

Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution



Llywodraeth Cymru
Welsh Government

John Griffiths
Chair
Local Government and Housing Committee
Senedd Cymru
Cardiff
CF99 1SN

CC: Peredur Owen Griffiths, Chair, Finance Committee
Huw Irranca Davies, Chair, Legislation, Justice and Constitution Committee

12th February 2024

Dear John,

I would like to thank the Local Government and Housing Committee for their scrutiny of the Elections and Elected Bodies (Wales) Bill during Stage 1 and for the report which was published on 26 January 2024.

I have set out responses to the Committee's recommendations at Annex 1. It has not been possible for me to accept all of the Committee's recommendations in full. However, I have carried the principles and underpinning reasoning for my decision through as far as possible.

I hope this letter is helpful in setting out responses to the Committee's Report. I have written to the Chairs of the Finance Committee and the Legislation, Justice and Constitution Committee with respect to their Stage 1 Reports and copied the letters to all three Committee Chairs.

I look forward to continuing to work with Members as the Bill progresses through the Senedd process.

Yours sincerely,

Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

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

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Mick.Antoniw@llyw.cymru
Correspondence.Mick.Antoniw@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.

Annex 1: Response to Local Government and Housing Committee's report on the Elections and Elected Bodies (Wales) Bill

Committee Recommendation	WG Response
Recommendation 1. We recommend that the Senedd agrees to the general principles of the Elections and Elected Bodies (Wales) Bill.	Noted.
Recommendation 2. We recommend that the Welsh Government should specify on the face of this Bill that returning officers will be subject to Welsh Language Standards	Reject. The Welsh Ministers are committed to ensuring everyone can participate fully in our democracy using our country's two official languages. Given the detailed rules about the operation of Welsh elections is set out in secondary legislation, the Welsh Government intends to achieve this objective by making changes to those detailed rules. We will continue to work with stakeholders and the EMB to determine the best approach to improving bilingual delivery of elections.
Recommendation 3. We recommend that the Welsh Government publishes the equality impact assessment it conducted on the Bill and that updated versions should published to take account of changes made to the Bill during the amending stages	Accept. We have now published the Equality Impact Assessment. https://www.gov.wales/elections-and-elected-bodies-wales-bill-equality-impact-assessment
Recommendation 4. We recommend that the Welsh Government should amend the Senedd Cymru (Members and Elections) Bill to strengthen the accountability of the Democracy and Boundary Commission Cymru to the Senedd. We would like to see that Bill amended to include a requirement for the Commission's annual reports to be debated by the Senedd	Accept in principle. We are conscious of arguments presented by the Reform Bill and Legislation, Justice and Constitution Committees in relation to sections 7 and 19 of the Senedd Cymru (Members and Elections) Bill placing duties upon the Llywydd. While we do not agree that this approach is constitutionally problematic, given other examples of statutory duties placed on the Llywydd and that those duties will not constrain a future Senedd to a particular course of action, we are reluctant to bring forward amendments that would place formal duties on the Senedd as recommended.
Recommendation 5. We recommend that the Welsh Government should amend the Senedd Cymru (Members and Elections) Bill to include a provision to require pre-appointment hearings by the Senedd to be included in the recruitment process for the position of Chair to the Democracy and Boundary Commission Cymru	The Senedd would not require a legislative requirement to scrutinise the DBCC's annual report but we would welcome the additional attention on the DBCC's broader remit. We would also be content to inform the Senedd of the preferred candidate for DBCC Chair that emerges from the public appointments process to enable a pre-appointment hearing. In its scrutiny of the Senedd Cymru (Members and Elections) Bill, the Reform Bill Committee

	<p>recommended the Business Committee consider the DBCC's accountability as part of its procedural review prior to the 2026 election (recommendation 25). We would not wish to anticipate that review and would therefore not seek to amend the Senedd Cymru (Members and Elections) Bill at this time. We would of course consider carefully the Committee's recommendations and look to implement relevant recommendations.</p>
<p>Recommendation 6. We recommend that, in addition to stipulating that the Chair of the Electoral Management Board should be a former elections officer, the Bill should also specify that the Chair must have relevant and recent experience, such as having been an elections officer within a certain time frame prior to being appointed</p>	<p>Reject. The Bill already ensures members of EMB have electoral experience. Our preferred approach, which is supported by stakeholders, is to not be overly prescriptive in legislation. The public appointments process will ensure sufficient relevant experience.</p>
<p>Recommendation 7. We recommend that the Welsh Government should consult relevant parties, including the Electoral Commission, and take their views into consideration in deciding when the provisions relating to the Electoral Management Board should commence</p>	<p>Accept. Timings of the commencement power for the EMB are not specified in Section 70 so we can bring them into force by Order at the appropriate time. We will continue to work with stakeholders to inform this.</p>
<p>Recommendation 8. We recommend that the Welsh Government, when considering where in Wales to hold pilots relating to electoral registration without application, should ensure a variety of areas are involved. We believe that the chosen areas should include, but not be restricted to, a mix of urban and rural areas, affluent and less affluent areas and areas where there are high proportions of non-first language English or Welsh speakers</p>	<p>Accept. This approach will be taken into consideration when assessing expressions of interest in the pilots work. Where there are demonstrable gaps, we will work with local authorities to recruit additional authorities ensure the pilots take place across a range of demographics.</p>
<p>Recommendation 9. We recommend that the process of applying for anonymous registration should be as simple and as flexible as possible. We believe that the</p>	<p>Reject. The anonymous registration application process currently allows electors to be on both the Parliamentary and local government registers anonymously through one application. If changes relating to the local government register only were made, this would mean that someone wishing to</p>

