

Julie James AS/MS
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni
Counsel General and Minister for Delivery



Llywodraeth Cymru
Welsh Government

David Rees MS
Chair
Member Accountability Bill Committee

3 November 2025

Dear David,

Senedd Cymru (Member Accountability and Elections) Bill

Please find enclosed the Statement of Policy Intent on the powers to make subordinate legislation under the Senedd Cymru (Member Accountability and Elections) Bill. This document is provided to support the Committee's scrutiny of the Bill.

I am copying this letter to the Chair of the **Legislation, Justice and Constitution** Committee

Yours sincerely,

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive style.

Julie James AS/MS
Y Cwnsler Cyffredinol a'r Gweinidog Cyflawni
Counsel General and Minister for Delivery

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Cwnsler.Cyffredinol@llyw.cymru
correspondence.Counsel.General@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Senedd Cymru (Member Accountability and Elections) Bill: Statement of Policy Intent for Subordinate Legislation

Introduction

1. This document provides an indication of the current policy intention for the subordinate legislation which the Welsh Ministers would be empowered or required to make under the provisions of the Senedd Cymru (Member Accountability and Elections) Bill (“the Bill”). In developing subordinate legislation, the Welsh Government will work closely with key stakeholders and delivery partners in order to ensure the provisions are relevant, valid and proportionate.
2. This statement has been prepared in order to support the Senedd during the scrutiny of the Bill. It should be read in conjunction with the Bill and the Explanatory Memorandum and Explanatory Notes which accompany it.
3. The Bill will deliver on the recommendations made by the Senedd Standards of Conduct Committee (“SoCC”), in their reports on [Recall](#)¹ and [Deliberate Deception](#)².
4. The overall purpose of the Bill is to enhance the accountability of Members of the Senedd, and candidates for election to the Senedd, by strengthening the systems that currently exist that regulate and sanction their behaviour and conduct.
5. The Bill provides for:
 - the establishment of a recall poll, to enhance accountability of Members of the Senedd;
 - the creation of two trigger events which will initiate a recall process:
 - a Member being convicted of an offence in the United Kingdom and receiving a custodial sentence or ordered to be imprisoned or detained (and it is a sentence that does not result in automatic disqualification);
 - the Senedd agreeing to submit a Member to a recall poll following a report from the SoCC containing a recommendation to submit the member to a recall poll.

¹ Senedd Cymru, *Individual Member Accountability – Recall*, Standards of Conduct Committee, January 2025

² Senedd Cymru, *Individual Member Accountability – Deliberate Deception*, Standards of Conduct Committee, February 2025

- a requirement that the SoCC develops guidelines to determine when the recall sanction should be recommended by the SoCC, including a requirement for public consultation;
 - the creation of a duty on the Presiding Officer - Senedd Cymru to fix the date of a recall poll after becoming aware a trigger event has occurred;
 - amendments to the existing functions of the Commissioner for Standards (“the Commissioner”);
 - to enable them to carry out an investigation of a breach of obligation by a Member, or concerns about a Member’s conduct, of their own initiative;
 - requiring the Commissioner to investigate a self-referral by a Member of Senedd made to the Commissioner.
 - a requirement that each Senedd must establish a mandatory SoCC;
 - the ability for the Senedd to appoint (should they choose to) lay members to the SoCC;
 - provision enabling the Senedd to introduce an appeals mechanism as part of the standards process;
 - amendments to section 13 of the Government of Wales Act 2006 (“GoWA”) to address deliberate deception by political candidates. In response to the SoCC’s report into Deliberate Deception, this places a duty on Welsh Ministers to make provision prohibiting the making of false statements of fact in a future Conduct Order.
6. The Bill inserts new provisions into the GoWA, in particular see amendments to section 13, section 28(1) and (2); new sections 30A and 30B and new Schedule 1B to GoWA.
7. The amendments to section 13 of GoWA introduce a duty upon the Welsh Ministers to make provision of a kind that may be made under section 13(1)(a) of GoWA to prohibit the making of false or misleading statements. The power in section 13 has recently been exercised to make the Senedd Cymru (Representation of the People) Order 2025 (SI 2025/864) (often referred to as the Conduct Order). That Order will have effect for any election taking place after 6 April 2026.

8. The Welsh Ministers have considered the use of powers in the Bill as set out below and are satisfied that they are necessary and justified.

Details of regulation-making powers in the Bill

Part 1 – Recall of Members of the Senedd

Details	Reason for and Policy Intent of the Power
<p>Reference: 1</p> <p>Section: 11</p>	<p>The power delegated to Ministers under section 11 of this Bill ensures that detailed provision can be made and regularly updated as required in respect of the conduct and questioning of recall polls.</p> <p>The detailed rules that govern the conduct of an electoral event are complex. For example, the Senedd Cymru (Representation of the People) Order 2025 (“the Conduct Order”) does so in respect of Senedd General elections and runs to 397 pages.</p> <p>The policy intent is that the conduct of a recall poll, will be as similar to a Senedd general election in a single constituency as possible – for example, the roles and responsibilities of Returning Officers, the timescales in advance of the poll and on polling day itself, and the number/location of polling districts and polling places.</p> <p>Key differences are expected to arise in respect of:</p> <ul style="list-style-type: none"> • Nominations: A Member becomes subject to recall by virtue of one of the two trigger events occurring, as compared to nomination for candidacy at a general election; • Campaign finance regulations: Political parties can incur spending in respect of candidates at a general election. At a recall poll, there will be no candidates but rather “a Member subject to recall”. Financial regulation in respect of such members (and other third parties) at a recall poll will therefore need to be bespoke to a recall poll. As an example, the Recall of MPs Act 2015 creates a system of “accredited campaigners” in respect of the UK Parliamentary recall petitions.

