

Elections and Elected Bodies (Wales) Bill

Stage 1 Report

January 2024



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Elections and Elected Bodies (Wales) Bill

Stage 1 Report

January 2024



About the Committee

The Committee was established on 23 June 2021. Its remit can be found at:
www.senedd.wales/SeneddHousing

Current Committee membership:



**Committee Chair:
John Griffiths MS**
Welsh Labour



Luke Fletcher MS
Plaid Cymru



Jayne Bryant MS
Welsh Labour



Joel James MS
Welsh Conservatives



Sam Rowlands MS
Welsh Conservatives



Carolyn Thomas MS
Welsh Labour

The following Members attended as substitutes during the scrutiny of the Bill:



Adam Price MS
Plaid Cymru



Peredur Owen Griffiths MS
Plaid Cymru

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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 whether the 45 day timeframe an individual has to respond to the notification is sufficient. Page 57

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. Page 58

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. Page 59

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.
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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..... Page 75

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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.....Page 95

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Recommendation 27. The Welsh Government should commit to developing and piloting a financial assistance 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.Page 108

1. Introduction

The Elections and Elected Bodies (Wales) Bill (“the Bill”) was introduced on 2 October 2023 and was remitted to the Local Government and Housing Committee for scrutiny of its general principles. Other Senedd committees have also conducted scrutiny of financial and constitutional aspects of the Bill.

1. On 2 October 2023, Mick Antoniw MS, the Counsel General and Minister for the Constitution (“Counsel General”) introduced the Bill and accompanying Explanatory Memorandum (“EM”). A Statement of Policy Intent was also published for the Bill.
2. The Senedd’s Business Committee referred the Bill to the Local Government and Housing Committee (“the Committee”) for consideration of the general principles (Stage 1), in accordance with Standing Order 26.9. The Business Committee agreed that the Committee should report by 26 January 2024.

Terms of reference

3. On 5 October 2023, the Committee agreed a framework within which to scrutinise the general principles of the Bill, which was to give consideration to:
 - The general principles of the Elections and Elected Bodies (Wales) Bill and whether there is a need for legislation to deliver the Bill’s stated policy objectives;
 - Any potential barriers to the implementation of the Bill’s provisions, and whether the Bill and accompanying Explanatory Memorandum and Regulatory Impact Assessment take adequate account of them;
 - Whether there are any unintended consequences arising from the Bill;

- The Welsh Government's assessment of the financial and other impacts of the Bill as set out in Part 2 of the Explanatory Memorandum;
- The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Part 1: Chapter 5 of the Explanatory Memorandum);
- Matters relating to the competence of the Senedd including compatibility with the European Convention on Human Rights;
- The balance between the information contained on the face of the Bill and what is left to subordinate legislation;
- Any matter related to the quality of the legislation;
- Any other matter related to the constitutional or other implications of the Bill.

The Committee's approach

4. Between 6 October and 10 November 2023, we conducted a public consultation to inform our work, based on the agreed terms of reference. 16 consultation responses were received and have been published. We received a technical briefing from Welsh Government officials on 5 October.

5. We held oral evidence sessions with the Counsel General on 26 October and 7 December. We also held a series of nine oral evidence sessions with external stakeholders. A list of oral evidence sessions can be found at Annex A, and a list of consultation responses and additional written information can be found at Annex B.

6. We also ran a public survey which focused on Part 1, Chapters 2 and 3 of the Bill – Electoral registration without applications and Welsh elections piloting and reform. The survey was open for a five week period, between 23 October and 26 November 2023, and was available to complete online and in hard copy upon request.

7. The survey asked 13 questions about the provisions in the Bill that relate to electoral registration without applications and Welsh elections piloting and

reform. The survey was promoted through the Committee's and Senedd's social media channels, the networks and social media channels of key stakeholders, young people taking part in Senedd outreach and engagement sessions, and at events including TPAS Cymru's National Tenant Engagement Conference in Llandrindod Wells and a World Children's Day event in Wrexham. The survey was also circulated to Welsh Youth Parliament Members. 86 responses were received. An [analysis of the survey findings](#) is available on the Committee's website.

8. We are grateful to all those who took the time to provide evidence and briefing to inform our scrutiny.

Other Committees' consideration of the Bill

9. The Senedd's Finance Committee took evidence from the Counsel General on the financial implications of the Bill on [15 November 2023](#). The Senedd's Legislation, Justice and Constitution Committee took evidence from the Counsel General on the appropriateness of the provisions in the Bill that grant powers to make subordinate legislation on [20 November 2023](#). Both committees have reported on their conclusions.

2. General Principles and the need for legislation

Background to the Bill

10. Chapter 4 of the EM details how the Welsh Government consulted on options for electoral reform in Wales. Following the passing of the Senedd and Elections (Wales) Act 2020 and the Local Government and Elections (Wales) Act 2021, in July 2021, the Counsel General made a statement on the Welsh Government’s Framework for electoral reform, which according to the EM:

“gave a commitment to designing reforms in collaboration with stakeholders in accordance with the six principles of equity, accessibility, participation, improving citizen experience, simplicity, and integrity.”¹

11. The Welsh Government published a White Paper and consultation on “proposals for electoral reform to modernise the electoral administration in Wales” in October 2022. A summary of responses to this consultation was published in March 2023. Much of the detail in the Bill was subject to consultation, including the creation of an Electoral Management Board, the provisions around automatic voter registration, and provisions around electoral pilots. Other parts of the Bill were not subject to Welsh Government consultation, including provisions around third party campaigners.

12. The EM notes that although “stakeholders were generally supportive”², some concerns were also raised. The EM goes on to say that:

“the legislation has been shaped to consider the views expressed by stakeholders and respondents to the White Paper.”³

¹ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 4.3

² Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 4.5

³ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 4.7

Overview of the Bill

13. The Counsel General made a statement on the Bill in Plenary on 3 October 2023. In introducing the Bill the Counsel General explained that:

“At the heart of the Bill lie our six principles of electoral reform - equity, accessibility, participation, improved citizen experience, simplicity and integrity. If enacted, the Bill will modernise and reform electoral administration for Welsh elections, elected bodies and their members. The Bill and wider reform package will help drive up participation in Welsh elections improve accessibility for disabled people and take steps to ensure every eligible voter is registered to vote at Welsh elections, support candidates from diverse backgrounds to stand for election, clarify the offence of undue influence and establish an Electoral Management Board to strengthen electoral administration. The Bill will also provide for the reform of the processes for conducting community and electoral reviews, abolish the Independent Remuneration Panel for Wales and confer the remuneration functions formerly undertaken by the Panel, on the Democracy and Boundary Commission Cymru.”⁴

14. The Bill is made up of three parts, 71 sections and 1 schedule. A number of the Bill’s provisions make changes to existing pieces of Senedd and UK primary legislation, including the Local Government Democracy (Wales) Act 2013, Representation of the People Act 1983, and the Political Parties, Elections and Referendums Act 2000.

15. Part 1 of the Bill contains provisions relating to electoral administration, including:

- the creation of a new Electoral Management Board (“EMB”) to be responsible for the strategic co-ordination of electoral administration in Wales;
- allowing the piloting of automatic registration for voters;

⁴ Plenary, Record of Proceedings, 3 October 2023, paragraph 119

- provisions around electoral pilots in Wales;
- measures aimed at improving accessibility and diversity in Welsh elections, such as providing assistance for disabled voters, making changes to the Local Election Survey, providing an Access to Elected Office Fund for disabled candidates, providing assistance for other protected characteristics and creating a voter information platform;
- provisions around campaign finance and third parties in elections.

16. Part 2 of the Bill contains provisions relating to elected bodies and their members, including:

- arrangements for boundary reviews for local authorities and community councils in Wales, including changing the regularity of these reviews from at least once every 10 years to once every 12 years;
- abolishing the Independent Remuneration Panel for Wales, and transferring its functions to the Democracy and Boundary Commission Cymru;
- provisions relating to disqualification from being a Member of the Senedd and a community councillor and to the offence of undue influence; and
- strengthening the audit committee's role in Democracy and Boundary Commission Cymru.

17. Part 3 of the Bill contains general provisions.

The Bill's purpose and intended effect

18. The EM describes electoral law as “archaic and complex” and states that it “does not provide for an electoral system fit for the 21st century”. The EM states:

“This Bill aims to address those issues and bring forward our ambition to enable every citizen to play their full part in our

democratic system and lay the foundations for future innovation and improvement.”⁵

19. The general principles were broadly welcomed by stakeholders, although some areas of concern were raised. We explore these issues in depth in later chapters of this report.

20. The Welsh Local Government Association (“WLGA”) noted its support for the Bill, with Councillor Huw David telling us “there’s much to be welcomed and supported in the Bill”, although they also emphasised the need for the Welsh Government to cover the costs of implementing new policy areas:

“The RIA provides an estimate of the increased costs to local authorities of the proposed changes to electoral administration. There is always a risk with new legislative proposals that there may be unforeseen costs which later emerge at the implementation stage. We advocate that all changes and new requirements on local authorities should be fully funded.”⁶

21. The general principles were also welcomed by electoral representatives. The Wales Electoral Coordination Board (“WECB”) noted:

“we welcome modernisation. We welcome anything that helps consolidate and makes sense of what is very complex, fragmented law for elections.”⁷

22. Among the principles advocated by the WECB are:

“That any legislation should be passed in sufficient time for advance and safe planning, and no later than six months before the next applicable electoral event according to the Gould principle;

That any electoral reform initiated by Governments should be fully funded by the respective Government.”⁸

⁵ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.2

⁶ Local Government and Housing Committee, EEB 16 - WLGA

⁷ Local Government and Housing Committee, 22 November 2023, paragraph 152

⁸ Local Government and Housing Committee, EEB 04 – Wales Electoral Coordination Board

23. Whilst affirming its support for the Bill, the Electoral Commission noted that the reforms, alongside other reforms such as those proposed in the Senedd Cymru (Members and Elections) Bill, as well those stemming from the Local Government and Elections (Wales) Act 2021, “present a significant challenge” for electoral administrators. The Electoral Commission also referred to concerns about “the pace and scale of electoral reform”, but concluded that:

“the reforms are ultimately deliverable as long as they are accompanied by sufficient resources and introduced in sufficient time.”⁹

24. The Association of Electoral Administrators (“AEA”) told us they welcome aspects of the Bill, but referred to needing to weigh those up against the divergence created between the systems for devolved and non-devolved elections.¹⁰

25. The general principles were also welcomed by the Local Democracy and Boundary Commission For Wales (“LDBCW”), who told us they had “worked closely with Welsh Government officials on providing some content”.¹¹

26. Support was also voiced by third sector organisations, with Disability Wales welcoming “the commitment and key goals towards diversifying access to politics and access to elected office”¹² and RNIB Cymru supporting the “Welsh Government’s ambition to make voting more accessible to disabled people”. Despite their support, RNIB Cymru raised concern at the potential of “unintended consequences” arising from the Bill.¹³ These are explored in later chapters.