<p>Welsh Government should consider not imposing a requirement to provide evidence in support of an application</p>	<p>remain anonymous on the parliamentary register would have to make another application, with different conditions. We do not believe this level of complexity is appropriate for electors and could lead to someone appearing on an electoral register without their knowledge.</p>
<p>Recommendation 10. We recommend that once a person has been registered anonymously, they should not be required to re-new their anonymous registration annually. Instead, the anonymous registration should stay in place until a person actively opts to change that arrangement</p>	<p>Reject. The anonymous registration application process currently allows electors to be on both the Parliamentary and local government registers anonymously through one application. If we were to make changes relating to the local government register only, this would mean that someone wishing to remain anonymous on the parliamentary register would have to make another application, with different conditions. In this instance a person making an indefinite application to be anonymously registered would still need to make an annual application to be anonymous on the parliamentary register. We do not believe this complexity is acceptable for electors. Similarly, being on an electoral register anonymously can have knock-on effects for an elector e.g. they would not appear on any financial services checks and therefore not benefit from being a registered elector.</p>
<p>Recommendation 11. We recommend that the Welsh Government amends the Bill to include a duty to remove the open register for Welsh elections prior to undertaking pilots relating to electoral registration without application.</p>	<p>Accept. We will table an amendment to insert a prohibition on the commencement of the provisions in Chapter 2 of the Bill until regulations have been made by the Welsh Ministers to remove the provisions currently set out in regulations relating to the open register. To prevent the Welsh Ministers from subsequently reviving the open register, we will also amend section 53 of the Representation of the People Act 1983.</p>
<p>Recommendation 12. We recommend that the Welsh Government commits to ensuring that stakeholder organisations representing vulnerable groups be involved in planning pilots relating to electoral registration without application</p>	<p>Accept. We are in the process of seeking expressions of interest from local authorities around automatic registration pilots. Once this process has been completed, we will be establishing a working group to develop individualised pilots. A part of this work will involve behavioural insights work to support effective communication with electors, and we will bring in representatives of our extensive network of organisations that work with electors, particularly focusing on those representing vulnerable electors, to feed into communication plans.</p>
<p>Recommendation 13. We recommend that, prior to undertaking pilots relating to electoral registration without application, the Welsh Government should set out how the pilots will assess</p>	<p>Accept. We are in the process of seeking expressions of interest from local authorities around automatic registration pilots. Once this process has been completed, we will be establishing a working group to develop individualised pilots. The Electoral Commission will be invited to be part of the group, and a</p>

<p>whether the 45 day timeframe an individual has to respond to the notification is sufficient</p>	<p>significant stream of work will develop the specific evaluation criteria of the pilots. This will include whether or not the 45-day timeframe for responding to a notice of registration is sufficient or effective.</p>
<p>Recommendation 14. We recommend that, should the Welsh Government decide to implement the provisions on electoral registration without application, this should be accompanied by a campaign to raise public awareness of the changes. Such a campaign should include, but not be restricted to, making information available in accessible formats, online and in hard copy and in a wide range of languages</p>	<p>Accept. This has been agreed with external partners and is being taken forward through the pilots working group.</p>
<p>Recommendation 15. We recommend that pilots relating to electoral registration without application include an evaluation of the robustness of data sources used to identify eligible voters. Should the pilots demonstrate that other sources of data would be more effective, the Welsh Government should seek data sharing agreements with the UK Government, as necessary. .</p>	<p>Partially accept. This has been agreed with external partners and is being taken forward through the pilots working group. However, the Bill makes clear that any data used as part of the automatic registration process must be held by Welsh authorities (local or national) and that regulations relating to automatic registration cannot require UK Government departments to provide data.</p>
<p>Recommendation 16. We recommend that future pilots should take place across a range of different geographical areas and across both urban and rural areas. Pilots should also consider the ability of different age groups to participate.</p>	<p>Accept. This will be a fundamental principle of any future piloting programme.</p>
<p>Recommendation 17. We recommend that the Welsh Government continues to work with local government to provide further assurances that the power to compel electoral pilots would only be used in exceptional circumstances and that pilots would be sufficiently resourced financially and in terms of staff capacity</p>	<p>Accept. These powers will only be used in exceptional circumstances.</p>

