

# Capacity of the Assembly

## Note of discussion event

January 2020

The Committee on Assembly Electoral Reform was established to examine the recommendations of the Expert Panel on Assembly Electoral Reform in respect of the size of the Assembly and how Members are elected.

To inform its work on the capacity of the Assembly, the Committee held a private discussion event on 6 January 2020 with stakeholders who work closely with the Assembly and its Members.

The three questions considered were:

- 1.** Does the Assembly have the capacity it needs to carry out its representative, scrutiny and legislative functions now and in the future?
- 2.** Would things be different if the Assembly had more Members? If so, how?
- 3.** If the Assembly continues to have 60 Members, what could it, its committees, its Members, political parties or others do differently to increase the Assembly's capacity?

This note summarises the themes arising from the discussions.



## Question 1: Does the Assembly have the capacity it needs to carry out its representative, scrutiny and legislative functions now and in the future?

### Size of the Assembly

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**1.** There was general consensus that the Assembly does not have the capacity it needs, and that this presents challenges for scrutiny and democratic accountability. Some participants noted that the Assembly has responsibility for many of the issues which affect people most in their daily lives, but that once members of the Welsh Government and the Presiding Officers had been taken into account, only around 45 Members are available to undertake the Assembly's scrutiny functions. While there was consensus that scrutiny is generally of a good quality, some participants felt it was inevitable that without increased capacity, the Assembly would miss significant issues which should be subject to scrutiny. There was general support for an increase in the size of the Assembly. Some participants suggested that an increase should be towards the upper end of the Panel's proposed bracket of 80-90 Members to future-proof the institution and avoid further adjustments being required in the foreseeable future.

### Role and responsibilities of the Assembly

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**2.** The role of the Assembly has changed significantly since it was established in 1999; in particular it now has law-making and taxation responsibilities. Brexit and the recommendations of the Commission on Justice in Wales that justice and policing should be devolved may result in further changes. Participants noted that the establishment of the Assembly, and subsequent changes to the devolution settlement, had been controversial, but that support for devolution had increased. There was general consensus that it was important to help the public to understand that the Welsh Government and Assembly take decisions which directly affect people's lives, and that such decisions must therefore be properly and effectively scrutinised by Members who have the skills, time, capacity and expertise to do so.

**3.** The lack of media focus on the Assembly was regarded by some participants as a major concern. It was felt that good work sometimes went unnoticed, and that Members may be aware that they work in a parliamentary environment which is subject to less scrutiny than other UK legislatures. Some participants suggested that the media, both at Welsh and national levels, could do more to explain the work of the Assembly and why more Members are needed.

## Assembly committees

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**4.** Participants felt there were severe limitations on the time available to Members to prepare for formal Assembly business, to engage with the evidence and available expertise, and to reflect on the matters they are scrutinising. Participants suggested that smaller parties struggle to take up places on all Assembly committees and that larger parties find it difficult to fill all of the committee places allocated to them. It was noted that the recent reduction in committee size had partially alleviated the pressure of the number of places, but that it would now be harder for Members to specialise in different aspects of committee portfolios. This was felt to be exacerbated by the breadth of committees' remits. Participants suggested that the breadth of remits was itself partly driven by the constraint the Assembly's size puts on the number of committees which can be established.

**5.** A further consequence of the breadth of remits combined with a lack of capacity was felt to be an increase in the number of short inquiries in place of longer, more detailed pieces of work. Opportunities for post-legislative scrutiny and horizon-scanning to anticipate areas of interest and importance were also thought to be limited. Some participants were concerned that scrutiny of Government decision-making tended to be retrospective, limiting the opportunities for Members and committees to influence and shape Government policy. The constraint on strategic and creative thinking was felt to lead to missed opportunities to set the agenda and influence policy, spending and legislation, as the time required to prepare for and attend committee and Plenary meetings limited the time available for creative political thinking or the development or consideration of alternative options. There was also some concern about whether the range of organisations and individuals from whom committees take evidence is sufficiently broad.

