



Llyr Gruffydd AM  
Chair, Finance Committee  
[SeneddFinance@assembly.wales](mailto:SeneddFinance@assembly.wales)

30 September 2019

Dear Llyr,

Thank you for inviting me to give evidence to your Committee on 25 September. I welcomed the opportunity to discuss with Members the Welsh Government's proposed amendments to the Senedd and Elections (Wales) Bill to provide for accountability and financing arrangements for the Electoral Commission which reflect the devolution of Welsh local government and Assembly elections.

I appreciate that the Committee would have preferred me to present a joint proposal agreed with the Llywydd, rather than our presenting separate proposals to you. I want to reassure you that I will continue my dialogue with the Llywydd in advance of Stage 2 proceedings to explore whether such an agreement can be reached.

I am grateful for your report on these matters, and that you have produced it so quickly following the meeting.

My response to your recommendations is set out below:

Recommendation 1. The Committee recommends the Counsel General gives a commitment to ensuring the mechanism for determining the value of transfer to be made into the Welsh Consolidated Fund to cover the cost of funding the Electoral Commission's work in relation to devolved Welsh elections and referendums, will not lead to insufficient funds being transferred to Wales.	As the funding transfer is dependent on intergovernmental negotiations which are not within the control of the Welsh Government, I am unable to provide this commitment. I can commit, however, that the Welsh Government will pursue this as its policy aim.
Recommendation 2. The Committee recommends the Counsel General provides the Assembly with an explanation as to why he is of the view that option 3 (as set out in his letter of	It was not my intention to give the impression that option 3, the Llywydd's and the Committee's preferred option, is not within the Assembly's legislative competence.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

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

[PSCGBM@gov.wales](mailto:PSCGBM@gov.wales) / [YPCCGB@llyw.cymru](mailto:YPCCGB@llyw.cymru)

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.

20 September 2019) to fund the Electoral Commission directly out of the Welsh Consolidated Fund is not within the Assembly's legislative competence. Option 3 is the Committee's preferred option, and the Counsel General will need to persuade the Committee that option 3 is out of competence and unworkable for that reason.

The option which raises legislative competence issues is option 1: adding the Electoral Commission to the list of relevant persons at section 124(3) of the Government of Wales Act 2006 (GoWA). A provision of an Act of the Assembly cannot modify section 124 of the GoWA (see paragraph 7 of Schedule 7B to GoWA).

Option 3 would be the appropriate way forward if a separate Electoral Commission (EC) for Wales was being created. Providing for a body to be funded directly from two Consolidated Funds would be a novel approach for which there is no precedent as far as we are aware. As a minimum we would need to introduce similar accounting and audit requirements around Welsh Consolidated Fund funding as the EC have for UK Consolidated Fund funds. This would require preparation of separate audited financial statements for the EC in Wales and amendments to the Speaker's Committee estimates processes. The principle on which we have designed our preferred option is that the EC should continue to operate as a UK body with as little operational impact from the legislative changes as possible, whilst delivering the accountability to and funding from the Assembly which is our main policy objective.

In addition, I do not agree with conclusions 3 and 4 in your report. I do agree that the timing and practical issues, as well as the question of Accounting Officer responsibilities, which you identify are important issues. However, as these can be addressed through procedural and process changes outside of the legislative provisions, I do not consider them to be barriers to implementing my preferred option.

In advance of the Plenary debate on 1 October on the financial resolution for the Bill, as promised I set out below the estimated costs associated with the Electoral Commission amendments which I shared with you in draft and have tabled today.

My officials have worked closely with Assembly Commission and Electoral Commission colleagues, to whom I am very grateful, to prepare these estimates.

## **Costs for the relevant Senedd body**

We have prepared the estimates for the relevant Senedd body based on the following jointly agreed assumptions that:

- the relevant Senedd body would meet two or three times per year;
- Members' time would not be costed on the basis that Members' salaries, resources or other costs would not change;
- the relevant Senedd body would meet for 2 – 3 hours per year (10-15 hours over a five-year period) on the following basis:
  - a total of ~ 1 hour to question the Electoral Commission (in relation to its budget and, potentially, audit report);
  - a total of ~ 1 hour to note documents and agree the annual Committee report;
  - potentially up to an additional hour to deal with any other matters that may arise (consideration of a supplementary budget, discretionary value for money work, etc.).