27. The general principles were also welcomed by specialist academics. Professor Toby S James, Professor of Politics and Public Policy at the University of East Anglia and Co-Director of the Electoral Integrity Project noted:

⁹ Local Government and Housing Committee, 22 November 2023, paragraph 153

¹⁰ Local Government and Housing Committee, 22 November 2023, paragraph 155

¹¹ Local Government and Housing Committee, 30 November 2023, paragraph 5

¹² Local Government and Housing Committee, 15 November 2023, paragraph 83

¹³ Local Government and Housing Committee, 15 November 2023, paragraph 85

“This is a welcome and important piece of legislation which stands to make positive reforms for elections in Wales.”¹⁴

28. Professor Alistair Clark, Professor of Political Science at Newcastle University, said that in his view “the Bill’s main principles, aims and measures are largely to be welcomed and supported”¹⁵, while Dr Christine Huebner, Lecturer in Quantitative Social Sciences at the University of Sheffield told us:

“Any kinds of measures that bring elections into the modern era, that make them more responsive, particularly to the needs of younger people, and more inclusive in bringing more younger people into the electorate, are very welcome.”¹⁶

29. We also heard that stakeholders were supportive of the engagement process in developing the Bill. The WLGA told us:

“many of the proposed reforms have been developed through extensive engagement between Welsh Government, local authorities and electoral administrators.”¹⁷

30. In relation to the resources needed to implement its new functions, the LDBCW told us:

“We are working closely with officials, as well as colleagues in the Wales Electoral Coordination Board and the Independent Remuneration Panel for Wales, to set up additional staffing structures within the commission to meet this new demand on the Democracy and Boundary Commission Cymru.”¹⁸

31. Evidence received from the Welsh Language Commissioner raised concern that there is currently no legal requirement for returning officers to treat Welsh and English equally, and noted:

¹⁴ Local Government and Housing Committee, EEB 06 – Professor Toby S James

¹⁵ Local Government and Housing Committee, 30 November 2023, paragraph 217

¹⁶ Local Government and Housing Committee, 15 November 2023, paragraph 3

¹⁷ Local Government and Housing Committee, 22 November 2023, paragraph 9

¹⁸ Local Government and Housing Committee, 30 November 2023, paragraphs 10-12

“on more than one occasion we have received correspondence from members of the public expressing discontent regarding the treatment of the Welsh language in electoral arrangements in their areas.”

32. The Commissioner also noted the reference in the EM to the Electoral Commission’s guidance for Returning Officers on the use of Welsh, and its acknowledgement that the provision of more electoral services in Welsh will have a positive impact on the Welsh language. The Commissioner suggested:

“One way of doing this would be to include provisions in this Bill to impose legal requirements on returning officers ensuring that they do not treat Welsh less favourably than English.”¹⁹

33. A Welsh Government official told us that an option was available to use secondary legislation to impose a legal requirement on returning officers to not treat Welsh less favourably than English, and that the Welsh Government is “quite keen” to:

“engage further with both the commissioner and her office and the electoral committee itself to understand where the most benefit can be given in promoting the use of Welsh through the electoral system.”²⁰

34. The official concluded:

“it’s something that’s under live consideration, and the option of secondary legislation to introduce standards remains open to us.”²¹

¹⁹ Local Government and Housing Committee, EEB 14 – Welsh Language Commissioner

²⁰ Local Government and Housing Committee, 7 December 2023, paragraph 29

²¹ Local Government and Housing Committee, 7 December 2023, paragraph 30

Legislative competence and compliance with human rights legislation

35. We discussed with the Equality and Human Rights Commission (“EHRC”) whether, in their view, the Bill complies with the Welsh Government’s obligations around human rights. We were told:

“there are some areas of human rights that are likely to be compromised to some extent, but we think that that’s probably proportionate. We know that the Welsh Government cannot contravene the European Convention on Human Rights. We don’t think that it does, the way that the legislation is stated.”²²

36. However, the EHRC also noted that the information contained in the EM “was quite light on human rights and human rights obligations.” They explained:

“We know that the Welsh Government, through the UK Government as the state party, has signed up to a number of UN treaties and conventions, and they could be a bit more explicit in that, maybe as an annex or some such matters, particularly things like the United Nations Convention on the Rights of the Child, which would come into play with the voting age of 16 and 17-year-olds. The UNCRC considers children to be children until the age of 18, so there is a definite interface there. There’s also the UN Convention on the Rights of Persons with Disabilities, the UNCRPD, and I’ll go into that in a bit more detail when we come to the section on diversity, but that’s another consideration. And, also, Welsh Government has a commitment to the UN principles for older people, and so to have more explicit mention of these ones that are a particular focus for the Welsh Government would be helpful, so that people could understand that interplay a bit more clearly.”²³

37. The EHRC raised a particular concern at the difficulty in assessing whether the Public Sector Equality Duty is embedded in the Bill as the Welsh

²² Local Government and Housing Committee, 15 November 2023, paragraph 214

²³ Local Government and Housing Committee, 15 November 2023, paragraph 217

Government had not published an equality impact assessment (“EIA”) on the Bill. The EHRC explained that publishing an assessment is “a requirement under the public sector equality duty specific duties for Wales, which are Welsh Government regulations”. We heard:

“There is reference that an EIA has been conducted but there is nothing to back that up, so it's very difficult to see how those obligations have been taken into consideration. The PSED has a due regard duty; the specific duties— of which publishing an EIA is one— are designed to support public bodies to meet the general duty to foster good relations, advance equality of opportunity and not to discriminate, and one of the concerns that we have is that, without that published EIA, it's difficult to see whether or not all the three elements of the public sector equality duty have been complied with in the development of the legislation.”²⁴

38. The EHRC added that the EIA:

“should be an iterative document, that, as decisions are taken, and as the Bill progresses through the different stages, that would be revisited and relooked at, and how decisions have been changed as a result of that noted and added in, so you can see how the public sector equality duty is informing the development of the Bill right through its passage. And we would want to see that.”²⁵

39. The Counsel General told us that he believed the provisions in the Bill to be within the Senedd's legislative competence. He explained that in order to be within competence, consideration had been given to the Bill's compliance with human rights conventions, and stated:

“I have given consideration to it. I don't consider that there are any particular issues there. It does engage the human rights convention, but, where it does so, it is appropriate and proportionate in terms of the

²⁴Local Government and Housing Committee, 15 November 2023, paragraph 219

²⁵ Local Government and Housing Committee, 15 November 2023, paragraph 220

way it deals with it, and I don't consider that there are any issues on that that in any way challenge the competence of this legislation.”²⁶

Our view

40. Having considered the evidence presented to us on the range of provisions in this Bill, we have concluded that we support its general principles. In doing so, we note the broad support from stakeholders, yet we also acknowledge that some concerns have been raised in relation to certain aspects. This report details our consideration of each of the provisions and our recommendations seek to make improvements where we believe these are needed to strengthen this legislation.

Recommendation 1. We recommend that the Senedd agrees to the general principles of the Elections and Elected Bodies (Wales) Bill.

41. We note the comments made by the electoral community in emphasising that any legislation is in place in sufficient time ahead of elections. We trust that the Welsh Government will ensure that all legislation, including secondary legislation, is made with sufficient time to enable electoral officers and the Electoral Commission to prepare for forthcoming elections.

42. We acknowledge the evidence from the Welsh Language Commissioner on the lack of a legal requirement on returning officers to treat Welsh and English equally and sympathise with the view that returning officers should be subject to Welsh Language Standards. We believe this anomaly should be rectified. Although returning officers could be made subject to Welsh Language Standards through secondary legislation, we would like provision to do so included in this Bill.

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.

43. We note the concern raised by the EHRC that an equality impact assessment on the Bill has not been published. Whilst we acknowledge that an

²⁶ Local Government and Housing Committee, 26 October 2023, paragraph 7

assessment is available on request, we believe it would be helpful to publish this and to update it should this Bill progress through the amending stages.

Recommendation 3. We recommend that the Welsh Government publishes the equality impact assessment it conducted on the Bill and that updated versions should be published to take account of changes made to the Bill during the amending stages.

44. We are aware that the Independent Commission on the Constitutional Future of Wales published its report on 18 January 2024. One Member raised the possible relevance of that report to the provisions in this Bill. However, given the timing of the report's publication, we have not, as a Committee, had an opportunity to consider the Commission's findings or any relevance they may or may not have to the provisions in this Bill.

3. Part 1 – Electoral administration and registration

Part 1 of the Bill makes provisions around the co-ordination of electoral administration, electoral registration without applications, Welsh elections piloting and reform, the accessibility and diversity of Welsh elections and campaign finance.

Co-ordination of electoral administration

45. Sections 1 and 2 confer responsibility for the “general function of co-ordinating the administration of Welsh elections and referendums on the Democracy and Boundary Commission Cymru (“DBCC”), which is renamed from the LDBCW by the Senedd Cymru (Members and Elections) Bill. This is done by inserting a series of new sections into Part 2A of the Democracy and Boundary Commissions Cymru etc. Act 2013 (also renamed by renamed by the Senedd Cymru (Members and Elections) Bill) (“the 2013 Act”). The responsibilities include a duty to create a new Electoral Management Board (“EMB”) to be responsible for the strategic co-ordination of electoral administration in Wales.

46. The EM notes that there is currently no statutory body responsible for the strategic co-ordination of electoral administration in Wales and that this role is currently undertaken by the Wales Electoral Co-ordination Board (“WECB”), a voluntary group with no statutory powers, currently supported by the Electoral Commission. The EM also notes that the WECB does not receive Welsh Government funding and returning officers are not mandated to participate in discussions or take account of the WECB’s recommendations.

The Democracy and Boundary Commission Cymru

47. The DBCC's new role and responsibilities in relation to electoral administration are set out in the sections being inserted into the 2013 Act, these include:

- assisting returning officers, local authorities and other persons to carry out their functions in relation to Welsh elections and referendums;
- promoting best practice in Welsh elections and referendums, for example by providing information, advice or training to those involved in the administration of the elections; and
- providing information, advice or other assistance to the Welsh Ministers about the administration of Welsh elections and referendums.

The Electoral Management Board

48. The duty on the DBCC to establish the EMB is set out in the new section 20E of the 2013 Act. The new section 20F sets out the membership of the EMB, including a stipulation that the chair must be a member of the DBCC with previous experience as an elections officer. The EMB must also consist of one other member of the DBCC, and at least four other current or former elections officers. This section also stipulates which offices would be incompatible with EMB membership, including Member of the Senedd and Member of the House of Commons.

49. The EM provides more information on the role of the EMB:

“The EMB will promote best practice in electoral administration and support the electoral community in Wales in the discharge of its functions in respect to Welsh elections. It is not, however, proposed to give the EMB the power to exercise the existing functions of ROs or EROs.

