

P-06-1386: Introduce a way for constituents to vote out their MS before the end of their term

Y Pwyllgor Deisebau | 04 Mawrth 2024
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Reference: SR24/7752/3

Petition Number: P-06-1386

Petition title: Introduce a way for constituents to vote out their MS before the end of their term

Text of petition: There is currently no way of removing the Senedd Member for your area if their constituents are not happy with them - once voted in they will remain there for 5 years unless they voluntarily resign their seat.

This petition calls for the Senedd to adopt a recall procedure (detailed below), or something similar, so that constituents can call for an MS to vacate their seat. The conditions to trigger a recall would be an online petition of at least 100 signatures of eligible registered voters.

Example Recall Procedure

The process should be similar to the recall of MP's Act 2015. For a recall petition to be successful 10% of eligible registered voters need to sign the petition, eventually resulting in a by-election.



1. Background

Recall mechanisms – the means by which an elected politician can be removed from office by their constituents between elections – are a relatively rare practice in democratic legislatures. The UK Parliament was the first legislature in the UK to introduce a system of recall through the [Recall of MPs Act 2015](#) for Members of the House of Commons.

A draft Member’s Bill has been proposed to the Scottish Parliament by Graham Simpson MSP that would replicate some elements of the system in use for the House of Commons. However, this system becomes complicated when it is applied to the Members of the Scottish Parliament elected through the regional list. The same challenges would apply to regional Members of the Senedd and in a closed List Proportional Representation (PR) system as proposed by the Senedd Cymru (Members and Elections) Bill for future Senedd elections.

1.1. Recall in the UK Parliament

The [Recall of MPs Act 2015](#) provided a system of recall for Members of the House of Commons for the first time.

A recall petition against a sitting MP can only be opened if one of three conditions are met:

- The MP has, after becoming an MP, been convicted of an offence and sentenced to be imprisoned or detained for a period of less than 12 months (including suspended sentences).¹
- Following a report from the Committee on Standards, the House of Commons orders the suspension of the MP from the house for at least 10 sitting days (or 14 calendar days).
- The MP has, after becoming an MP, been convicted of providing false or misleading information in support of an expenses claim under section 10 of the Parliamentary Standards Act 2009.

If one of these conditions is met, the Speaker of the House of Commons must give notice to the returning officer (known as the petition officer) in the MP’s

¹ If a sitting MP convicted of an offence receives a custodial sentence of more than a year and is detained, they would already automatically lose their seat and recall does not apply.

constituency as soon as reasonably practicable so that the petition officer may open a recall petition.

A recall petition can be signed in up to 10 designated places in the relevant constituency and remains open for signing for six weeks. The petition must be available for signing Monday to Friday from 9am to 5pm, except bank holidays. The petition officer must also make reasonable provision for the availability of the petition for signing at other times.

A person is eligible to sign the petition if they are registered and eligible to vote in a parliamentary election in the constituency on the day the Speaker's notice is given. People registering to vote while the petition is open will not be able to sign the petition.

For a petition to succeed, it must be **signed by 10% of eligible registered electors** on the parliamentary register on the day the petition officer receives the petition notice.

If the petition is successful, the petition officer notifies the Speaker of the House of Commons. The MP's seat becomes vacant on the giving of that notice.

Once the seat has been vacated, the normal conventions for calling a by-election apply.

Being removed by a recall petition does not disqualify the outgoing MP from seeking to stand in the subsequent by-election.

So far, there have been five recall petitions held, with four of these reaching the required threshold of signatures. The petitions which met the 10% threshold were held in [Peterborough](#), [Brecon and Radnorshire](#), [Rutherglen and Hamilton West](#) and [Wellingborough](#). The unsuccessful petition fell just short of the required number of signatures in [North Antrim](#).

More information on the recall of MPs can be found in this [House of Commons Library briefing](#).