**6.** Some participants observed varying levels of expertise among committee members in relation to the more technical aspects of scrutiny, and were concerned that committee activity was being led by the skills and knowledge of the supporting officials. Participants recognised the technicality and complexity of some of the issues Members consider, including primary and secondary legislation and detailed Government policy proposals. This contributed to concerns about the level of turnover of committee memberships, which participants felt could hinder Members' ability to build up expertise upon which detailed and probing scrutiny could be based, especially in technical areas such as taxation.

**7.** Some participants noted that constraints on the time or capacity available for scrutiny could have a detrimental impact on the Assembly's capacity; for

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example, inadequate scrutiny of legislation could lead to defective or ineffective legislation requiring resolution by further policy or legislative action and giving rise to additional scrutiny requirements

### Engagement with the public and stakeholders

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**8.** Participants felt that the majority of Members' time while on the Assembly estate was taken up with formal Assembly business, with limited opportunities to undertake formal Assembly business away from Cardiff Bay, or for Members to engage informally or meet with stakeholders, constituents, service users or others. Some participants noted that the current capacity constraints are particularly acute for Members representing the constituencies which are furthest from Cardiff Bay, as a greater proportion of these Members' time is spent travelling.

**9.** Concerns were expressed that access to Members might sometimes be on the basis of personal relationships, rather than the importance of specific issues or strength of argument. Participants felt that if an increase in capacity reduced the time pressures within the working week, or allowed Members to specialise in particular policy issues, it could improve and increase the quality and diversity of engagement. Participants also suggested that constraints on Members' time can limit the scope for them to engage with each other on a cross-party basis. This was felt to encourage a tribal culture within the institution and limit the scope for working across party lines to build consensus and think creatively about the issues facing Wales.

### Assembly Commission staff support

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**10.** Participants highlighted the role of Assembly Commission staff in supporting scrutiny, especially through the Assembly's committees. They noted that while staff support has been increased and is generally of a high standard, it cannot substitute for Members having the time to engage directly with the evidence and the issues, or for the political perspective that only Members can bring. Some participants noted that on occasion they had observed a lack of experience or specific technical knowledge in the advice provided to Members, which had been reflected in the approach to questioning taken by Members in committee.

### Comparisons with other legislatures and intra-party scrutiny

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**11.** Participants reflected on the size of other UK and international legislatures, noting that the Assembly appears undersized in comparison. Some participants suggested that in a smaller legislature Members may be less likely to be critical of their own party than members of larger legislatures, and argued that a larger

membership might allow for more scrutiny within parties, as well as of the Welsh Government. There also were some concerns that the regional list element of the current electoral system might deter Members from criticising their own party if they felt they had been elected in the name of the party rather than as individuals.

## Question 2: Would things be different if the Assembly had more Members? If so, how?

### Public understanding of the role of the institution

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**12.** Participants were clear that it is for individual Members and political groups to determine how to carry out their roles and how to prioritise their responsibilities, although there was some discussion of whether additional capacity would be deployed to undertake scrutiny work or to take on more constituency or regional casework. Nevertheless, there was general consensus that the public and stakeholders do not always understand what it is that Members do, and that this may be a barrier to public acceptance of any increase in the size of the Assembly. It was felt that there was a need to demonstrate how electing more Members would lead to better governance in Wales, for example by increasing the talent pool available for ministerial posts or by improving scrutiny. Some participants suggested that indicative outline job descriptions should be prepared for Members, and also for local councillors and MPs in order to provide clarity on the roles of elected politicians at all levels in Wales. Other participants felt that an increase in Members would itself contribute to an increase in public understanding of the institution and its role as there would be more Members to act as ‘ambassadors’ for the legislature.

### Engagement with the public and stakeholders

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**13.** Participants felt that in a larger Assembly would offer greater scope for the establishment of cross-party groups covering the full range of the Assembly’s responsibilities. Member attendance and participation in the work of cross-party groups could be more consistent and effective, with a corresponding increase in the impact of such groups’ work. It was also felt that this would improve stakeholder access to Members, and Members’ access to expertise, the latest policy-thinking and sector priorities. Reducing the time pressures on Members would provide more chances for them to be away from the Assembly estate to meet with a wider range of organisations. Participants felt that hearing from more diverse stakeholders and service users would deepen Members’ understanding of the impact of the policies and legislation they scrutinise, and enhance their ability to hold the Welsh Government to account. However, some participants noted that increasing the number of Members would pose challenges to national advocacy groups that seek to engage with all Members on an ongoing basis.