The RIA for the Bill provides estimates based on 12 committee hours over a five-year period, which are unlikely to be very different from the costs of the 10-15 hours assumed above. Therefore our estimate of the cost for the relevant Senedd body to undertake the duties prescribed in our amendments is the same as in the RIA: £39,200 over a five-year period (which equates to £7,840 per annum).

## **Costs for Assembly Commission administration**

In the event that the Electoral Commission's funding is included within the Assembly Commission's budget, there will be staffing implications for the Assembly Commission in relation to the administration of funding the Electoral Commission.

Initial estimations of the staffing resource required to carry out assurance and scrutiny work to support the Assembly Commission's Accounting Officer indicate that the equivalent of one SEO working at between 0.5 FTE and 1 FTE per year will be required across the various services affected by the work. The cost of this work is an ongoing cost of £35,000 to £70,000 per annum (i.e. £175,000-£350,000 over 5 years). There are also likely to be some limited initial non-recurring costs associated with establishing this function, but it is not possible to quantify these at this time.

The resourcing implications for the Assembly Commission in relation to making changes to processes depend on the final decisions taken by the Assembly, both in relation to primary legislation and arrangements in Standing Orders. It is likely that staff time, Business Committee time and Assembly time would be required to review and adjust Standing Orders and working practices. However, in practice, such activity would form part of the Assembly Commission's "business as usual", as Standing Orders and Assembly working practices are routinely kept under review. As such, for the purpose of this assessment, this cost is considered as £0.

## **Costs for the Electoral Commission**

The RIA set out anticipated costs to the Electoral Commission for engaging with Assembly scrutiny. These were again based on 12 committee hours over a five-year period. As this is within the same range as the assumptions we have made for the time taken by the relevant Senedd body to undertake the duties set out in our amendments, we are content to estimate that the Electoral Commission staff time required over a five-year period would cost the same as set out in the RIA: £19,600 (which equates to £3,920 per annum).

The Electoral Commission has indicated during scrutiny that it will require resources to administer the new scrutiny arrangements. These costs are likely to be absorbed within the Electoral Commission’s future Welsh budget, and depend on the cost apportionment method agreed in the inter-institutional agreement. It is not possible to quantify these costs at this time.

### Costs for the Welsh Government

Our amendments place a duty on the relevant Senedd body to consult the Welsh Ministers on the Electoral Commission budget estimates, and on the Electoral Commission to consult the Welsh Ministers about codes of practice on attendance of observers at devolved elections in Wales and performance standards for devolved elections and referendums in Wales. Staff time will be required to provide advice to the Welsh Ministers about these matters. However, in practice, such activity would form part of the Welsh Government’s “business as usual”. As such, for the purpose of this assessment, this cost is considered as £0.

### Summary

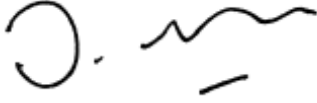
For ease of reference, the costs described above are set out in the table below:

<b>Organisation</b>	<b>Type of cost</b>	<b>One off cost</b>	<b>Annual recurring cost</b>	<b>Five-year cost</b>
Assembly Commission	Relevant Senedd body	£0	£7,840	£39,200
Assembly Commission	Internal administration	Not known	£35,000 to £75,000	£175,000 to £350,000
Assembly Commission	Procedural changes	£0	£0	£0
Electoral Commission	Engaging with relevant Senedd body	£0	£3,920	£19,600
Electoral Commission	Internal administration	£0	Not known	Not known
Welsh Government	Advice to Ministers	£0	£0	£0
<b>TOTALS:</b>			<b>£46,760 to £86,760</b>	<b>£233,800 to £408,800</b>

As you are aware, the Electoral Commission has estimated that the annual costs of their administration in relation to Welsh elections and referendums would vary between £500,000 and £1.6 million over the 2018/19 – 2022/23 period.

I hope that this information is helpful. I have asked that a copy of this letter be made available to all Members before the Plenary debate on the financial resolution. I am also copying this letter to the Llywydd, to the Chair of the Constitutional and Legislative Affairs Committee and to the Head of the Electoral Commission Wales.

Yours sincerely

A handwritten signature in black ink, consisting of a stylized 'J' followed by a series of wavy lines and a short horizontal stroke at the end.

**Jeremy Miles AM**

Y Cwnsler Cyffredinol a Gweinidog Brexit  
Counsel General and Brexit Minister