

Llyr Gruffydd AM  
Chair  
Finance Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

13 August 2019

Dear Llyr

### **Senedd and Elections (Wales) Bill**

I would like to thank the Committee for your detailed consideration of the financial implications of the Senedd and Elections (Wales) Bill and for your comprehensive report. I enclose the Assembly Commission's response to your report and recommendations. This response also addresses matters you raised in your letter to me dated 27 June and reflects the discussion at our meeting on 9 July.

In addition to the detailed response set out in the annex to this letter, I would like to address some of the key points raised in your report.

#### Responsibility for electoral administration

A number of your recommendations relate to electoral administration, in particular where responsibility lies in respect of different aspects of electoral administration and registration processes and modernisation of electoral administration. During the Stage 1 Plenary debate on 10 July, I explained that electoral administration policy is a matter for the Welsh Government, not the Commission. I have discussed the Committee's recommendations with the Counsel General, and anticipate he will respond formally to these recommendations in due course.

#### Revised cost estimates

Some of your recommendations highlight the need for any revised cost estimates for the Bill to be reflected in an updated Regulatory Impact Assessment to be published after Stage 2. I confirm that, subject to any resolution to the contrary under Standing Order



26.27, the Commission intends to lay a revised Regulatory Impact Assessment following Stage 2 proceedings.

### Financing and accountability of the Electoral Commission

Your report notes concern that provisions on the funding and accountability arrangements of the Electoral Commission, and the costs of those provisions, were not fully developed prior to the Bill's introduction.

I explained during the Stage 1 debate that my preference would have been to include fully formed proposals in the Bill on introduction. However, it was not possible to conclude the complex policy development work required in respect of this issue before the Bill was introduced.

I appreciate the importance of the Finance Committee having an opportunity to consider the policy and financial implications of changing the funding arrangements of the Electoral Commission.

As you will be aware, discussions have been taking place between the Assembly Commission, Electoral Commission and Welsh Government. I welcome the commitment made by the Counsel General during the Stage 1 debate to provide further information on the proposed arrangements after the summer recess. I also welcome the indication from the Counsel General that the Welsh Government will not seek the Assembly's agreement to a financial resolution in respect of the Bill until he provides further information on the proposals in response to the concerns your Committee raised with me.

In association with this further information from the Counsel General, I will also provide a further update on the Assembly Commission's preferred approach to scrutiny arrangements for the Electoral Commission.

As you are aware, I previously stated during the Stage 1 debate, that I believed a new Committee (a Llywydd's Committee) should be established to oversee the Electoral Commission's work. This scrutiny arrangement would be most appropriate in the case of the Electoral Commission being funded directly from the Welsh Consolidated Fund.

As outlined in my correspondence of 13 June 2019 to the Constitutional and Legislative Affairs Committee, if funding is alternatively provided via the Assembly Commission's budget, then I would be concerned that the establishment of a Llywydd's Committee:

“could give rise to an overlap with the Finance Committee's role in scrutinising the Assembly Commission's budget, leading to complex budgeting, reporting and audit



arrangements and potential lack of clarity over the body which is primarily responsible for scrutinising the Electoral Commission.”<sup>[1]</sup>

Whichever, scrutiny arrangement is put in place, I consider that the funding and accountability arrangements put in place for the Electoral Commission should conform with the Finance Committee’s Statement of Principles. While the Counsel General is considering funding proposals, I will continue to discuss this matter with him. I look forward to providing a further update on this issue in due course.

Finally, I concur with the Committee’s view- as expressed in your letter of 27 June- that any amendments to a Bill, which would result in direct charges to the Welsh Consolidated Fund, should be accompanied by a report from the Auditor General setting out his or her views on whether the charge is appropriate. Should the Senedd and Elections (Wales) Bill be amended in this way, I anticipate that such a report would be incorporated into a revised version of the Explanatory Memorandum, as required by Standing Order 26.28.

Thank you again for your scrutiny of this important constitutional legislation and for the invitation received on 17 July to attend a Committee meeting in late September to discuss this matter further. I will respond to that invitation as soon as possible.

Yours sincerely

Elin Jones

Llywydd, on behalf of the Assembly Commission



---

<sup>[1]</sup> Letter to Constitutional and Legislative Affairs Committee, Financing and accountability of the Electoral Commission, 13 June 2019.



## **Annex: The Commission's response to the Finance Committee's stage 1 recommendations on the Senedd and Elections (Wales) Bill**

This annex outlines the Assembly Commission's response to recommendations to the Commission or Llywydd included in the Finance Committee's report of 28 June 2019 on the Senedd and Elections (Wales) Bill.

**Recommendation 1.** *Whilst recognising the cost benefits of not replacing signage immediately, the Committee is concerned that this approach could lead to additional public confusion over the role of the Assembly and the Welsh Government. The Committee recommends the Llywydd and the Welsh Government work closely to ensure public awareness of the changes are clearly communicated.*

### **Agree**

The Commission agrees it is important that there is clarity for the public about the name of their national legislature. It will continue to work closely with partners, including the Welsh Government, to ensure that the changes are communicated clearly and effectively, and that the name change fulfils its objective of improving understanding of the institution and its role.