### Improved and enhanced committee scrutiny

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**14.** Increasing capacity in the committee system was expected to lead to scrutiny opportunities for scrutiny and a wider range of voices being heard. Some participants from representative organisations noted that if they have only one opportunity to give evidence, they are likely to send experienced contributors, whereas with more opportunities they would be more likely to offer chances to smaller or less-experienced contributors. This would increase the diversity of voices heard by committees, as well as increasing the accessibility and transparency of the Assembly's work. Participants also felt that committees would be able to adopt more creative approaches, finding different ways for organisations, office holders or individuals who might otherwise be deterred by the formality of Assembly business. Some suggested that there could be more opportunities for joint work between committees, which might lessen the burden on organisations which are regularly asked to give evidence.

#### Stability and specialism

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**15.** Some participants who are subject themselves to scrutiny by Assembly committees noted that Member turnover between scrutiny sessions can limit the extent to which issues are followed up or to which Members are able to develop subject matter expertise. It was felt that increasing the number of Members could reduce turnover of committee members and increase stability in the committee system. This would enable Members to develop deeper expertise, and to specialise within a committee's remit, increasing committees' ability to scrutinise the Welsh Government and others more effectively. There was general consensus that enabling Members to develop specialisms was desirable, although some participants highlighted the value of the strategic and cross-cutting perspective Members currently have by reason of sitting on multiple committees, and were concerned that this perspective should not be lost.

#### Improved representation

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**16.** It was felt by some that a larger Assembly would be better able to be a truly national institution which operated across the whole of Wales. Some suggested that this might encourage people to stand as candidates for the Assembly rather than Westminster. Participants also felt that a larger Assembly would lead to more proportional electoral outcomes. This could reduce the strain on smaller political parties and increase the diversity of Members' protected characteristics, political opinions, and cultural and socioeconomic backgrounds. It was suggested that a more diverse and representative Assembly would rely less on advocacy for specific causes by special interest lobbying organisations. Other participants, however, felt

that it should not be assumed that an increase in capacity would automatically translate into a more diverse or representative Assembly.

### Transition to a larger Assembly

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**17.** Some participants noted Members' current work pressures limited opportunities to fully consider how an increase in the size of the Assembly might be achieved, or the impact it could have. They suggested that increasing the size would give rise to both risks and opportunities. A large cohort of relatively-inexperienced Members would need appropriate training, induction and peer support from the Assembly Commission and political parties, but would also offer valuable opportunities to reassess the Assembly's procedures, practices and ways of working. Participants discussed changes to the Assembly's culture which could result from a larger institution, and suggested that the family-friendly ethos should be maintained while increasing the focus on public and stakeholder engagement.

### A more creative institution

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**18.** Some participants suggested that increasing the Assembly's capacity could help it become a more visionary legislature which was better able to develop and pursue a uniquely Welsh path within the UK and the world. They felt that Members would have more space and time to think creatively, and engage effectively with experts, stakeholders, service users and the public to identify Wales-focused solutions. This could be facilitated by greater diversity of Assembly business within the working week, such as Westminster Hall-style debates in a parallel debating chamber, as well as by enabling more time and opportunities for Members to work together and develop their own visions for Wales.

### Financial implications

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**19.** Participants recognised that there would be financial implications associated with any increase in the size of the Assembly, and that such costs could be a matter of concern to the public. However, they emphasised the importance of the Assembly's role, and the value and potential savings that come from the effective fulfilment of its responsibilities. Participants referred to the wider cost of politics in Wales, particularly the loss of MEPs and the potential reduction in the number of Welsh MPs. It was felt that increasing the size and costs of the Assembly while reducing representation and costs at European and UK levels represented a redistribution of resources in line with the devolution and redistribution of responsibilities.