The role of the EMB will involve the coordination of Welsh elections and associated electoral activity, including the delivery of modernisation and reform in electoral administration in Wales. The EMB will also promote best practice, to include

providing information, advice, or training. The EMB will provide information, advice, or other assistance to the Welsh Ministers in line with its functions.”²⁷

50. The Bill provides the DBCC, through the EMB, the power to issue written directions to returning officers (“ROs”) and electoral registration officers (“EROs”). The EM states that the EMB would have the power to:

- issue directions to ROs and EROs with a duty to comply (not replacing their own personal responsibility to discharge their functions or duties), and
- provide advice to ROs and EROs in respect of their functions, similar to section 10(3) of Political Parties, Elections and Referendums Act 2000, in respect of the Electoral Commission’s power to issue advice, again with a duty on ROs and EROs to have regard to the advice.²⁸

51. The EM explains the rationale for conferring responsibility for the EMB on the DBCC, stating that it would give “the benefits of a public body without creating significant new overhead costs”. The EM further states:

“The Commission’s current aims and functions align well with the proposed functions of the EMB. It is a well-established public body independent of government with established stakeholder relationships. Commissioners are appointed through a rigorous public appointments process. It already carries out reviews of the electoral arrangements for the 22 local authorities in Wales and makes recommendations which it considers to be in the interest of effective and convenient local government.”²⁹

52. The provisions to establish a statutory EMB for Wales were broadly welcomed by stakeholders, with many referring to the achievements of the voluntary WECB and the existing statutory EMB for Scotland to demonstrate this. We heard that the EMB for Scotland supports returning officers and

²⁷ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraphs 3.17-3.18

²⁸ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.19

²⁹ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.21

electoral registration officers, but does not replace them. The Convener of the EMB for Scotland told us:

“there’s a reason for having an electoral management board, in Wales I’m sure as well as in Scotland, and it’s a model I commend, because it brings the right people together at the right time. [...] And I’m not saying it’s because of the EMB by any means, but the administration of elections in Scotland since its formation has been externally assessed as being good, and I genuinely think the EMB is a big part of that.”³⁰

53. The Electoral Reform Society (“ERS”) Cymru told us they were “really pleased” to see the inclusion of legislation for the EMB in this Bill, adding that it was something they had called for “for quite a while”. ERS Cymru added that in their view:

“it makes sense to link the EMB to the Democracy and Boundary Commission Cymru, if it does have that broader oversight of democracy in Wales.”³¹

54. Professor Toby S. James noted that an “Electoral Management Board for Wales would be a very welcome step” and that research suggests that it would facilitate lesson learning, consistency of performance, improved performance and managing complexity.³²

55. We heard that the WLGA are “supportive of the establishment of a statutory board for a number of reasons”. Councillor Huw David explained:

“whilst we have a set of arrangements currently, they’re operated on a voluntary basis with no funding to help co-ordinate the planning and management of elections in Wales, and we think it’s critical that there is that planning and management of elections in Wales, particularly as we now see the differences across the UK, and having this function on a statutory footing with appropriate resources to support

³⁰ Local Government and Housing Committee, 30 November 2023, paragraph 196

³¹ Local Government and Housing Committee, 15 November 2023, paragraph 88

³² Local Government and Housing Committee, EEB 06 – Professor Toby S James

electoral administration professionals will provide much more resilience and build on that strong collaborative working that's already taken place.”³³

56. The WLGA also voiced support for the EMB being part of the DBCC. Councillor Llinos Medi told us:

“it's difficult to see another body that would have the capacity to conduct that activity and also the economy of scale also in order to achieve consistency and to secure that consistency, so it's difficult to see another body that could deliver that properly and effectively.”³⁴

57. Similar views were expressed by the WECB, who noted:

“We are fully supportive of the proposal, having been a leading advocate for the concept of a statutory board for some time. We are also supportive of the EMB being hosted by the Local Democracy and Boundary Commission as the most appropriate national body.”³⁵

Independence and accountability of the EMB

58. The Convener of the EMB for Scotland told us that the Scottish Board's independence is “absolutely critical”, adding:

“It's absolutely fundamental that there is no, obviously, political control, or perceived political control of those who are charged with administering elections. Hence we are, as a board, accountable to the Parliament at Holyrood.”³⁶

59. He added that the Board's accountability to the Scottish Parliament is “fairly light touch” in that it submits an annual report which is “generally received without comment.”³⁷ We also heard that the EMB for Scotland is supported by a

³³ Local Government and Housing Committee, 22 November 2023, paragraph 19

³⁴ Local Government and Housing Committee, 22 November 2023, paragraph 26

³⁵ Local Government and Housing Committee, EEB 04 – Wales Electoral Coordination Board

³⁶ Local Government and Housing Committee, 30 November 2023, paragraph 162

³⁷ Local Government and Housing Committee, 30 November 2023, paragraph 162

secretary who is a returning officer and is employed by the City of Edinburgh Council,³⁸ and that the Board is not part of the same structure as Boundaries Scotland, who is an adviser to the Board. The Convener told us:

“I wouldn't see any particular reason why an electoral management board should be linked with the boundary commission in particular, although they do perform politically neutral functions on a basis of accountability to the Parliament, so there are parallels.”³⁹

60. The Convener re-iterated the importance he placed on the Board's accountability to the Scottish Parliament:

“critically for us is the accountability to the Parliament and to cross-party committees not unlike your own. We are accountable to the Parliament, and that's a very important safeguard, as it were, for me. I think that is the primary demonstration of independence.”⁴⁰

61. Professor Alistair Clark told us that in his view, it is “less than ideal” for the EMB to be established by a Welsh Government sponsored body such as the DBCC, adding that his preference would be:

“actual independence, not to be a delegated body of some other body, which itself is a Government sponsored body.”

62. Professor Clark explained why he believes the proposed arrangements to be “problematical”:

“there's a perception there that government tries to influence these things. What we've found from the international research literature is that electoral management bodies that have that independence from government, from other bodies, do actually go on to provide elections with more electoral integrity, they're more trusted by citizens. In essence, perceptions of how they

³⁸ Local Government and Housing Committee, 30 November 2023, paragraph 165

³⁹ Local Government and Housing Committee, 30 November 2023, paragraph 168

⁴⁰ Local Government and Housing Committee, 30 November 2023, paragraph 171

actually operate and how they run elections tend to be more trustworthy and accepted. So, I would prefer an independent body rather than the delegated model that is currently in the Bill.”⁴¹

63. Professor Clark went on to say:

“we’ve seen from Scotland how such an independent model can work and has worked well under some fairly trying circumstances in things such as the Scottish independence referendum of 2014. So I think there’s a model there to be followed, and I think it works quite well.”⁴²

64. The WECB told us that it would expect the EMB, within the DBCC, to have “a high level of delegation and freedom to think and act” and added:

“I’ve got confidence, working with the chair and the chief executive of the commission, that we will make this happen well, so I don’t see a barrier to doing it. But we would expect there to be, probably, a formal memorandum that gives it those things like independence.

There is some anxiety amongst practitioners that it could disappear into a body and not have sufficient expertise. I think we can resolve all those things well, and I think it’s a very workable model. Otherwise, we’d have to create an entirely new body, which I think, on cost and governance, wouldn’t be justifiable.”⁴³

65. We heard from the Electoral Commission that they understood “the rationale behind the EMB being set up as part of the DBCC”, however they added that:

“It’s essential that the EMB remains independent of both Welsh Government and the Democracy and Boundary Commission

⁴¹ Local Government and Housing Committee, 30 November 2023, paragraph 223

⁴² Local Government and Housing Committee, 30 November 2023, paragraph 224

⁴³ Local Government and Housing Committee, 22 November 2023, paragraphs 159-160

*Cymru to ensure there's confidence in the democratic process, and that's retained... the Welsh Government should take every opportunity in legislation, guidance and communication with the public to demonstrate that this is separate, and it'll be separate from the Democracy and Boundary Commission Cymru as well."*⁴⁴

66. The LDBCW explained why they believe that the DBCC would be an appropriate organisation to have responsibility for electoral co-ordination, including hosting the EMB:

*"We are an independent body. Our appointments are done through the public appointments process. We have experience. Other than the Electoral Commission, we are pretty much the only other body in Wales that has got strong relationship experiences working with electoral administrators."*⁴⁵

67. They added:

*"in terms of independence, our commissioners are former professionals or current professionals working in roles that are politically neutral. In terms of staff, we have senior leadership that's politically restricted as well."*⁴⁶

68. The Counsel General acknowledged the importance of being careful to ensure there is no "political interference in the way in which elections are managed and the way boards operate" and added that "there has to be an overall accountability or scrutiny of the work". The Counsel General told us that the EMB will become "part of the new commission that is being established", and:

*"That commission will report to the Senedd, produce an annual report. That is a report that will then be scrutinised by the Members of the Senedd."*⁴⁷

⁴⁴ Local Government and Housing Committee, 22 November 2023, paragraph 166

⁴⁵ Local Government and Housing Committee, 30 November 2023, paragraph 26

⁴⁶ Local Government and Housing Committee, 30 November 2023, paragraph 33

⁴⁷ Local Government and Housing Committee, 26 October 2023, paragraph 7

69. Upon further questioning the Counsel General told us:

*"I think the report will go to the Senedd, so it will be a report that is tabled in Senedd for debate within the Senedd as a whole. I don't know whether that's the practice elsewhere et cetera, but that would be where Members have the direct ability to assess how it is operating, what it is doing, to scrutinise that particular work and then what lessons and issues emerge from that debate."*⁴⁸

70. The Counsel General added:

*"The commission will produce a report. We'd expect the report to actually go to the Senedd for debate, but how the Senedd chooses to manage its own business is, obviously, a matter for the Senedd itself."*⁴⁹

71. We continued to pursue the issue of the EMB's independence and accountability with the Counsel General, who told us:

*"I think the independence is built into the legislation itself. Firstly, it is independent of outside political organisations. It's ultimately accountable to the Senedd, through the report from the Democracy and Boundary Commission Cymru, which will report annually and be scrutinised. So, there is accountability, but there is not actually any political role in terms of political appointments to the EMB or to the democracy and boundary commission."*⁵⁰

72. The Welsh Government official told us that, under the 2013 Act, the LDBCW "which will evolve into the Democracy and Boundary Commission Cymru", will have a duty to produce an annual report.⁵¹ The Counsel General added:

"I think the accountability is going to be exactly through that, through those 2013 regulations; it'll be through the reporting to

⁴⁸ Local Government and Housing Committee, 26 October 2023, paragraph 25

⁴⁹ Local Government and Housing Committee, 26 October 2023, paragraph 34

⁵⁰ Local Government and Housing Committee, 7 December 2023, paragraph 13

⁵¹ Local Government and Housing Committee, 7 December 2023, paragraph 16

the Senedd, the annual report that will be presented by the democracy and boundary commission. That will have to contain within it a report of the work of the electoral management board, and that's where it will be scrutinised.”⁵²

EMB membership and staffing

73. The WECB told us that in their view “the legislation on membership needs to be minimal” in order to “craft a membership that works”, and that it:

“would highly recommend something like the current, because it’s inclusive and collective... it has got to be a board that’s very practical and expert, and you can see a proposal being that the chair of the board within the commission would have to have experience of elections as a protection, which is a really good idea.”⁵³

74. The AEA welcomed the stipulation requiring the chair to have elections officer experience, but added that “due to the volume of change” in recent years, it would be important that:

“they’ve got up-to-date, practical experience of the challenges and issues that people are experiencing on a day-to-day basis at our own level and at administrator level, to be able to make sure that the issues that are being discussed, and the directions that are potentially being issued, are relevant for everybody as well.”⁵⁴

75. The AEA also emphasised the need for the EMB to have appropriate secretariat support, including “the expertise and knowledge” and “practical administrator expertise in electoral law”, and referred to the secretary of the EMB for Scotland who “is a highly qualified, experienced administrator who’s able to direct where the work is needed.”⁵⁵

76. The LDBCW told us that they are:

⁵² Local Government and Housing Committee, 7 December 2023, paragraph 19

⁵³ Local Government and Housing Committee, 22 November 2023, paragraph 164

⁵⁴ Local Government and Housing Committee, 22 November 2023, paragraph 168

⁵⁵ Local Government and Housing Committee, 22 November 2023, paragraph 168

“working closely with Welsh Government officials as well as WECB colleagues to help ensure that there is expertise brought into the commission to support us in establishing the board, identifying the kind of person specification that we need, not just from a staffing perspective but also future commissioners.”⁵⁶

77. The LDBCW went on to suggest that a possible way of ensuring the DBCC has experienced staff to support the establishment and running of the EMB would be by “poaching staff” from local authorities on a secondment basis. They added:

“We’re also working closely with the Association of Electoral Administrators to look at training provision for the existing staff, to upskill and increase our knowledge, and look at some electoral qualifications as well, internally, to support the work. I think there’s a general shortage of experts in Wales. However, they are there. There are people in post that could join us on either a permanent or temporary basis to help get things off the ground.”⁵⁷

Power to issue directions

78. The WECB noted that a significant difference between the current voluntary board and the new statutory board is that it will be able to issue directions. We heard that some returning officers had raised the question as to whether issuing a direction might interfere with their independence, the WECB told us that “directions should be sparingly used”, and consensus should be reached, wherever possible.⁵⁸

79. The Convener of the EMB for Scotland described the Board as:

“a very close and supportive community of returning officers and electoral registration officers ... and there's a balance between what the board does centrally and the independence

⁵⁶ Local Government and Housing Committee, 30 November 2023, paragraph 17

⁵⁷ Local Government and Housing Committee, 30 November 2023, paragraph 47

⁵⁸ Local Government and Housing Committee, 22 November 2023, paragraph 174

and the personal accountability of returning officers and electoral registration officers. We're not there to take over; we're there to support and promote best practice."

