

Evidence to the National Assembly for Wales Finance Committee Inquiry into the financial implications of the Senedd and Elections (Wales) Bill

March 2019

1. This paper provides a background briefing to the Finance Committee as part of its scrutiny of the Senedd and Elections (Wales) Bill, on the proposed changes to the Electoral Commission's accountability arrangements for devolved elections as a result of the Wales Act 2017 with a focus on financial arrangements. We are also pleased to be able to further assist the Committee by attending its meeting on March 27th to provide additional oral evidence

The Electoral Commission's Accountability to the National Assembly for Wales

The Electoral Commission is currently accountable to the UK Parliament, specifically the Speaker's Committee, from whom it receives its funding. As well as devolving competence over devolved elections (National Assembly for Wales and Welsh local government) and referendums, the Wales Act 2017 gives the Assembly competence to legislate in relation to the work of the Electoral Commission, including:

- a. financing the Electoral Commission;
- b. the preparation, laying and publication by the Commission of reports about the performance of its functions; and
- c. provision by the Commission of copies of regulations made by it or notice of the alteration or revocation of such regulation

The Senedd and Elections (Wales) Bill places a duty on the Senedd to consider the financial and oversight arrangements for the Electoral Commission in relation to devolved elections and devolved referendums with a view to making recommendations for reform. If the Assembly recommends support for such a move, amendments would be introduced at Stage 2 to give effect to this change.

Any initial costs the Electoral Commission expects as a result of changing the financial and oversight for Welsh devolved elections (i.e. staff costs)

We do not expect any incremental costs from the implementation of the new accountability arrangements. Work with colleagues in Wales (and Scotland) in establishing the arrangements is being accommodated within existing resources. We also expect that the on-going additional work in identifying and accounting for the costs of activity in Wales will be accommodated within the Commission's planned resources.

The cost to the Electoral Commission of regulating Welsh devolved elections and referendums

The principle we are applying is that the legislature which is responsible for the activity the Commission undertakes should fund that activity. Thus the National Assembly for Wales would contribute to the share of total costs that related to devolved elections. But UK Parliamentary general election costs and PCC election costs should be met by Westminster.

In order to understand how this will work in practice it is necessary to understand how the Commission's operations and budgets are currently structured. The Commission retains offices in Wales, Scotland, and Northern Ireland, and this will continue. However these teams both depend upon and contribute to the UK-wide work mainly undertaken from our offices in London. Staff in London also work on specifically Welsh issues, such as providing guidance on Welsh elections or regulating Welsh parties.

To identify the costs of the Commission's work on Welsh issues we have evaluated the share of time staff based across the UK spend on Welsh issues, and a fair share of the corporate overheads.

We structure our budget into 'core' and 'event' parts. Event budgets cover all the costs of delivering and overseeing specific electoral events; these budgets vary with electoral cycles. Core budgets are more stable and include business-as-usual delivery such as political finance regulation and providing guidance. The corporate overheads and capital expenditure necessary to support business delivery are included in core budgets.

Event costs, including staff time on events, are typically readily identifiable to particular events. Core costs however are not generally identifiable to specific territories directly. We identify these, where possible, by staff allocating time they spend on specifically Welsh matters. For corporate overheads where time spent in specific areas is not relevant, we estimate the shares based on shares of identifiable costs.

This way of estimating the funding shares offers a good balance of accuracy and simplicity (and thus low cost of operating the process).

Exhibit A illustrates this process.

What financial modelling has already been undertaken by the Electoral Commission?

We have built a financial model to estimate likely funding contributions. We wrote to colleagues in the Assembly Commission in March 2018 with illustrative funding figures. These were based on activity during 2017/18 and on the indicative budgets in our Corporate Plan for 2018/19 – 2022/23. They excluded certain items such as capital funding and for depreciation and other non-cash items, as the correct budgeting treatment was not clear at that time.

On that basis, our initial estimate of the Welsh share was between £0.6million (3.5%) and £1.5million (10.7%), depending on the scheduled elections in Wales.

We have now refined the estimates from the existing Corporate Plan, based on technical advice from HM Treasury on how to deal with the technically difficult items. The effect of this is to include funding for in-year capital spend but exclude depreciation and other non-cash items. If indicative capital budgets in the corporate plan are included with the figures above, we would expect the total contribution to rise by up to £0.1m.

We are also in the process of refining the estimate of activity relating to each part of the UK. That will be an on-going process each year.

The Electoral Commission's views on funding of such costs by the Assembly and the associated budget procedures and audit arrangements

As discussed above we are proposing the principle that each legislature should bear the share of the Commission's total costs in line with the share of activity that relates to that legislatures area of competence.