**Recommendation 2.** *As the majority of costs for changes to the election franchise are estimated to fall on local authorities, the Committee recommends the Llywydd should undertake more research to validate or update these costs, or expand on how local authorities had endorsed the costs. This information should be included in the revised Regulatory Impact Assessment published following Stage 2 proceedings.*

### **Agree**

The Llywydd will continue to have discussions with stakeholders, including local authorities, the Welsh Government and Electoral Commission, to provide assurances on costs. Subject to any resolution to the contrary under Standing Order 26.27, the Llywydd intends to lay a revised Explanatory Memorandum and Regulatory Impact Assessment after Stage 2 has been completed.

**Recommendation 3.** *The Committee recommends the Llywydd and the Welsh Government discuss the merits of introducing a single electoral register for Welsh local government and Assembly elections, since this might require less administrative workload for local authorities than maintaining 22 separate registers. The Llywydd and the Welsh Government should*



*report back to the Finance Committee before the introduction of the proposed Local Government Bill.*

**This is a matter for the Welsh Government not the Llywydd.**

The Senedd and Elections (Wales) Bill extends the Assembly's electoral franchise to 16- and 17-year-olds, but only makes minimal changes to the process by which electors are registered to enable the franchise to work effectively.

The Commission is not responsible for policy development in relation to the operation of electoral administration or registration. The Welsh Government has sought views on a single electoral register as part of its consultation on local government electoral reform. The Llywydd has discussed this recommendation with the Counsel General and agreed that he will respond to it.

***Recommendation 4.*** *The Committee recommends that the potential cost savings for automatic registration are also explored by the Llywydd and the Welsh Government. The Llywydd and Welsh Government should report back to the Finance Committee before the introduction of the proposed Local Government Bill.*

**This is a matter for the Welsh Government not the Llywydd**

The Senedd and Elections (Wales) Bill extends the Assembly's electoral franchise to 16- and 17-year-olds but only makes minimal changes to the process by which electors are registered to enable the franchise to work effectively.

The Commission is not responsible for policy development in relation to the operation of electoral administration or registration. The Llywydd has discussed this recommendation with the Counsel General and agreed that he will respond to it.

***Recommendation 7.*** *The Committee recommends this Bill should be amended to provide on the face of the Bill provisions to ensure that Assembly elections expenditure is published as soon as possible following Assembly elections and referendums.*

**Assembly Commission to consider further**

The Commission is not responsible for the operation of electoral administration. As such, this issue was not within the scope of the Commission's legislative strategy.

The Counsel General stated during the Stage 1 debate on 10 July that the Welsh Government do not consider it appropriate to address either the publication of Assembly



elections expenditure or returning officer fees in primary legislation, but that they do intend to address both those issues by other means.

The Llywydd is seeking further assurances from the Counsel General on behalf of the Assembly Commission. The Commission will then give further consideration to the Committee's recommendation and the Llywydd will write again to update the Committee.

**Recommendation 9.** *The Committee recommends that further work is undertaken to ensure the costs that will be incurred by local authorities in updating the Electoral Management System are robust. This information should be included in the revised Regulatory Impact Assessment published after Stage 2 proceedings and should detail the views of local authorities on the appropriateness of these costs.*

### **Agree**

There may be limitations on the level of detailed information that can be disclosed about the costs of updating Electoral Management Systems, because of the commercial sensitivities associated with procurement processes. Within this limitation, the Commission will update the Regulatory Impact Assessment following Stage 2 proceedings in accordance with the Committee's recommendation.

**Recommendation 10.** *The Committee recommends that any future Assembly Commission proposed Bills include the most up-to date information available to ensure the Finance Committee is able to effectively scrutinise all costs associated with the proposals.*

### **Agree**

Any future Assembly Commission-proposed Bills will continue to be accompanied by Regulatory Impact Assessments which set out best estimates as required by Standing Orders. This will ensure that both the Finance Committee, and the wider public, are able to accurately and transparently assess their potential cost implications.

**Recommendation 11.** *The Committee recommends the Llywydd includes the Welsh Government's costs in relation to raising awareness of the extension to the franchise to 16 year olds in the revised Regulatory Impact Assessment published following Stage 2 proceedings.*

### **Agree**



The Bill's Regulatory Impact Assessment sets out the costs of awareness-raising to be provided by the Assembly Commission (£150,000), local authorities (£866,200) and the Electoral Commission (£75,900).

In addition, in a letter to the Llywydd dated 30 January 2019 from the Minister for Education and Minister for Housing and Local Government, the costs to the Welsh Government of communication and education campaigns related to extending the franchise were estimated to be between £895,000 and £945,000 over three years, commencing in 2019/20. In subsequent discussions the Welsh Government have indicated that this sum comprises:

- £600,000 towards the production of resources for schools;
- £215,000 to £265,000 towards a communications campaign on registration and encouraging people to vote; and
- £80,000 towards research to inform the communication campaign.

The Welsh Government's figures do not distinguish between costs related to raising awareness of franchise changes for local government elections and for Assembly elections. Some of these activities will focus on raising awareness of the voting age for both Assembly and local government elections, rather than focusing on one election or the other.