<p>Recommendation 18. We recommend that the Bill be amended to include a requirement for the Electoral Commission to provide guidance setting out how returning officers should provide such equipment as is reasonable for the purposes of enabling, or making it easier for, disabled people to vote independently and subject to the identified needs of disabled voters. The Bill should also specify that returning officers would be required to have due regard to such guidance</p>	<p>Reject. Similar provisions in the Elections Act 2022 made amendments to primary legislation which contain the parliamentary elections rules.</p> <p>However, the election rules framework in place in Wales means that the provisions with respect to the provision of equipment at polling stations can be amended via secondary legislation by changes to the appropriate election rules set out in the National Assembly for Wales (Representation of the People) Order 2007 and the Local Elections Rules 2021. To ensure the accessibility of the law, the requirement for guidance should sit with these provisions.</p> <p>For Senedd Elections we have made a commitment to consolidate and re-state the law as part of an accessible, bilingual framework for the first time ahead of the 2026 election. We intend to consult on a bi-lingual consolidated draft Order so stakeholders will have an opportunity to consider proposed changes in detail.</p>
<p>Recommendation 19. We recommend that returning officers and relevant stakeholders should be involved in the preparation of guidance relating to providing equipment to enable or make it easier for disabled people to vote independently. The guidance should set out that returning officers should make every effort to understand the needs of disabled voters and suggestions as to how this could be undertaken.</p>	<p>Noted. This recommendation would be for the Electoral Commission to consider and respond to.</p>
<p>Recommendation 20. We recommend that the Welsh Government should take into account the importance of the protected characteristics set out in the Equality Act 2010 being included when setting its core questions for the Local Government Candidate Survey</p>	<p>Accept in principle. The scope of what can be included in the survey is not changed through the Bill. Changes to the survey focus on the mechanics of agreeing the questions and enabling two-part approach, which results in a core set of questions which apply to all councils and more targeted questions which can be determined locally depending on initiatives / work being undertaken locally.</p>
<p>Recommendation 21. We recommend that the Local Government Candidate Survey should include a question relating to candidates' caring responsibilities among the core questions.</p>	<p>Accept. We will explore how the candidate survey could include questions that relate to candidates' caring responsibilities.</p>
<p>Recommendation 22. We recommend that the Local</p>	<p>Accept. We will explore how the candidate survey could include questions that relate to candidates'</p>

<p>Government Candidate Survey should include core questions in relation to candidates' experience of abuse and harassment</p>	<p>experience of bullying and harassment and how analysis of data collected could inform future approaches to combatting this unacceptable behaviour</p>
<p>Recommendation 23. We recommend that the Welsh Government commits to ensuring that a collaborative approach is taken in the designing of the voter information platform. This should include the participation of relevant stakeholders to ensure that the information is available bilingually in English and Welsh and all accessible formats</p>	<p>Accept. We will engage and work collaboratively with stakeholders throughout the development process to consider accessibility requirements and ensure that information is available to everyone who needs to access it. We will set out accessibility and language requirements as well as content principles developed in collaboration with stakeholders in the regulations and remit letter.</p>
<p>Recommendation 24. We recommend that the Welsh Government urgently undertakes further work to consider the legal liability of political parties, candidates and the platform host in relation to statements published on the voter information platform. This must be clarified ahead of the platform's inception</p>	<p>Accept in principle. Guidance and/or Regulations will clearly set out what information can and cannot be placed in statements so candidates and those checking the statements are aware of such rules before upload. They will also set out who is responsible for such information and the likely consequences if such rules and laws are breached.</p>
<p>Recommendation 25. We recommend that specific training to assist underrepresented groups in dealing with abuse and harassment should be included in the services listed in section 28(5).</p>	<p>Reject. Training is already included in section 28 (5) and there is no need to amend the Bill to specify a particular type of training. We would be happy to refer to training on abuse and harassment as an example in the Bill's accompanying material.</p>
<p>Recommendation 26. The Welsh Government should progress the implementation of the recommendations in our report on Diversity in local government in relation to raising awareness of a scheme of financial assistance for disabled candidates and ensuring that the scheme commences in sufficient time ahead of the next Senedd election</p>	<p>Accept. We will continue to work with stakeholders to build on the current scheme in sufficient time to support candidates in advance of future elections.</p>
<p>Recommendation 27. The Welsh Government should commit to developing and piloting a financial assistance</p>	<p>Accept in principle. The Bill allows for such approaches to be taken, but any schemes will need to be evidence based and targeted appropriately. A flexible approach is required to</p>

<p>fund to support unpaid carers in standing for election. We acknowledge that this would need to consider how to define unpaid carers and how a scheme could target those most in need of financial support.</p>	<p>ensure the rationale for any scheme is robust and the measures put in place address the barriers in a way that does not advantage any particular group of individuals over others.</p>
---	---