Consideration of how Electoral Commission funds are currently allocated and how such costs would be transferred from Westminster to the Assembly

Normal HM Treasury practice is that when functions transfer between public bodies, budget and funding moves with it. This is usually done by transferring spending review settlements from one body to the other. Transfer of funding from HM Treasury to devolved funding blocks is a matter for the Treasury and devolved administrations to agree. We expect that this will be a consideration for the forthcoming spending review.

At present, the Commission is funded directly by Parliament rather than through the Treasury. As a result there is no spending review settlement for Treasury to transfer funding 'from'. This makes it more difficult to resolve how any transfer would work in practice. We have already begun discussing this issue with officials from the Welsh Government and the Treasury. We will continue to support the process.

The arrangements by which the Assembly would hold the Electoral Commission to account for its spending decisions in relation to devolved Welsh elections

We have, since the establishment of the Commission, reported to the National Assembly for Wales in relation to policy scrutiny matters and have a long history of giving evidence to those legislatures and advice. We expect to continue with this arrangement of reporting to a Committee of the National Assembly for Wales on policy work.

To protect the fundamental principle of independence of the Commission the Commission must be funded by the relevant legislature rather than government. We actively welcome scrutiny and accountability for how we spend public funds to the legislature which provided them.

Accordingly, the body to which we account at the National Assembly for Wales should have the following characteristics and functions:

- Be independent of any Welsh Government department;
- Report directly to the Assembly;
- Be chaired by a non-party representative (a Presiding Officer or Deputy Presiding Officer).

Functions to include:

- General oversight of how the Electoral Commission exercises its functions derived from that legislature;
- Review of the Commission's annual estimate of resources required for delivery of functions carried out under its legislative responsibility;
- Require the Commission to provide an annual report to facilitate scrutiny of the Commission's activities;
- Receive reports from the Wales Audit Office.

Previous discussions have indicated that there are some current arrangements in place that might be utilised for the Electoral Commission to report to the National Assembly for Wales in the future. These include:

- The current panel of Assembly Commissioners establishing a separate 'Llywydd's Committee' – a model similar to the Speaker's Committee on the Electoral Commission in the UK Parliament.

How such scrutiny arrangements would work alongside scrutiny of the Electoral Commission by the UK Parliament.

At present, policy scrutiny of the Commission's work by the UK Parliament is mainly undertaken by the Public Administration and Constitutional Affairs Committee. Other Select Committees have also sought the Commission's input to their work where relevant. The UK Political Parties Elections and Referendums Act 2000 ("PPERA", as amended) established the Speakers Committee on the Electoral Commission which has general oversight of the Commission's work and is responsible for setting the Commissions Corporate and Business Plans and budgets.

The existing business planning and accountability cycle for the Commission is set out in the PERA. The Commission is required to submit a new Corporate Plan after each UK Parliamentary General Election for the following five years. This includes indicative budgets for all five years. We then submit an annual business plan with each year's budget. PERA also establishes that the UK Comptroller & Auditor General is responsible for audit of the Commission's accounts and value for money.

The UK, English, Welsh and Scottish electoral cycles are all different. Also, much of the Commission's activity is delivered most efficiently across the Commission as a whole. It would therefore be difficult to produce geographically-specific corporate plans at different times. These could overlap and duplicate much material or appear to contradict each other as circumstances changed.

We therefore propose to continue with our existing business planning cycles. We already include some material on geographically-specific activity. However we recognise that we will have to be much clearer in future about what activity is planned and what the benefits to the voters are in each part of the UK.

Currently, PERA appoints the (UK) Comptroller & Auditor-General as the Commission's Auditor. The current proposal is that the (C&AG) should continue as the Commission's auditor, reporting additionally to the devolved legislatures. We are discussing with HM Treasury the best way to achieve this, specifically if a new accounts direction required.

We acknowledge that legislatures will also want to take a reserve power to send in auditors in response to concerns and feel that this could be achieved through a power to require the Commission to co-operate with any such audit.

We would expect to consult as necessary with officials in the devolved legislatures and government, as well as in Westminster, when preparing our plans. We also expect to meet the required timetables to fit in with scrutiny in each part of the UK. This will, of course, make business planning a more complex process for the Commission but we welcome the opportunity to ensure priorities are better aligned across all parts of the UK and expect to accommodate the process within planned resources.

We do not anticipate any major difficulties in practice, but we can see that there is a case for officials in the various parts of the UK building relationships between the legislatures to ensure scrutiny is as joined-up as possible.

Exhibit A
Cost attribution structure