1.2. Removal from Office and Recall (Members of the Scottish Parliament) Bill

In January 2022, Graham Simpson MSP lodged a [draft proposal](#) to introduce a Member's Bill to the Scottish Parliament to:

introduce new measures on removing an MSP from office, including additional grounds for removal and new processes for removal, such as recall.

His proposed system of recall would be triggered if a Member of the Scottish Parliament is excluded from proceedings for 10 sitting days or more as a result of a breach of the code of conduct, or the Member is fined, as a result of court proceedings, any amount up to the maximum fine on level 5 of the standard scale (£10,000).

Mr Simpson's proposals mirrored many of the elements of the UK Parliament's recall scheme for Members of the House of Commons. However, a significant barrier he identified to introducing a recall scheme is the system used to elect regional Members of the Scottish Parliament. This is the same as that used to elect regional Members of the Senedd, and these same challenges would apply to the system proposed in the Senedd Cymru (Members and Elections) Bill.

His proposal for a system for recalling a regional Member would be for a single ballot paper to include two questions: the first would ask whether the Member in question should be recalled with a threshold set for required support; the second question would then offer a choice between the current MSP who is the subject of the recall and the name of the next candidate on that party's regional list submitted at the last election. He recognises in his proposals that this would only offer the electorate the choice between candidates from the same political party.

1.3. International Examples

There are a limited number of other places in the world where recall mechanisms exist to remove individual or collective politicians. This [Scottish Parliament Information Centre](#) (SPICe) research paper outlines examples of recall mechanisms in:

- British Columbia, Canada
- Switzerland
- Alaska, USA
- Venezuela

2. Welsh Parliament action

Whilst a recall mechanism was not part of the Senedd Cymru (Members and Elections) Bill, as noted in section 2, this has been an issue that has been considered by the Reform Bill Committee as part of its stage 1 scrutiny of the Bill.

The Institute of Welsh Affairs told the Committee that it was concerned that the Bill did not make provision for recall, adding “the lack of information on how standards will be upheld is a significant gap”. It noted in its submission that:

“A modern democracy requires a clear recall mechanism to improve scrutiny, transparency and accountability on behalf of the electorate. Without this, the Senedd will fall further behind its Westminster equivalent in this area which, however flawed, has clear processes around recall mechanisms for parliamentarians”.

The Committee has taken oral evidence from the Llywydd, the Electoral Commission, the Electoral Reform Society Cymru, the Wales Electoral Coordination Board and Professor Alistair Clark on a possible recall mechanism for Members of the Senedd.

One of the issues raised by the Wales Electoral Coordination Board and the Electoral Commission was the importance of learning from the process that is in place for Members of Parliament. Both organisations highlighted that if the Senedd was to proceed with a form of recall mechanism then note should be taken of the reports published by the Electoral Commission on each recall petition. The Electoral Commission provided the Committee with a summary of these reports.

Whilst agreeing with the principle that it was appropriate to consider what could be done to increase Members’ accountability through a recall process, the Llywydd suggested that reducing the length of Senedd terms from five years to four could reduce (but not remove) the potential desire to recall individual Members.

Professor Alistair Clark told the Committee that consideration must be given not only to how any vacancies resulting from recall would be filled, but also to what would trigger any recall process.

The Committee also consulted the Senedd's Standards Commissioner to seek his views on the accountability of Members, including the possibility of introducing a recall mechanism.

The Standards Commissioner said he welcomed “any measure that would increase the accountability of Members”, but that he had “serious concerns about the inclusion in the Bill of a recall mechanism similar to the one in [the] Recall of MPs Act 2015”. His main concern focused on the lack of provision for by-elections in the proposed electoral system, meaning that 10% of the electorate may be able to remove a Member from office if a similar model was followed to that in the House of Commons.

The Commissioner proposed alternative ways to strengthen the accountability of Members, including by making a lesser, or any, sentence of imprisonment result in automatic disqualification² and increasing the sanctions available to the Standards of Conduct Committee to potentially allow for a Member to be removed from office, subject to certain safeguards.

