to the Senedd constituencies.”*

3.52 Fourth, the Commission **suggests that the new proposed section 49G(8)(b) in the 2013 Act should be expressly qualified by a cross-reference to section 49G(9)**, for example by the insertion of the following underlined words:

“(8) The chair must allow representations to be made –

[...]

(b) (subject to section 49G(9)) by any other person considered by the chair to have an interest in any of the proposals with which the hearing is concerned.”

3.53 Fifth, the Commission **suggests that the new proposed section 49H(2) and (3) of the 2013 Act should be worded as follows** (with changes shown by underlining):

“(2) After taking the steps in subsection (1), the Commission must make a second report –

(a) setting out –

(i) the Commission’s proposals for change to the boundaries and names of the Senedd constituencies, or

(ii) if the Commission does not consider any change appropriate, a statement to that effect; and

(b) specifying details of any changes the Commission has made to the proposals set out in the initial report, and an explanation of why those changes have been made.

(3) The Commission must—

(a) publish the second report,

(b) publish any representations (of the kind described in section 49F(2)(b)) received during the second period for representations;

(c) publish records of the public hearings held under section 49G;

- (d) *inform any person it considers appropriate of how to access the report and the representations and records the Commission has published;*
- (e) *invite representations on the report, including representations in respect of the representations made during the public hearings, and*
- (f) *notify any person it considers appropriate of the final period for representations.”*

3.54 Sixth, the Commission **suggests that the new proposed section 49H(5)(a) of the 2013 Act be amended as follows** (with additions shown underlined):

“publish any representations received during that period [...]”.

3.55 Seventh, the Commission suggests that the new proposed section 49H(5) of the 2013 Act **should be moved into section 49I(1), with the consequence that the first two subsections in section 49I should read as follows** (with the changes shown underlined) and the subsequent subsections in section 49I should be re-numbered accordingly:

“49I (1) At the end of the final period for representations the Commission must –

- (a) publish any representations received during that period¹⁵,*
- (b) consider its proposals having regard to those representations, and*
- (c) if it is considering any changes that were not set out in the second report to the names of the Senedd constituencies –*
 - (i) consult the Welsh Language Commissioner on the orthography of the proposed names for communication through the medium of Welsh, and*
 - (ii) have regard to any representations made by the Commissioner.*

(2) After taking the steps in subsection (1), before 1 December 2028, and before 1 December every eighth year after that, the Commission must –

- (a) make and publish a final report, and*
- (b) send it to the Welsh Ministers.”*

3.56 Eighth, the Commission **suggests that the new proposed section 49I(2)(a) of the 2013 Act is amended as follows** (with new wording shown underlined):

¹⁵ This addition of three words is the same amendment suggested in paragraph 3.54 above

“(2) *The final report must –*

(a) either –

- (i) set out the constituencies into which Wales should be divided for the purposes of the election of Members of the Senedd; or*
- (ii) state that no alteration is required to be made to the Senedd constituencies [...].*