80. We heard that the EMB for Scotland has "the power of direction" which is used where "consistency of practice is helpful." The Convener told us that "the directions are overwhelmingly consensual" and that:

"The only time I have felt it necessary to say, 'Look, this is a direction', was in the COVID environment, where we set a direction of maximum number of electors per polling station."⁵⁹

81. We were told that consulting with the electoral community in advance had been key in avoiding dissent from directions in Scotland.⁶⁰ The Convener told us that should a returning officer disagree with a direction, he would "use all means possible" to persuade them to comply with the direction, but that the Electoral Commission, as the regulator on electoral practice, would need to take a view should there be a failure to comply.⁶¹

Commencement arrangements

82. We heard from the WECB that discussions had already begun on transitioning from the voluntary to statutory board. They explained their rationale for calling for the new body to not come into force until the end of the first quarter of 2025:

"if a parliamentary election has to take place by or including January 2025, the last thing we want is a transition of the board during election planning. So, you can see we've got quite a long-term plan, still close to a year and a half to work on."⁶²

83. The LDBCW told us they had:

⁵⁹ Local Government and Housing Committee, 30 November 2023, paragraph 149

⁶⁰ Local Government and Housing Committee, 30 November 2023, paragraphs 151-152

⁶¹ Local Government and Housing Committee, 30 November 2023, paragraph 160

⁶² Local Government and Housing Committee, 22 November 2023, paragraph 179

“made some recommendations around start dates and commencement dates to make sure that the functions are conferred on the EMB, rather than the commission.”⁶³

84. They explained:

“At the moment, the Bill would give some of the functions to the DBCC before the EMB is set up. We feel that the EMB is the right body to be given those functions and the DBCC wouldn't have necessarily the expertise to deliver those functions.”⁶⁴

Our view

85. We acknowledge that there was broad support for the establishment of a statutory electoral management board for Wales to build on the good work currently being undertaken by the voluntary Wales Electoral Co-ordination Board. We understand that the administration of elections can be complex and requires expertise, therefore we believe that a forum that brings such expertise together to share knowledge, good practice and improve consistency across Wales is welcome.

86. Although the existing voluntary board has worked well since its formation, we believe that creating a statutory board is the correct approach to ensure the appropriate resources and staffing are in place to secure its long term sustainability. We therefore welcome the provision in the Bill to establish a statutory electoral management board for Wales.

87. Whilst we support the establishment of the EMB, we are mindful of the concerns raised by some stakeholders in relation to its independence as part of the re-named Democracy and Boundary Commission Cymru, which will be a Welsh Government sponsored body. It is vital that the EMB is free from political influence, and we acknowledge that the Counsel General has given assurance on this. Although the DBCC will be a Welsh Government sponsored body, we acknowledge that in its current guise as the Local Democracy and Boundary Commission For Wales, it has a proven track record of working independently from Government in delivering its boundary reviews. We also acknowledge the

⁶³ Local Government and Housing Committee, 22 November 2023, paragraph 18

⁶⁴ Local Government and Housing Committee, 30 November 2023, paragraph 38

Commission's assertion that its independence will continue when it acquires new responsibilities.

88. Nevertheless, we understand how being part of a Welsh Government sponsored body could create a perception of not being truly independent. We therefore believe that the EMB should be accountable to the Senedd and that a clear route to demonstrate this should be specified in legislation. We note the Counsel General's comments regarding the DBCC producing an annual report to the Senedd for scrutiny, however we believe this to be insufficient and would like to see greater transparency.

89. We are aware that, under section 20 of the Local Government Democracy (Wales) Act 2013, the current LDBCW is required to submit an annual report to the Welsh Ministers and that the Welsh Ministers must publish the report and lay a copy before the Senedd. That Act does not specify a requirement for annual report to be debated by the Senedd or be considered by a designated committee of the Senedd. There are no provisions in the Senedd Cymru (Members and Elections) Bill to change this arrangement. We do not believe that a duty to simply provide an annual report to the Welsh Ministers and for that report to be laid is sufficient to demonstrate the DBCC and the EMB's independence. Further, this does not provide sufficient opportunity for the Senedd to scrutinise either the DBCC or the EMB.

90. We acknowledge the Counsel General's assertion that laying the DBCC's annual report before the Senedd will provide an opportunity for scrutiny. However, we do not believe this is sufficient and we are not aware of any debates having been held on previous LDBCW annual reports. We believe there should be a clear route for scrutiny of the annual reports by the Senedd, including a requirement for a debate by the Senedd. We believe that the Senedd Cymru (Members and Elections) Bill provides an appropriate opportunity to strengthen the accountability of the DBCC to ensure clear routes for scrutiny by the Senedd.

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.

91. We note that, currently, the membership of the LDBCW is appointed by the Welsh Ministers and that there are no provisions in the Senedd Cymru (Members and Elections) Bill to change this arrangement for the DBCC. We share the view expressed by the Senedd Reform Bill Committee in that enabling the Senedd to undertake pre-appointment hearings for the position of Chair to the Commission would provide enhanced transparency and credibility to the appointment process.

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.

92. If the EMB is going to be effective in bringing the electoral community together in preparation for delivering successful elections, it is vital that the right people are involved, both as members of the board and the staff supporting it. We heard that running elections can be complex and challenging, therefore having experienced personnel involved from the outset is key.

93. We feel that the specification in the Bill that the Chair must be a member of the DBCC who is a former elections officer provides some re-assurance, however as there have already been significant changes to Welsh elections in recent years, with further changes expected, we believe it is crucial that the Chair has relevant experience. We welcome the requirement that at least four members of the Board must be elections officers or former elections officers, but again their experience should be up to date and relevant.

94. In addition to the membership, we believe the EMB should be supported by experienced electoral staff to ensure that the expertise is there to advise the Board and to deliver its programme of work. We are concerned that the high turnover of electoral administration staff could be problematic, particularly as the DBCC may look to second staff from local authorities to assist in establishing the Board. Whilst we welcome the principle of seconding experienced staff to share their knowledge and expertise, we are concerned that this could lead to increased pressure on other local authority electoral staff as we are aware they often work within small teams.

95. We are somewhat reassured that planning for the transition from the voluntary WECB to the statutory DBCC has already begun and would expect this to intensify in preparation for establishment of the new Board. It is also crucial that sufficient resources are available to enable the planning to be undertaken effectively.

96. We welcome the prohibition of certain post holders, such as political office holders, from being members of the EMB in order to avoid political interference.

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.

97. We understand the rationale for including provisions to enable the EMB to issue directions to returning officers, however we believe that reaching agreement through consensus would be preferable. We note the experience of the EMB for Scotland in consulting with returning officers on any direction to enable agreement to take place in advance, and would like to see the new EMB for Wales operate in the same manner. We acknowledge the comments from the WECB that any directions should be used sparingly and would expect such an approach to be adopted by the statutory EMB.

98. We appreciate that the WECB will have many experienced members who can provide advice on establishing the statutory EMB, however we believe it will also be useful for them to work closely with the EMB for Scotland to learn from their experiences of operating on a statutory basis. It will also be helpful for the staff supporting the Board to learn from their counterparts in Scotland.

99. Although we believe the powers to issue directions should be used sparingly, we agree that it is appropriate to include this provision in the Bill should it be required in particular circumstances, such as during the Covid pandemic which was the example cited by the EMB for Scotland.

100. We note the comments made by the WECB and LDBCW in relation to commencing the provisions relating to the EMB. We agree that it will be important to time this correctly to ensure it does not create additional pressures

on electoral officers in the period running up to the expected UK general election. It will also be important to ensure that the DBCC will have the necessary arrangements and expertise in place in advance of commencing these powers. We trust that the Welsh Government will consult relevant parties and take their views into consideration in deciding when the provisions relating to the EMB should come into force.

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.

Electoral registration without application

101. Sections 3 and 4 include provisions to allow the piloting of automatic registration for voters. The provisions would only apply to Welsh elections and referendums, which are defined as Senedd Cymru elections, local government elections in Wales and devolved referendums. The Bill contains provisions to allow EROs to add eligible electors to the local government register in Wales without the individual needing to submit an application. EROs would need to verify a person's identity to satisfy eligibility. They would also be required to notify the persons they intend to register.

102. The EM explains that since 2014, voters in the UK have needed to register to vote themselves, under the Individual Electoral Registration ("IER") system. Currently, electoral registration officers send an Invitation to Register ("ITR") to any individual they become aware of who is not registered. Under the IER system an individual is required to provide their National Insurance number and date of birth in addition to their name and address. The EM states that this approach "is not always effective" and goes on to say:

"The current system does not reach all electors and while EROs take all steps to ensure the accuracy and completeness of the register there are still a number of eligible electors that are not registered. In 2022, the Electoral Commission reported 2,362,964 eligible electors on the local government register in Wales. While this number showed an increase in electors registering,

around 260,000 eligible electors had not registered to vote which is around 9.9% of those eligible.”⁶⁵

103. The EM further states that the policy intention of this Bill is to:

“make it easier for individuals to be included on the electoral register by promoting data-sharing and removing the requirement for individuals to verify their data by IER where automatic registration and data matching has taken place.”⁶⁶

104. Since responsibility for local and Senedd elections was devolved in the Wales Act 2017, the Welsh Government has carried out consultations on expanding the methods available to EROs to register voters for Welsh elections, with a view to replacing the current IER system.

105. The EM explains that all EROs will be required to automatically register electors for the local government register and issue a Notice of Registration to each eligible elector, and says:

“The elector will then have a fixed period of time in which to respond to the notice if they believe they are eligible to be anonymously registered. Once the fixed period has passed then unless the elector has paused the notice period by making an application for anonymous registration or notified the ERO in writing that they do not wish to be automatically registered, the elector will then be added to the local government register.”⁶⁷

106. The Counsel General explained that “there are effectively going to be two different types of register”, referring to 16 and 17 year olds and qualifying foreign nationals in addition to individuals who will be added to the Welsh register through the automatic registration provisions, but who would not be included in the Parliamentary register for UK general elections and Police and Crime Commissioner elections.