The Reform Bill Committee recommended in its stage 1 report on the Bill that the Senedd's Standards of Conduct Committee should develop options for strengthening individual Members' accountability, including consideration of a recall mechanism, disqualification arrangements and the sanctions available to the Committee when a complaint about a Member is upheld. The Committee recommended that public consultation on potential options should be completed before the end of the Sixth Senedd in 2026.

² A person is currently disqualified from being a Member of the Senedd if they have been given a custodial sentence of 12 months or more, including a suspended sentence.

3. Welsh Government action

A recall mechanism for Members of the Senedd has been referenced by the Counsel General and Minister for the Constitution and the First Minister in the context of the wider programme of electoral reform taking place through the Senedd Cymru (Members and Elections) Bill (SCME Bill) and the Elections and Elected Bodies (Wales) Bill (EEB(W) Bill).

When the SCME Bill was introduced on 18 September, the Counsel General, Mick Antoniw MS, told BBC Radio Wales that:

"I am sure that [a Senedd recall system] will be raised during the scrutiny process and then we will have to address that, so I think it is something that will take place. It will be discussed, and we will have to consider whether it is through this legislation or through one of the other pieces of legislation that we are bringing that forward."

The matter was also raised by both Adam Price MS and Alun Davies MS at First Minister's Questions on 26 September 2023.

In response to Alun Davies MS, the First Minister said:

If the Senedd, in the process of scrutinising the Bill, comes to a consensus on that matter or, indeed, maybe other matters that will become part of the debate, then, in a way, I'm not sure that it is for the Government to have a view on it. Because this is a Bill about the Senedd, and the Government is the vehicle for bringing it forward rather than it being a Government Bill by origin.

The matter was raised with the Counsel General by Darren Millar MS at the Reform Bill Committee's meeting on 5 October 2023. In response to a question about whether the Welsh Government was considering a model of recall, the Counsel General said:

It is a perfectly valid issue, and I think it's a very topical one in terms of accountability of individual Members, and so on. It is not within this Bill, it was not one of the recommendations to be included within this Bill. It is quite complex—actually, it's more complex under the list system, because, obviously, there were no by-election systems, and how would it actually operate, how you would actually trigger it, and so on. But, look,

it's a matter for the Senedd to consider. I don't think it can come into this legislation; I think it is, again, quite a complex area. It needs quite a bit of work done as to how something like that might operate. I'm pretty certain it will undoubtedly come up within the review system after 2026. But there is nothing that stops the Senedd from at least considering it in the interim as well.

In the Reform Bill Committee's second evidence session with the Counsel General on 13 December 2023, he confirmed that the matter would need further work before it could be introduced:

All I'd say is, in terms of legislating and change, there is no simple way of actually doing this. I think there's still quite a lot of thought. I'd be very interested in whatever recommendations the committee has as to what might happen, how that might be achieved, and even if it's not feasible for this legislation, and I think that's not a valuable contribution in any event to, I think, something where there is a will, but it is an area that needs to be addressed. The question is how quickly can it be addressed, and in what manner it should be addressed, whilst preserving the, I suppose, integrity of the electoral system as well.

3.1. Welsh Government response

The Welsh Government's response to the petition outlines some of the complexities involved with a recall mechanism in a proportional list system. It states that a successful recall petition, as envisaged by the petitioner, would mean that:

- A Member subject to such a petition would immediately lose their seat.
- There would be no opportunity for the recalled Member to “defend” their recall in a by-election. Instead, the seat would either be filled by the next candidate on a party's list or would remain vacant.
- A Member could irrevocably lose their seat based on the expressed will of only 10% of registered voters within a constituency (if the threshold in the UK Parliament process was adopted).

The response states that the Welsh Government will consider and respond to the recommendations made by the Reform Bill Committee in its report on the Senedd Cymru (Members and Elections) Bill, including recommendation 50 in respect of recall.

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