	<p>The regulations to be made under section 11 will make provision relating to the conduct of a recall poll and will provide for:</p> <ul style="list-style-type: none"> (i) the conduct of the poll; (ii) mechanisms for questioning a poll, and the consequences thereof; (iii) the giving, sending, delivery or receipt of notices; (iv) the registration of electors; (v) the limitations of recall poll campaign expenses and donations; (vi) the combination of polls; (vii) the application of criminal (electoral) offences.
<p>Description of Power: Section 11 of the Bill provides the Welsh Ministers with a broad power to make subordinate legislation about the conduct of recall polls, similar to the power contained in section 13 of GoWA which provides Ministers with a broad power to make provision in respect of the conduct of Senedd elections.</p>	<p>Prior to making any regulations under section 11, Welsh Ministers must have consulted the Electoral Commission (“the EC”). Where a provision in the regulations seeks to set campaign spending or donation limits, to specify what should be included in such limits, the consent of the EC is required.</p> <p>As well as consultation with the EC, the Welsh Government will engage with other stakeholders with an interest in what the regulations will provide for, including the Electoral Management Board under the auspices of the Democracy and Boundary Commission Cymru.</p> <p>It is anticipated that the power to make regulations under section 11 will include provision which impacts on various public bodies who have a role in the oversight and lawful running of other elections in Wales and the UK more widely, including reserved authorities. To enable the power to be exercised in this way, the consent from the Secretary of State is needed.</p>

Part 3 – Conduct of Senedd Cymru Elections

Details	Reason for and Policy Intent of the Power
<p>Reference: 2</p> <p>Section: 22</p>	<p>The Standards of Conduct Committee – in their report on deliberate deception recommended that:</p> <p><i>“the Government of Wales Act 2006 is amended to stipulate that any Conduct Order made under section 13 may include a provision for deliberate deception, ensuring that the issue of deliberate deception is considered in the conduct orders made for future elections.”</i></p> <p>In response, section 22 of the Bill amends section 13 of GoWA, and in doing so places a duty on the Welsh Ministers to make provision prohibiting the making of false statements of fact before or during an election for the purpose of affecting the return of any candidate.</p>
<p>Description of Power:</p> <p>Section 22(3) amends section 13 of GoWA, and in doing so places a duty on Welsh Ministers to make provision, of a kind that may be made under section 13(1)(a), prohibiting the making of false statements of fact when exercising the power to make an Order under s13 in respect of the conduct of elections.</p>	<p>The “Conduct Order”, made under section 13 of GoWA, regulates Senedd general elections currently, including setting out a range of criminal offences for candidates at such an election. It is therefore appropriate that any additional offences are included within a future Conduct Order – rather than being a stand-alone offence created through this Bill – to ensure coherence and clarity of the suite of offences applicable at an election.</p> <p>The creation of a potential offence in respect of deliberate deception by candidates is a novel proposition. In developing any such offence, comprehensive engagement with the elements of the criminal justice system that will be responsible for its implementation - the police, the Crown Prosecution Service and the Ministry of Justice – will be paramount. Given the time available for the passage of this Bill in the current Senedd term, it has not been possible to undertake the necessary engagement in the development of an offence at this time.</p>

Part 4 - General

Details	Reason for and Policy Intent of the Power
<p>Reference: 3</p> <p>Section: 23 Power to make consequential, transitional etc. provision</p>	<p>Schedule 2 of the Bill contains minor and consequential amendments to primary legislation relating to the provisions of the Bill. Whilst every effort has been made to identify all provisions requiring amendment in consequence of the Bill, given the wide spread of enactments in relation to electoral law and Member standards systems as well as the limited time available for passage of the Bill, it is possible that further amendments to primary legislation would be required in order to effectively implement the Bill. As such, the power permits amendment of primary legislation.</p> <p>The Bill does not contain consequential amendments to provisions contained in secondary legislation and so the power permits such amendments to be made, if so required.</p> <p>The intention would be that any such provision would align appropriately with the Bill's provisions.</p> <p>The power is appropriately limited in breadth so as to only permit provision in regulations that are incidental to, supplementary to or consequential on the provisions of the Bill or transitional or saving provision in connection with the provisions of the Bill.</p> <p>If the regulations modify primary legislation, they will be subject to the Senedd approval procedure.</p>

Description of Power:

Provides the Welsh ministers with a regulation power to make consequential, incidental, supplementary, transitional, transitory or saving provision if the Welsh Ministers consider it appropriate for the purposes of, in consequence of, or for giving full effect to any provision of the Act (i.e. the Bill once enacted). The regulations may amend, repeal, revoke or modify enactments.

Details	Reason for and Policy Intent of the Power
<p>Reference: 4</p> <p>Section: 24 Coming into force</p>	<p>Parts 2 and 4 of the Bill come into force the day after the day on which the Bill receives Royal Assent. Part 3 of the Bill comes into force two months after Royal Assent.</p> <p>The other provisions of the Bill, namely Part 1, come into force on a day to be appointed by the Welsh Ministers. This power is necessary in order to carefully choreograph the implementation of the recall system. For example, the trigger events should not be in force prior to the regulations setting out the conduct of a recall poll being made (under section 11 of the Bill). There may also be considerations in terms of timing in relation to the Standards of Conduct Committee issuing the recall guidance required in order for trigger event B to be active, or for any need to amend the Senedd's Standing Orders to take account of the recall system.</p>
<p>Description of Power:</p> <p>Provides the Welsh Ministers with the power to make an order appointing the day on which Part 1 comes into force. Such an order may make transitional, transitory or saving provision and appoint different days for different purposes.</p>	