⁶⁵ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.29

⁶⁶ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.30

⁶⁷ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.32

107. The Counsel General acknowledged that confusion could arise due to the divergences between the Welsh and UK registers:

“I think what will be important will be the preparations for that, the communications that take place, how it is made clear to people what they have to do in terms of the voting processes. []

In terms of communication and engagement with people, in terms of clarity of voting, and so on, it's something that always happens before elections, but I think it does become more important.”⁶⁸

108. The EM commits the Welsh Government “to piloting the most effective way of automatically registering electors for the local government register in Wales”. Therefore, the Bill makes provision for the necessary powers to allow these pilots to happen.⁶⁹ The EM goes on to say:

“The Government’s intention is that pilots of automatic registration in Wales will take place following Royal Assent of this Bill and the successful model of automatic registration will be rolled out across Wales using the required secondary legislative powers included in this Bill.”⁷⁰

109. The EM also states that the Welsh Government has established a working group with local authorities and other key electoral stakeholders to develop a pilot scheme ahead of the secondary legislation. The EM also states that the working group will develop a small number of pilots to be delivered across supporting local authorities. The costs of the pilots will be met by the Welsh Government.⁷¹

110. In response to a question from the Legislation, Justice and Constitution Committee, the Counsel General noted that his commitment to piloting automatic registration was sufficient and therefore it is not necessary to include a duty to pilot arrangements on the face of the Bill. The letter stated:

⁶⁸ Local Government and Housing Committee, 26 October 2023, paragraphs 59-60

⁶⁹ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.35

⁷⁰ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.36

⁷¹ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraphs 9.40-9.42

“While I believe piloting automatic registration will result in the best possible system for the elector, I do not believe that the Bill should include a provision which specifically prevents the commencement of section 3 before the pilots have been completed. I have made a commitment to pilot automatic registration before commencing section 3 and will ensure that these pilots go ahead with a full and proper evaluation before rolling out the system.”⁷²

111. As to whether the provisions to register without application engage with human rights, the EHRC said that their provisional view is that there is “likely to be a proportionate interference with Article 8 and possibly Article 10”, however they told us:

“we think that the restrictions and those encroachments are likely to be considered proportionate for the purposes of the Bill.”⁷³

112. In response to our online public survey, 58 percent of respondents strongly supported the idea of automatically registering electors, with a further 28 per cent somewhat supporting the idea. Eight per cent somewhat opposed or strongly opposed the idea. Six per cent neither supported nor opposed the idea or selected ‘Don’t know’. When asked to provide a reason for their answer, three main themes emerged:

- removing barriers to voting;
- a potential catalyst for encouraging more people to vote; and
- simplifying the voting process.

113. 75 per cent of respondents to our survey strongly or somewhat agreed that the Welsh Government should pilot automatic registration before rolling out a model across Wales. Ten per cent said they strongly or somewhat disagreed, whilst a further 15 per cent of respondents neither agreeing nor disagreeing or selecting ‘Don’t know.’

⁷² Legislation, Justice and Constitution Committee, 8 January 2024, LJC(6)-01-24 [Paper 24](#)

⁷³ Local Government and Housing Committee, 15 November 2023, paragraph 228

114. The Electoral Commission said that it welcomed “some form of automatic registration” as:

“There’s an urgent need to reform electoral registration in the UK. We recently published research that indicated that there were 400,000 people in Wales who are either not correctly registered or have inaccuracies in their local government register entries. Perhaps they’ve moved house and that hasn’t been reflected in the register. That is a group, obviously, that we want to capture. We know that there’s a correlation between demographics and completeness, so the young and those more likely to move home are less likely to be registered. We want things to be done to address that.”

115. They added:

“we continue to recommend to all Governments across the UK to explore this.”⁷⁴

116. Professor Toby James described allowing registration without application as “an overwhelmingly positive step for Welsh elections and democracy”, adding:

“It stands to improve completeness, accuracy and may save electoral officials money – because they will be able to register citizens directly without needing to chase them with reminders.”⁷⁵

117. Professor Alistair Clark noted that automatic registration should help with the completeness and accuracy of the register, however he also referred to potential challenges, such as the possibility of duplicate entries if a person moves home or owns more than one property. Professor Clark emphasised the need to ensure that the register is up to date,⁷⁶ and questioned how often the process of monitoring applicable databases would be conducted or whether it would be an ongoing process.⁷⁷

⁷⁴ Local Government and Housing Committee, 22 November 2023, paragraph 201

⁷⁵ Local Government and Housing Committee, EEB 06 – Professor Toby S James

⁷⁶ Local Government and Housing Committee, 30 November 2023, paragraph 238

⁷⁷ Local Government and Housing Committee, 30 November 2023, paragraph 244

118. The WLGA told us they would like to see greater participation in the democratic process in Wales, and were therefore supportive of initiatives to increase the levels of registration and voting.⁷⁸ However, the WLGA also noted their concern about capacity within electoral teams to deal with the increased responsibilities, and called for the changes to be properly funded to support the additional work.⁷⁹

119. The need for funding and resources for local authorities was also raised by the AEA, in order to raise awareness and target people who may misunderstand the changes.⁸⁰ Whilst the AEA told us that, as an Association, they support the principle of automatic registration, they raised concerns at the confusion which could arise by operating two different systems.⁸¹ We heard that the AEA would be supportive of a joint, collaborative approach whereby the Welsh and UK governments both legislate for automatic registration. The AEA also referred to difficulties for administrators in operating a dual process.⁸²

120. The WECB echoed calls for a joint approach and called on the Senedd and Welsh Government to “really push the UK Government to do something similar” because:

“when we have divergence, we’ve got practice for the parliamentary and the PCC elections over here, and then devolved for local government and Senedd over here, and we are really concerned about voter confusion, voter fatigue.”⁸³

121. The Electoral Commission referred to the information and resources they provide in various languages which could assist in raising awareness, including work they had previously undertaken with Women’s Aid around anonymous registration and said that this type of work would grow, should the provisions be introduced.⁸⁴

⁷⁸ Local Government and Housing Committee, 22 November 2023, paragraph 33

⁷⁹ Local Government and Housing Committee, 22 November 2023, paragraph 39

⁸⁰ Local Government and Housing Committee, 22 November 2023, paragraph 235

⁸¹ Local Government and Housing Committee, 22 November 2023, paragraph 198

⁸² Local Government and Housing Committee, 22 November 2023, paragraph 199

⁸³ Local Government and Housing Committee, 22 November 2023, paragraph 203

⁸⁴ Local Government and Housing Committee, 22 November 2023, paragraph 230

122. ERS Cymru also voiced their support for automatic registration, commenting that “registering to vote does act as a barrier to people”, and noted that many countries already operate automatic registration successfully.⁸⁵

123. Disability Wales noted that registration without application “could be really positive for disabled people” as the amount of paperwork required can make it “quite difficult to register to vote”.⁸⁶

124. Dr Christine Huebner told us that her research demonstrated that electoral registration was one of the biggest barriers for 16 and 17 year olds voting in the 2021 Senedd election, noting that less than half had joined the electoral roll in time. Dr Huebner referred to “huge variation” between local authorities, depending on the measures they took to engage with young people and also between families where those who had family support to register and those who did not have the support. Dr Huebner emphasised:

“automatic voter registration takes away one of the biggest barriers to young people becoming part of the electorate, and we think that that is supported by research as a measure that would definitely benefit a number of young people.”⁸⁷

125. Dr Huebner referred to examples from her research of young people not receiving communication around registering to vote or not being aware of needing to open the communications, and also examples where awareness-raising measures were not undertaken in sufficient time to enable young people to register in advance of the 2021 election.

126. Dr Huebner went on to say she foresees that voter confusion among young people “will be a huge issue” and referred to the 2021 elections where young people had not understood the franchise difference between the Senedd and Police and Crime Commissioner ballots.⁸⁸ Dr Huebner emphasised the importance of communicating with young people, to pilot awareness-raising measures to ensure they understand the differences.⁸⁹ She went on to suggest

⁸⁵ Local Government and Housing Committee, 15 November 2023, paragraph 97

⁸⁶ Local Government and Housing Committee, 15 November 2023, paragraph 95

⁸⁷ Local Government and Housing Committee, 15 November 2023, paragraph 15

⁸⁸ Local Government and Housing Committee, 15 November 2023, paragraph 19

⁸⁹ Local Government and Housing Committee, 15 November 2023, paragraph 20

that an all-Wales database which would enable young people to check if they are registered would be helpful.⁹⁰

127. The importance of raising awareness among voters was also emphasised by ERS Cymru, who questioned how voters will understand that they have been automatically registered for Welsh elections but will need to proactively register under a different system for UK elections. They welcomed the proposal to pilot the provisions in order to seek to address these issues.⁹¹ ERS Cymru also called for an easily accessible way of individuals being able to check whether they are registered to vote, adding that such a function would become even more important if automatic registration is in place.⁹²

128. RNIB Cymru highlighted the importance of communicating the changes with people in their required format, which means proactively finding out how people need to be communicated with.⁹³ This was echoed by Disability Wales who added that the information will need to be made available in as many formats as possible:

“We’ll need to see letters going to people’s homes, we’ll need to see advertisement in key hubs like general practitioners, libraries, key social spaces. We need to see advertisements on the radio, on the television, and just to be very proactive about engaging and promoting this message through as many different channels as possible.”⁹⁴

129. When asked how the Welsh Government could help understand the changes, writing directly to the elector to let them know about the changes was the option most often selected first by respondents to our survey (36 per cent), followed by communicating with the elector in some other way, for example, text message or e-mail (19 per cent). A national information campaign was selected as first choice for 14 per cent of respondents to this question, with 12 per cent of respondents choosing a social media campaign as their first choice. A television and radio campaign was chosen first by nine per cent of respondents, with eight

⁹⁰ Local Government and Housing Committee, 15 November 2023, paragraph 24

⁹¹ Local Government and Housing Committee, 15 November 2023, paragraph 99

⁹² Local Government and Housing Committee, 15 November 2023, paragraph 116

⁹³ Local Government and Housing Committee, 15 November 2023, paragraph 107

⁹⁴ Local Government and Housing Committee, 15 November 2023, paragraph 112

per cent choosing working with organisations like the Electoral Commission and local authorities to raise awareness as their first choice.

45 day notice period

130. Section 3 specifies there must be a notice period of 45 days between notifying an individual of the intention of registration and adding them to the register. A Welsh Government official told us:

“the registration officer will identify someone who they believe is entitled to be on the register. They will then send the notice to that person. That person will have 45 days to either say, ‘I don’t want to be on the register’ or ‘I think I’m entitled to anonymous registration’. If they don’t do anything during that 45-day period or at the end of that 45-day period, then the registration officer then registers that person. So, the registration only happens at the end of the 45-day period, after they’ve had an opportunity to consider what options they’ve got available to them.”⁹⁵

131. The AEA acknowledged the provisions relating to the 45 day notice period, but raised concerns as to whether, for vulnerable people in challenging circumstances, any period of time is sufficient:

“they’ve got other issues, other priorities, other concerns beyond responding to correspondence saying they’re going to be automatically registered.”⁹⁶

132. The AEA noted that it would be useful if the schemes to pilot automatic registration could specifically assess whether a 45 day notice period provides sufficient time to respond.⁹⁷

133. Disability Wales also raised concern as to whether a 45 day notice period is sufficient:

“We are concerned that this may not be enough time for a lot of disabled people to be able to start to understand the quite large

⁹⁵ Local Government and Housing Committee, 26 October 2023, paragraph 75

⁹⁶ Local Government and Housing Committee, 22 November 2023, paragraph 210

⁹⁷ Local Government and Housing Committee, 22 November 2023, paragraph 210

*change within electoral registration and to be able to fill out whatever paperwork is required, or be able to get support to fill out what paperwork will be required either to be able to remove themselves from the electoral register or to become an anonymous voter. Should this be enacted, we would say that this would need to be done in very close consultation with a diverse group of disabled people and their organisations to ensure that the quality of the communications around this rule is adequate.*⁹⁸

134. Professor Clark told us:

*“there's always a risk with deadlines in the electoral process that people will miss it, because people tend not to pay attention until very close to the election. So, if there are deadlines, then there's always the potential that they're missed. My general view, in thinking about this, is that the vulnerability probably means that it's harder for them to fit within specifically and fairly narrowly defined election windows. My sense would be to err on the side of permissiveness here, and to flexibility towards deadlines.”*⁹⁹