The Llywydd has discussed this matter with the Counsel General. He noted during the Stage 1 debate on 10 July 2019 that whilst it is not possible for him to split the Government's awareness-raising costs between both elections, he will endeavour to provide further information to the Assembly on this matter.

***Recommendation 12.*** *The Committee recommends the Llywydd, the Welsh Government and the Electoral Commission ensure that civil society such as schools and youth organisations are included on the Wales Electoral Co-ordination Board, Welsh Government External Board of Advisors and any other collaborative boards that are working to promote voter awareness, to ensure they are able to input into the design of voter awareness material.*

## **Agree**

The Commission agrees that we need to work in partnership with civil society, and in particular youth organisations and schools, to deliver a successful change in the franchise for the 2021 elections and beyond.



The Welsh Government has established a Democratic Renewal Group to support the work associated with the extension of the franchise. It met for the first time on 2 July 2019. Its work will be led by a Steering Group, which includes the Welsh Government, the Assembly Commission, the Electoral Commission and the Welsh Local Government Association. This Steering Group will steer the work of a number of themed working groups. It is envisaged that one of these working groups will consider issues around Votes at 16 and will include organisations involved in the development of the approach to raising awareness of the changes to the franchise, including local authorities, and organisations representing young people.

The Wales Electoral Coordination Board (WECB) is coordinated by the Electoral Commission. Assembly Commission officials attend Board meetings in an advisory capacity. While this is a matter for the WECB to consider, given its technical remit with a focus on the administration of elections, there may be more appropriate mechanisms for including partners in the development of this work on an ongoing basis.

***Recommendation 13.*** *The Committee recommends that in relation to changes to the oversight and funding arrangements of the Electoral Commission that prior to Stage 2 proceeding, draft amendments and their cost implications should be provided, to allow the Finance Committee an opportunity to fully scrutinise them before a Committee of the Whole Assembly is required to dispose of amendments.*

## **Agree**

The Commission agrees that it is appropriate for the Committee to have the opportunity to scrutinise the cost implications of the proposed amendments in relation to the Electoral Commission. The Llywydd had constructive discussions with the Chair of Finance Committee ahead of the Plenary debate and has also discussed this matter with the Counsel General who is leading on these proposals.

The Assembly must agree a financial resolution before Stage 2 proceedings can take place. Tabling the financial resolution is a matter for Welsh Government. During the Stage 1 debate on the general principles of the Bill, the Counsel General stated that he would not seek the Assembly's agreement to a financial resolution in respect of the Bill until he could provide further information on the proposals.

The Llywydd anticipate that this additional information will be broadly consistent with the figures previously supplied to the Committee during Stage 1. The Chief Executive and Clerk of the Assembly advised the Constitutional and Legislative Affairs Committee that:



- the Electoral Commission's annual costs are expected to be around £600,000, rising to £1.7 million depending on the electoral activity in a given year;<sup>1</sup> and
- the costs of the Assembly's scrutiny—over a 5 year term—will be comparable to those set out in the Bill's Regulatory Impact Assessment for the current section 27.

**Recommendation 14.** *Based on the Welsh Government's comments in regard to section 36 (implementation of recommendations made by the Law Commission), the Committee recommends the Llywydd considers amending the Bill to reflect the views of the Welsh Government*

### **Agree**

Evidence raised during Stage 1 has been supportive of the principle of reforming electoral law based on proposals from the Law Commission. However, the Assembly Commission appreciates concerns raised by both the Committee and the Counsel General regarding the appropriateness of addressing this issue through use of subordinate legislation making powers.

As such, the Llywydd has tabled amendments to remove section 36 and paragraph 1(4)(b) (amendments 1 and 3 tabled on 19 July 2019). The Llywydd would expect to see, in due course, the Welsh Government pursue the Counsel General's preferred approach of addressing Law Commission recommendations through an expedited primary legislation procedure.

**Recommendation 15.** *The Committee recommends a provision for post-implementation review is included in the revised Regulatory Impact Assessment following Stage 2 proceedings, to ensure the Bill has met its policy objectives and that value for money has been achieved.*

### **Agree**

Post-legislative scrutiny is an important part of the Assembly's law-making role. The Bill's Explanatory Memorandum and Regulatory Impact Assessment seek to provide sufficient

---

<sup>1</sup> Record of Proceedings, Constitutional and Legislative Affairs Committee, 29 April 2019.



information to inform any work of this nature that the Assembly or its committees wish to conduct. In particular, the EM and Regulatory Impact Assessment include:

- the Bill's policy objectives;
- outline implementation plans; and
- estimates of the financial and other impacts of the Bill.

Subject to any resolution to the contrary under Standing Order 26.27, the Llywydd intends to lay a revised Explanatory Memorandum and Regulatory Impact Assessment after Stage 2 has been completed. This will include an indication that the Commission would welcome post-legislative scrutiny of the legislation in respect of both its policy objectives and the value for money of its implementation. The Commission will also evaluate its own effectiveness in implementing those aspects of the legislation for which it is responsible.