### Question 3: If the Assembly continues to have 60 Members, what could it, its committees, its Members, political parties or others do differently to increase the Assembly's capacity?

#### Longer working weeks

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**20.** Participants considered whether the working week could be extended. Options discussed included:

- a. Normalising Monday morning within the formal Assembly business timetable, and/or making greater use of Monday afternoons.
- b. Increased use of Thursday afternoons for formal Assembly business.
- c. Scheduling formal Assembly business on Fridays.
- d. Scheduling Assembly business later into the evenings.

**21.** Views were mixed, with some participants highlighting the potential conflict between longer hours and the Assembly's family-friendly ethos, potential risks to Members' health and wellbeing, and the potential to put in place barriers which could deter some groups or communities from standing for election. Participants also noted that extending the working week would have a greater impact on Members representing areas in north Wales. Others were concerned that increasing the duration of formal Assembly business would further reduce the time available to Members for reading, research, preparation and reflection on the evidence they had heard.

#### Increase the number of sitting weeks

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**22.** It was suggested that the number of sitting weeks could be increased by reducing the length of the summer recess. Participants discussed a range of issues relating to the current arrangements, including:

- a. The alignment of sitting weeks with school holidays. Participants noted the Assembly's family-friendly ethos, but highlighted that most working people who have childcare or other caring responsibilities have to put in place suitable arrangements for their dependants during school holiday periods.
- b. The number of Assembly sitting weeks is currently in line with other UK legislatures.

- c. Members, like other working people, should have suitable opportunities to take annual leave.
- d. Recess periods provide opportunities to attend national events such as the Royal Welsh Show and Eisteddfod, deal with constituency and regional casework, engage with organisations in their constituencies and regions, and prepare for upcoming Assembly business.

**23.** Some participants suggested that the number of sitting weeks could be increased as an interim measure until capacity could be increased in other ways. Others noted that once a change had been made, it would be unlikely to be reversed, which could have implications for the Assembly's family-friendly ethos and the diversity of the institution.

### Organisation of Assembly business

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**24.** Some participants noted that Plenary time is limited, and queried whether there was scope for the organisation of business or Assembly procedures to be streamlined or simplified to release capacity without reducing the robustness or rigour of the scrutiny process. Options suggested included:

- a. Reviewing the legislative process.
- b. Adjusting the balance between Government and Assembly time in Plenary, for example by reducing the frequency of opposition debates.
- c. Scheduling concurrent Plenary and committee meetings, although there was some concern that meeting these competing demands would stretch Members' capacity further.

### Size of committees

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**25.** Participants noted that committee memberships had been reduced in 2016 and again in 2019. They felt there was limited scope for further reduction as current committee sizes already presented challenges to Member attendance and specialism.

### Committee remits

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**26.** There was discussion of whether committees could be merged, but participants felt that committee remits are already very broad and that extending them further would limit the potential for committees to properly cover the full range of their responsibilities. Some participants suggested that remits could be

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adjusted to remove current areas of overlap, or that committees could undertake joint or coordinated scrutiny work on areas of mutual interest to prevent duplication.

### Public engagement

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**27.** Some participants suggested enhanced public engagement could increase capacity. Suggestions included:

- a. Establishing a standing citizens' assembly to consider relevant issues and inform Members' scrutiny.
- b. Holding more Assembly business away from the Assembly estate, including holding all formal committee and Plenary business in an alternative location for a week to enable Members representing those areas to spend more time engaging with stakeholders.
- c. Holding committee business of particular relevance to a specific region of Wales in that region, for example the scrutiny of specific local health boards.

### Increasing Assembly Commission staff support

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**28.** Participants discussed whether increasing the level of Assembly Commission staffing to support Assembly business would increase the institution's capacity. They noted that there have been increases in staffing levels in recent years, but that the Expert Panel had concluded that increasing staffing levels cannot address the constraint of the time available to Members to read, research, reflect and bring to bear their own political perspective in their scrutiny work.