135. When asked whether 45 days is a sufficient notice period, the Counsel General said that holding pilots is desirable “to explore how that actually operates in practice”.¹⁰⁰

Anonymous registration

136. Section 3 also specifies that registration officers must notify a person that they have the right to apply for anonymous registration. Women’s Equality Network Wales (“WEN Wales”) emphasised that “it’s really crucial that people are able to register anonymously” but highlighted concerns around the process, in particular whether the 45 day notice period would allow sufficient time for a person to gather the necessary information to support an anonymous

⁹⁸ Local Government and Housing Committee, 15 November 2023, paragraph 93

⁹⁹ Local Government and Housing Committee, 30 November 2023, paragraph 249

¹⁰⁰ Local Government and Housing Committee, 26 October 2023, paragraph 82

application, and the need to re-apply every year.¹⁰¹ They suggested making the requirements more flexible and working closely with relevant support services:

“Some of these issues, we think, could be mitigated by extending the time frame beyond 45 days, by providing clear guidance and accessible formats in different languages, and by working very closely with specialist services who can support people in filing that request. But, I think, ideally, a really important thing to take action on would be on simplifying the process for registering anonymously, for instance, by allowing survivors to self-disclose and to change it so that once they're registered as anonymous, it will remain so until they actively opt out of anonymous registration. I think those are steps that could be taken to make the process safer.”¹⁰²

137. WEN Wales also suggested that it might be helpful for people to have a straightforward way to check if they are registered anonymously, and emphasised the need for further research and engagement with support services:

“because the stakes of getting this wrong are so incredibly high, we would really strongly recommend further research and close engagement with the specialist support sector, potentially including as part of a pilot an automatic voter registration.”¹⁰³

138. The AEA told us that they would expect the process of applying for anonymous registration to include completing an anonymous elector declaration and application form, and that under current arrangements, the person would have to re-apply annually to renew that declaration.

139. The Counsel General confirmed that anyone applying for anonymous registration would need to provide a reason for the application and renew the declaration annually. The Counsel General also confirmed that the 45 day notice

¹⁰¹ Local Government and Housing Committee, 30 November 2023, paragraph 326

¹⁰² Local Government and Housing Committee, 30 November 2023, paragraph 327

¹⁰³ Local Government and Housing Committee, 30 November 2023, paragraph 329

period would be suspended once an individual makes a registration officer aware of their intention to apply anonymously.¹⁰⁴

140. We discussed with the Counsel General whether the process of providing information and re-applying for anonymous registration annually was necessary, given that it could be a traumatic experience for vulnerable people. The Counsel General explained the rationale for this approach:

“People are used to it already, of course; they're used to existing systems, so we're not introducing something new. This isn't some innovation, it's just that it will happen as part of the automatic registration process. In some ways, it'll probably be more efficient, but the same data will be required; the sort of information at the moment is either if there's a sort of court order and injunction, general practitioner letter, police inspectors' letters and so on. Those are the basis on which people already can go onto the register but remain anonymous. So, in many ways, we're just importing that into the new system.”¹⁰⁵

Removing the open register for Welsh elections

141. Although not specified on the face of the Bill, the EM states that, in order to “add additional safeguards for young and vulnerable electors”, the open electoral register in Wales would be removed for Welsh elections. It says:

“This means that the registered elector will only appear on the closed local government electoral register, which has a very limited circulation. While organisations will still be able to access this register, they will only be able to do so if they have a legal right to the information held on the closed electoral register.”¹⁰⁶

¹⁰⁴ Local Government and Housing Committee, 7 December 2023, paragraph 46

¹⁰⁵ Local Government and Housing Committee, 7 December 2023, paragraph 49

¹⁰⁶ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.33

142. The Counsel General confirmed that the open register would continue for UK Parliamentary elections. In a letter of 15 November, the Counsel General confirmed the arrangements for removing the open register for Welsh elections:

“The provisions requiring an open register sit within the Representation of the People (England and Wales) Regulations 2001. As this is secondary legislation, we will use secondary legislation to remove its application to the local government register in Wales. This will be done following Royal Assent of the Bill. To make this change Welsh Ministers will exercise powers under Section 53 of the Representation of the People Act 1983, these regulations will be subject to the affirmative procedure in the Senedd.”¹⁰⁷

143. Professor Toby James commented that the open register serves no electoral purpose and called for its abolition to safeguard against the threat of its misuse. Professor James referred to abolishing the open register as “a matter of urgency and potentially national security”.¹⁰⁸

144. The WECB noted that automatic registration could unearth potential voters who would need to be protected, and that removing the open register “would at least give a degree of protection”.¹⁰⁹ WEN Wales welcomed the principle of automatic registration as a means of removing “a barrier to democratic participation”, however they also highlighted the associated “significant risks” such as “for survivors of domestic abuse, stalking or harassment”, and emphasised that “these need to be managed very, very carefully”.¹¹⁰ They added that there “are real risks, even with the closed register”, explaining:

“even when the open register is removed and we only have the closed register, there are still risks, even though that register can only be shared with a limited number of people in organisations. Given issues like police-perpetrated abuse, being

¹⁰⁷ Local Government and Housing Committee, 22 November 2023, [paper 3](#)

¹⁰⁸ Local Government and Housing Committee, EEB 06 – Professor Toby S James

¹⁰⁹ Local Government and Housing Committee, 22 November 2023, paragraph 219

¹¹⁰ Local Government and Housing Committee, 30 November 2023, paragraph 324

on a closed register can pose a significant danger to survivors, if their personal information ends up in the wrong hands.”¹¹¹

145. WEN Wales emphasised:

“there must not be the slightest chance of automatic registration being introduced without the removal of the open register.”¹¹²

146. The WECB further questioned “why it was ever an open register in the first place”, querying why a register for the purposes of voting and participation would need to be public.¹¹³ The AEA concurred that the open register should be abolished, while the Electoral Commission told us:

“We’ve long recommended that the open register should be for electoral purposes only and a limited range of security and crime prevention purposes.”¹¹⁴

147. When asked whether they agree or disagree with removing the open electoral register for elections in Wales, 71 per cent of respondents to our survey strongly agreed to somewhat agreed, whilst 12 per cent strongly disagreed or somewhat disagreed. 17 per cent neither agreed nor disagreed or selected ‘Don’t know’.

148. Protecting young and vulnerable voters and the potential misuse of personal data were the two main themes cited as reasons for removing the open register. Whilst most responses were in favour of removing the open register, some responses referred to potential drawbacks associated with removing the open register.

149. When asked whether confusion may result in eligible electors potentially being deprived of the right to vote in some elections, 73 per cent of respondents strongly or somewhat agreed that removing the open register for Welsh elections may result in confusion. Ten per cent strongly or somewhat disagreed

¹¹¹ Local Government and Housing Committee, 30 November 2023, paragraph 325

¹¹² Local Government and Housing Committee, 30 November 2023, paragraph 332

¹¹³ Local Government and Housing Committee, 22 November 2023, paragraph 223

¹¹⁴ Local Government and Housing Committee, 22 November 2023, paragraph 225

with the concerns raised, whilst 17 per cent neither agreed nor disagreed or selected 'Don't know.'

150. In response to a question on how voter confusion could be avoided, the main theme which emerged focused on the need for clear communication delivered via different mediums:

“Very strong comms campaign. Info available and made very clear at polling stations.”

“Clear communication via letter / email / social media / education.”

“Making it clear in correspondence, local authorities and the Electoral Commission should remind voters ahead of UK elections.”

“A coherent, jargon-free communication campaign, making use of different communication channels (social media, tv, letter etc) to ensure as many people as possible are aware of the differences (as people digest information in different ways).”

Data

151. The EM notes that the requirement on local authorities to undertake data mining exercises will be an additional cost. It estimates that this task will require a full time officer to work three days a week for the first two years of implementation and two days per week after that. The estimated annual costs per authority are £22,542 between 2026 – 2028 and £15,028 in following years.

152. We were told of the importance of ensuring that the data used to identify eligible individuals should be robust. The Electoral Commission emphasised that “the key thing is that it needs to be robust, accurate and up to date”. The Commission referred to council tax records and schools admissions data as examples of local data sets that could be used, and went on to say:

“The commission has been doing some feasibility studies about registration, and that explores how national data sets could be used as well. So, that's the kind of data that's coming through from the Driver and Vehicle Licensing Agency and His Majesty's

Passport Office, but whether the electoral registration officers would have access to that is another issue.”¹¹⁵

153. Academics referred to the possibility of using data held at a UK level. Professor Toby James noted:

“Providing citizens with an option to register to vote/update their registration details when accessing other government services would enable millions of citizens to register more easily. For example:

- a. 6.5 million per year could register when applying for a passport*
- b. 4 million people could register when they update their driving licence address with the DVLA*
- c. 2 million a year could register when applying for Universal Credit*
- d. 2.5 million students could be registered through annual student enrolment*
- e. 800,000 could register when they apply for child benefit for the first time*
- f. 500,000 could register when they provide the Student Loans Company with a new address*
- g. 450,000 could register when they apply for disability benefits.”¹¹⁶*

154. Professor James therefore suggested:

“The Welsh government should approach key UK government departments to request access to the key data sources which would enable the policy to be effective.”¹¹⁶

¹¹⁵ Local Government and Housing Committee, 22 November 2023, paragraph 240

¹¹⁶ Local Government and Housing Committee, EEB 06 – Professor Toby S James

155. Professor Alistair Clarke also referred to UK level of data sources and the need to have agreements in place in order to access those sources:

“The Department for Work and Pensions database is one that often comes up in this regard. So, I think making sure that all the data-sharing agreements and things of that sort that are likely to be necessary are in place, I think, will probably be important.”¹¹⁷

156. When asked about the data sources that would be used by registration officers to verify an elector’s identity, the Counsel General told us that “it’s very much work in progress”, but that it would include identifying specific Welsh sources of data, and “those data sources that are within the jurisdiction of Wales.”¹¹⁸

157. A Welsh Government official told us:

“electoral registration officers have already got quite a lot of power in relation to the data they can access for purposes of validating applications to be on the electoral register. What we’re proposing is that they can add people to the electoral register by using pretty much the same data sources they’d already be using to validate for those purposes. Clear examples are things like council tax. Schools data would be particularly relevant in this instance, given the under-registration of younger people in particular.”¹¹⁹

158. When we explored this issue further with the Counsel General, we were told by a Welsh Government official:

“We’ve been working with local authorities and we will be working with local authority data protection officers to ensure that anybody, particularly in the piloting period, will have access to any useful local data. So, while we are looking at main data sets around council tax or schools data, we’ll be looking to

¹¹⁷ Local Government and Housing Committee, 30 November 2023, paragraph 240

¹¹⁸ Local Government and Housing Committee, 26 October 2023, paragraph 40

¹¹⁹ Local Government and Housing Committee, 26 October 2023, paragraph 41

broaden that out as much as we possibly can so that we've got as much access as possible to as wide a variety of data as possible, but keeping it within the local authority.”¹²⁰

159. When asked whether the Welsh Government had considered using UK data sources, which would need data sharing agreements with the relevant UK Government departments, the Counsel General told us:

“We've looked at that, but we don't consider it's necessary. We don't want to go down the road of Minister of the Crown consents if we have sufficient data that is available. At the moment, all the indications are that we have considerable areas of databases within Wales, and that should be sufficient in order to populate an automatic register. I think it's one of those areas where there's still work in progress. The pilot will tell us quite a bit, I think, and, of course, the legislation provides for a review post the 2026 elections as well.”¹²¹

Our view

160. We recognise that, overwhelmingly, the evidence presented to us supported the principle of introducing electoral registration without application as a means of increasing the number of registered eligible voters. We agree with that sentiment and are generally supportive of initiatives to increase democratic participation. However, we feel strongly that automatic registration should only be implemented if the safety of vulnerable electors is guaranteed. We believe that changes are required to the Bill as currently drafted to provide additional safeguards for vulnerable people.

161. We acknowledge that the Welsh Government has committed to piloting automatic registration and evaluating those pilots prior to rolling the provisions out across Wales. We welcome this commitment and believe that learning from the experience of pilots is crucial ahead of implementing such a significant change. We note the Counsel General's comments to the Legislation, Justice and Constitution Committee that it is not necessary to include a duty to pilot the

¹²⁰ Local Government and Housing Committee, 7 December 2023, paragraph 96

¹²¹ Local Government and Housing Committee, 7 December 2023, paragraph 98

automatic registration provisions on the face of the Bill. However, we also recognise that a legal duty may provide additional assurances to vulnerable people.

162. When considering in which areas of Wales to hold the pilots, the Welsh Government should ensure a mix of characteristics are considered. We believe that a mix of areas should be involved, including urban and rural areas, affluent and less affluent areas and areas where there are high proportions of non-first language English or Welsh speakers. Consideration should also be given to the ability of different age groups to participate in the pilots.

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.

163. We welcome the provision to enable people to register anonymously and believe this to be a crucial element of automatic registration, however we agree with some of the concerns raised by stakeholders around the process. We are particularly concerned that people who wish to register anonymously will need to provide evidence to support an application and will need to renew their application annually. We feel that providing such evidence could be difficult for vulnerable people as it may involve being reminded of traumatic experiences, particularly if they would need to do so again when re-applying in subsequent years.

164. We acknowledge the Counsel General's assertion that the requirements would mirror those currently in place for a person seeking anonymous registration, however we believe the situation will be different should automatic registration be implemented. Currently, anyone registering anonymously would be doing so proactively, whereas under automatic registration we believe there could be more room for error if individuals do not understand the process.

165. We believe that the process of applying for anonymous registration should be as flexible as possible in order to prevent the requirements from being a barrier to applying. We are concerned that if the requirements are too onerous

or prove too traumatic, an unintended consequence may be that people choose not to be registered, resulting in their disenfranchisement, which would go against the objective of the provisions.

166. Further, we remain unclear as to the rationale for needing to provide evidence for anonymous registration or for annual renewal. We are not convinced that the Counsel General's assertion that the requirements would mirror current arrangements is sufficient, given that a move to automatic registration would be significantly different to the existing system. We therefore believe there should not be a requirement to provide evidence to support an anonymous application, and we strongly believe that once a person has registered anonymously, they should not be required to re-new that registration annually. We believe that anonymous registration should stay in place until a person actively opts out of that arrangement.

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 Welsh Government should consider not imposing a requirement to provide evidence in support of an application.

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.

167. We welcome the commitment from the Welsh Government to removing the open register for Welsh elections. We note the views expressed by some that the open register holds no electoral purpose, and more crucially, for reasons of public safety, the implementation of automatic registration must be accompanied by the removal of the open register. In particular, we support the call from WEN Wales that the automatic registration provisions should not be implemented without the removal of the open register.

168. We note there is no duty to remove the open register on the face of the Bill, and that the Welsh Government intends to exercise powers under Section 53 of the Representation of the People Act 1983, to bring forward regulations which will be subject to the affirmative procedure in the Senedd. We recognise that

including a duty on the face of the Bill may provide an additional assurances to some stakeholders.

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.

169. We are mindful of the concerns raised as to whether a 45 day notice period provides sufficient time for people to state their preference not to be registered or to apply for anonymous registration. We acknowledge the Counsel General's confirmation that the notice period would be suspended when a request for anonymous registration is made, and while that provides some re-assurance, we remain concerned that for some vulnerable people, this timeframe may be insufficient. It will be crucial to carefully monitor and evaluate this specific provision through the pilot schemes and increase the timeframe if necessary. We believe that the Welsh Government should ensure that appropriate stakeholder organisations representing vulnerable groups are involved in the planning of the pilots to ensure that arrangements are tailored and evaluated to include meeting their needs.

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.

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 whether the 45 day timeframe an individual has to respond to the notification is sufficient.

170. Implementing such a significant change to the registration process will require a concerted effort by the Welsh Government, local government, the Electoral Commission and others to raise awareness of this change. As this would result in a greater divergence between the Welsh and UK Parliamentary registers, we are concerned that voter confusion is inevitable. We recognise that voter confusion was acknowledged by the Counsel General and others and that the need to mitigate this risk was accepted. We welcome the establishment of a working group to develop pilot schemes. It will be crucial that the pilots consider the most effective ways of raising awareness of the changes.

171. We are particularly keen to ensure that every effort is made to raise awareness among vulnerable groups and that information is communicated in a variety of ways. We support the call from stakeholders that information should be provided in accessible formats, including easy read, large print and braille. Information should also be available online and hard copies distributed to centres where people gather, including libraries and leisure centres, as well as in different languages.

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.

172. Whilst we support the principle of implementing automatic registration, we recognise that its effectiveness will be reliant on the accuracy of the data used to identify eligible voters. We heard from stakeholders that the data should be robust, therefore we are concerned as to whether the examples of data cited by the Counsel General will be sufficient. We realise that using data already held by local authorities in Wales, such as the cited examples of council tax records and school admission figures, will be more straightforward to obtain, however we are concerned that such sources may prove too limited.

173. We recognise that accessing data held by the UK Government would require data sharing agreements between the Welsh Government and the relevant UK departments, however accessing such data would greatly increase the information available to local authorities and would potentially enable them to reach out to a higher number of eligible voters. We understand the rationale behind the intention of using Welsh data, however accessing UK data should not be discounted at this stage. We believe this is an issue which should be evaluated as part of the planned pilots, and should the pilots demonstrate a need to access a wider range of data, the Welsh Government should seek data sharing agreements with the UK Government ahead of rolling out the automatic registration provisions across Wales.

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.

Welsh elections piloting and reform

174. Sections 5 - 24 create provisions around electoral pilots in Wales. They provide powers for the Welsh Ministers and other bodies to propose electoral pilots, for these pilots to be evaluated by the Electoral Commission and for the Welsh Ministers to introduce by regulation permanent changes to relevant electoral matters in Welsh elections.

175. The powers to hold electoral pilots for Welsh elections were devolved to the Welsh Ministers by the Welsh Ministers (Transfer of Functions) Order 2018. Previously, these powers were contained in Section 10 of the Representation of the People Act 2000. These powers enable a local authority to submit proposals for a pilot scheme in one or all of the following areas:

- when, where and how voting at the elections is to take place;
- how the votes cast at the elections are to be counted; or
- the sending by candidates of election communications free of charge for postage.

176. In 2022, a pilot programme focused on early and flexible voting was run in four local authorities – Blaenau Gwent, Bridgend, Caerphilly and Torfaen.¹²²

177. The Bill provides new powers for the holding of electoral pilots for Welsh elections. It provides regulation making powers for pilots to take place on the following ‘relevant electoral matters’:

- registration of persons eligible to vote in a Welsh election;

¹²² Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.42

- when, where and how voting at a Welsh election is to take place (for example advanced voting, alternative polling stations, or electronic voting);
- how the votes cast at a Welsh elections are to be counted;
- communication with voters about a Welsh election; and
- processes and procedures before, on or after polling in a Welsh election.

178. The provisions specify that pilots could cover one or more ‘electoral matter’, would need to be in place for a specified period of time and could apply to one or more electoral areas. They also specify that certain bodies and Welsh Ministers would be given powers to make proposals for pilots to take place. Section 5(5) says that Welsh Ministers, in making regulations on pilots, could implement them as proposed or with modifications. Welsh Ministers would not be required to set out what those modifications are when making regulations.

179. Sections 5(6) and 5(7) include provisions for pilot regulations to create, remove or modify offences, as long as the offence does not carry a prison term of greater than one year, or ‘the applicable limit’ on summary convictions.

180. Section 6 sets out the requirements placed on Welsh Ministers when making pilot regulations. These include setting out the objective of the pilot, and specifying the date by which the Electoral Commission must submit a report evaluating its success.

181. Section 6(2) states that pilot provisions applying to local authorities should not be made without the authority’s consent. If the authority does not consent, Welsh Ministers must ‘have regard’ to any recommendations made by the DBCC on whether pilot regulations should be made without the authority’s consent. The EM sets out the rationale for including provisions in the Bill to enable Welsh Ministers to compel local authorities to undertake pilots:

“The current arrangements allow pilots only where a local authority initiates the proposal formally. A reflection of the 2022 pilots was that they were not held in a geographically diverse set of local authority areas. These provisions will allow Welsh

Ministers to compel pilots where they believe this is necessary. This means that Welsh Ministers could direct local authorities to undertake pilots, helping to ensure suitable types of innovations could be piloted in a varied mix of local authority areas. This could provide valuable evidence to inform future electoral reform. In these circumstances the Welsh Ministers will be required to consult the EMB and set out the reasons for compelling the pilot before taking forward the necessary legislation.”¹²³

182. The requirement to seek consent of local authorities or otherwise to have regard to recommendations from the Commission would not apply to pilot regulations made within 12 months of the Bill receiving Royal Assent that relate to automatic voter registration.

183. The EM states that pilot regulations would “generally” be subject to the negative procedure in the Senedd. Pilots around automatic voter registration, along with any pilots that do not have consent of the local authority, or which include provisions that widens the scope of a criminal offence, would be subject to the affirmative procedure.

184. Section 8 makes provisions for Welsh Ministers to add further matters to the list of ‘relevant electoral matters’ detailed in Section 5(3). It specifies that matters relating to the voting system of the Senedd, or the voting system of principal and community councils, would be excluded. Any regulations adding matters to the list would be subject to the affirmative procedure.

185. The Bill provides for Welsh Ministers and a number of bodies to make proposals for electoral pilots. The DBCC would be required to evaluate proposals and make recommendations to Welsh Ministers on if and how pilots should be implemented.

186. Section 9 would require Welsh Ministers, before making a pilot proposal, to consult with the Returning Officer of the areas covered by a proposed pilot. The Welsh Ministers would also be required to submit pilot proposals to the DBCC for

¹²³ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.51

review, and to have regard to any recommendations made by the Commission in a report on the proposals.

187. Section 10 would enable Principal Councils to propose pilot regulations to Welsh Ministers. Councils would need to consult with Welsh Ministers before making a proposal. After this consultation, councils would be required to submit pilot proposals to the DBCC, and have regard to its report on the proposals.

188. Section 11 would enable the Electoral Commission to make joint proposals with Principal Councils, subject to the same provisions as laid out in section 10. Section 12 would enable EROs to make proposals for electoral pilots. However, these proposals would be limited to pilots related to the registration of electors. These would also be subject to the same requirements as laid out in section 10.

189. Section 15 sets out criteria the DBCC would need to consider when completing its report on a proposed pilot. Under section 16, the DBCC would be required to establish a forum for the discussion of electoral pilots, which would include the ROs of each participating council, electoral administrators from participating councils, and at least one member of the Commission itself.

190. Section 18 states that the Electoral Commission would be required to carry out an evaluation of the pilot after it has been completed. The evaluation report would need to cover:

- how the pilot differed from the provision that would otherwise have applied;
- an assessment of the success of the pilot programme in achieving its initial objectives;
- an assessment of whether provisions similar to those made by the pilot should apply generally and on a permanent basis for Welsh elections.