### Co-option of experts

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**29.** Some participants suggested relevant experts could be co-opted to sit on Assembly committees. Co-opted experts would be able to participate in scrutiny, thereby increasing expertise and capacity, but would not be able to vote. Some participants were concerned about accountability and transparency; others noted that expert working groups were often used to support Welsh Government policy development.

### Job sharing

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**30.** Some participants suggested that enabling job sharing for Members might mean that one job share partner could take on constituency work while the other

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took responsibility for formal Assembly business, and noted that this could increase the Assembly's capacity while also increasing the diversity of voices and lived experience within the institution.

### Proxy voting

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**31.** Participants noted that Business Committee is considering whether proxy voting should be available to Members on maternity, paternity or other parental leave, and suggested that this should be extended to allow other Members to participate in Assembly business remotely.

### Use of technology

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**32.** Some participants suggested that greater use of technology could enable Members to hear from people across Wales, although others were concerned that technology should not be a substitute for Members travelling and undertaking formal business and engagement activity away from Cardiff Bay.

### Cross-party working

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**33.** Some participants suggested that Members and political groups could be more proactive in seeking to develop political consensus informally, so that formal Assembly business could focus on issues where there was genuine difference of opinion. Others felt that this might not be workable within the political reality of opposition politics, particularly in the run up to elections. There was some discussion of whether a more proportionate electoral system might encourage coalition government and therefore greater cross-party working.

### Public awareness and understanding of the changing roles and responsibilities of Members and the Assembly

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**34.** Some participants felt that promoting better public understanding and awareness of the role of the Assembly and its Members would help. They suggested that Members' roles and responsibilities should be properly defined, including:

- a. An indication of how the role has changed.
- b. An indication of the minimum expectation and requirements of the role of an Assembly Member, including being clear that attending Plenary is not all that Members do.

- c. Clarification on the issues and responsibilities which do not fall with Members' remit.

**35.** Participants also suggested that the 'Find your Member' and 'Assembly Member' pages on the Assembly's website could include more information about the particular specialisms and interests of Members, including, for example, where regional Members representing the same party had agreed informally to focus on different geographic or policy areas.

#### The role of stakeholders

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**36.** Stakeholders noted that they could do more to consider the capacity of the institution when developing their own policy ideas and priorities, although they felt that this would limit them in the development of their own visions for Wales and restrict their ability to serve their own sectors effectively. Some participants suggested that improving links between academics, expert stakeholders and Assembly Commission staff would help ensure Members had access to the latest evidence, analysis and policy thinking, and would enhance the institution's ability to horizon scan and think strategically.

#### Regional devolution

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**37.** There was discussion of whether some of the Assembly's responsibilities could be devolved to regional level. It was suggested that this could release capacity by redefining Members as national scrutineers, policy makers and legislators, while responsibility for local delivery, implementation and scrutiny was devolved to regional structures. However, concern was expressed that significant devolution to regional structures could create an accountability gap and that any devolution would have to be accompanied by rigorous national standards.

#### Devolution of powers and the use of devolved powers

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**38.** Participants noted the Assembly's new fiscal responsibilities, and ongoing debates around the devolution of justice and policing. Some suggested that there could be a pause on the devolution of any further responsibilities until the Assembly had sufficient capacity. Others suggested that the Assembly and Welsh Government should prioritise which powers would be, or would not be, exercised until capacity was increased. For example, it was suggested that Wales might have to choose for the time being not to diverge from Westminster in relation to taxation policy.

## Annex: list of stakeholder discussion event attendees

- Sean O'Neill, Children in Wales
- Sally Holland, Children's Commissioner for Wales
- Alan Bermingham, CIPFA
- Martin Pollard, Learned Society of Wales
- Martin Shipton, Media Wales
- Jacob Ellis, Office of the Future Generations Commissioner
- Callum Hughes, Public Affairs Cymru
- Gwyneth Sweatman, Public Affairs Cymru
- Nick Bennett, Public Services Ombudsman for Wales
- Dave Cook, Wales Council for Voluntary Action
- Chris Llewelyn, Welsh Local Government Association