191. Provisions in section 19 would provide Welsh Ministers with powers to make electoral reform regulations. This section would allow Welsh Ministers to make permanent changes to the administration of elections 'similar to' those trialled in a pilot scheme. Welsh Ministers may only make these regulations if the Electoral Commission recommends in its review report that the pilot was successful in

achieving the intended electoral ‘reform outcome’ and should apply more generally and on a permanent basis.

192. Section 20 sets out an enhanced scrutiny procedure for the approval by the Senedd of electoral reform regulations under section 19. The enhanced procedure specifies that, should electoral reform regulations modify primary legislation, create or widen the scope of a criminal offence, or create or amend a power to legislate, then the affirmative procedure would apply. However, the Senedd or a Senedd Committee could recommend within 30 days of the regulations being laid that an enhanced affirmative procedure should apply to the regulations. In this instance, Welsh Ministers would be required to take account of any representations made to it, any resolutions made by the Senedd or recommendations made by a Senedd Committee within a period of 60 days of the regulations being laid. Welsh Ministers could make changes to the draft regulations if needed to take account of any recommendations or representations, but would need to lay the revised draft with a statement explaining any changes to the Senedd before they can be approved.

193. Other regulations made under Section 19 would be subject to an enhanced negative procedure. This would require Welsh Ministers, when making the regulations, to lay a statement alongside the regulations explaining why they believe the negative procedure is appropriate. A Senedd Committee would then have 14 days to consider whether it agrees with the use of the negative procedure. If it does not, the affirmative procedure must be used by Welsh Ministers.

194. When laying any regulations under Section 19, Welsh Ministers would also need to lay a copy of the Electoral Commission’s report on the pilot.

195. The Counsel General told us he believes that the period of 6 weeks specified in section 15(6) would be sufficient time for the DBCC to evaluate pilot proposals.¹²⁴ With regard to pilot proposals submitted jointly by the Electoral Commission and Principal Councils, a Welsh Government official said they had “every confidence” that the Electoral Commission would:

¹²⁴ Local Government and Housing Committee, 26 October 2023, paragraph 92

“have their internal structures to allow objective evaluation of something that they had initiated, because we found them to be good at doing that kind of objective thinking.”¹²⁵

196. The Electoral Commission told us they were content with the provisions relating to evaluation as they have undertaken such work previously and would have the capacity to do so going forward.¹²⁶

197. Professor Alistair Clark told us, that on evaluating pilots, there is “a danger of governments marking their own homework”, which could contribute to cynicism and scepticism. He added that it would be important that evaluations be conducted and that they should be “independent of government”.¹²⁷

198. ERS Cymru noted that it would be important to learn from the lessons of the 2022 pilots, in particular with regards to communicating with local authorities to enable better planning and raising awareness among the electorate.

199. While supporting the principle of undertaking further pilots, the WLGA representatives raised concerns at the prospect of local authorities being compelled to do so. Councillor Llinos Medi told us that capacity to undertake pilots might be a barrier for some authorities therefore funding may be needed as no area should fall behind because of a lack of capacity. Councillor Medi told us:

“we must also not actually force areas to do things, because it's very important that the returning officer has the ability to make the decision because they know their area and know the challenges that they face. The last thing we want to see is a failure in this process.”¹²⁸

200. Councillor Andrew Parkhurst concurred:

“compelling returning officers to undertake pilots when it's not within, perhaps, their capacity to do so is problematical. I think

¹²⁵ Local Government and Housing Committee, 26 October 2023, paragraph 95

¹²⁶ Local Government and Housing Committee, 22 November 2023, paragraphs 282 & 286

¹²⁷ Local Government and Housing Committee, 30 November 2023, paragraph 282

¹²⁸ Local Government and Housing Committee, 22 November 2023, paragraph 51

there should be a large degree of agreement by the returning officers to participate, rather than being forced.”¹²⁹

201. Councillor Huw David told us that the WLGA would prefer for the power to compel “not to be in the legislation”, adding:

“For pilots to be successful, we would want there to be that discretion and that capacity for authorities to participate. Otherwise, the risk is those pilots won't be successful.”¹³⁰

202. The WECB told us they were supportive of the approach to piloting reform and of the roles and responsibilities for oversight and evaluation, but that any proposed pilot should be supported by a business case, be fully funded, and should give value for money. However, the WECB voiced its strong opposition to the proposals relating to Welsh Ministers compelling a local authority to undertake a pilot:

“We cannot support the proposal for Ministers to be vested with powers to compel participation in pilots as set out in paragraph 3.51. This would be counter-intuitive to the very notion of a pilot exercise where any participating local authority must have the compulsion, confidence and capacity to make it succeed. We have a strong track record of co-operative partnership working in Wales and particularly so in the field of electoral registration, electoral reform and elections management. The concept of mandating is alien to our style of working, and should be withdrawn from the Bill.”¹³¹

203. The WECB told us they would “strongly recommend not to have powers to compel”, explaining:

“It's on two levels: we could compel somebody who isn't ready or has the capacity to do it, and it fails, but secondly, on principle, why would we compel? A pilot is meant to be something that somebody takes on enthusiastically, and, in my

¹²⁹ Local Government and Housing Committee, 22 November 2023, paragraph 54

¹³⁰ Local Government and Housing Committee, 22 November 2023, paragraph 56

¹³¹ Local Government and Housing Committee, EEB 04 – Wales Electoral Coordination Board

honest experience of local government, [] we've piloted lots of things, as have other councils, but you've got to have capacity, enthusiasm, belief.

I couldn't speak strongly enough against the principle, even if it's an absolutely reserved power that no Minister would want to draw on. It's completely counterintuitive, and I think, for me, it doesn't recognise the relationship of partnership that local government and Welsh Government should have.”¹³²

204. The AEA concurred, and explained the capacity issues which they believe could impact the deliverability of compelled pilots, including a high number of new and inexperienced electoral services staff in Wales, along with high vacancy rates:

“The number of vacancies we are experiencing across the board in the UK in terms of electoral administrators is probably at an all-time high at the moment, with people leaving the profession in quite high numbers, because the pressure and the responsibilities are increasing and getting too much for some people. So, I think the powers to compel just worry us that you're putting people who are already almost at breaking point potentially in a more difficult position than they need to be. And adding to that, you've still got relatively new returning officers in quite a lot of authorities in Wales as well, and putting that additional pressure on them, when they haven't actually asked for it, would just concern us, as to the deliverability of those pilots and whether then they'd be effective as a result anyway.”¹³³

205. The Electoral Commission told us that the Welsh Government would need to consider the adverse effects of compelling a local authority, adding that early communication prior to and during the pilot planning process could provide assurance and increase capacity.¹³⁴

¹³² Local Government and Housing Committee, 22 November 2023, paragraphs 275-276

¹³³ Local Government and Housing Committee, 22 November 2023, paragraph 278

¹³⁴ Local Government and Housing Committee, 22 November 2023, paragraph 277

206. ERS Cymru welcomed the provisions relating to electoral pilots, including the power enabling Welsh Ministers to compel:

“A power direction that would enable Welsh Ministers to compel a local authority to pilot electoral innovations would be a good tool in widening the areas involved and ensuring a balance across the geographies and demographics of the 22 Welsh local authorities.”

207. However, ERS Cymru added:

“It is also key that compelling a pilot is not the first port of call in terms of working with a local authority to ensure a pilot is held.”¹³⁵

208. ERS Cymru emphasised to us that the power to compel “should be a last-case scenario” and that pilots should be effectively resourced, financially and in capacity to deliver.¹³⁶

209. Professor Alistair Clark told us he understood why a power to compel had been included in the Bill, but that in his view:

“any form of compulsion of that sort should be really used sparingly and really as a clear last resort, and, importantly— [] with a clear rationale about what's to be achieved by that pilot.

It's important that []the electoral reforms are seen as being free from government bias. It's right that governments have policies and it's right that Parliament enacts them, but compelling pilots on unwilling local authorities, I think, is really something that should not be used that often, even if the power does go through, because it risks that perception of bias in what's trying to be achieved.”¹³⁷

210. Stakeholders made suggestions as to the type of pilots they would like to see undertaken. ERS Cymru told us they would recommend pilots such as voting

¹³⁵ Local Government and Housing Committee, EEB 09 – ERS Cymru

¹³⁶ Local Government and Housing Committee, 15 November 2023, paragraph 147

¹³⁷ Local Government and Housing Committee, 30 November 2023, paragraphs 279-280

on different days and in different places, including places where people go regularly such as schools or supermarkets. They also emphasised the need to hold pilots in different geographical areas across Wales, including in very urban and very rural areas.¹³⁸ RNIB Cymru suggested piloting a telephone voting system due to the benefits it could bring to blind and partially-sighted people and for people living in remote areas.¹³⁹ Professor Clark referred to potential pilots which could be “behind the scenes” rather than voter-focused, such as electoral administration processes, including candidate nomination processes, and an electronic electoral register for use in polling stations. He also suggested that piloting a quicker publication of results or publishing in a more accessible way could help with trust and understanding of the process.¹⁴⁰

211. With regard to the provisions relating to Welsh Ministers’ power to compel, a Welsh Government official explained:

“the point of this isn't to force and to strongarm against their will, because, ultimately, we wouldn't want to undermine the integrity of the election; the point is to allow us to be a bit more encouraging, perhaps, of a pilot, but we wouldn't hope to actually be in a position of Ministers imposing their wishes on a local authority if it was at risk of the election.”¹⁴¹

212. The Counsel General told us he anticipated that Welsh Ministers using the power to compel would be something “very exceptional”, such as if a pilot crossed over more than one local authority boundary. He said:

“it is only in exceptional circumstances that would happen, and even if it did, it would be necessary for those proposals to be laid before the Senedd and the Senedd would have to vote on those. There would be an affirmative resolution required. So, I think there are checks and balances in that. But the intention isn't to have powers that force local authorities to do things they won't or can't do, but just to ensure that a pilot that is

¹³⁸ Local Government and Housing Committee, 15 November 2023, paragraph 136-137

¹³⁹ Local Government and Housing Committee, 15 November 2023, paragraph 131

¹⁴⁰ Local Government and Housing Committee, 30 November 2023, paragraphs 270, 275-276

¹⁴¹ Local Government and Housing Committee, 26 October 2023, paragraph 98

considered necessary for the robustness of your testing systems and so on is actually able to properly take place.”¹⁴²

213. The Counsel General acknowledged that pilots would need to be “properly resourced” in order to be effective and confirmed that similar to the 2022 pilots, the intention would be that future pilots are properly funded. He added:

“I don't think pilots could or should take place unless they are properly resourced, because then they wouldn't be proper pilots.”¹⁴³

Our view

214. We generally welcome the provisions relating to electoral pilots and are supportive of finding innovative ways of enabling people to engage with the voting system and making the process more accessible. The voting process has not kept pace with modern living and we welcome ways of enhancing the system. However, we are also mindful of the pressures faced by electoral services staff in preparing for elections, therefore we would not want the additional workload of running pilots to be too onerous on already stretched teams. We therefore believe that careful planning and timing of pilots to be key.

215. We heard of the need to learn from previous experiences and the pilots of 2022 provide a good base to learn from. We believe that to be effective, voters must be aware that pilots are happening and of how they can get involved. We were told that communication of the 2022 pilots could have been better, therefore it will be crucial to rectify that for future pilots by implementing a clear communication plan.

216. We heard several suggestions as to the type of pilots that could take place, and although we do not make any recommendations on specific pilots, we believe that future pilots should take place across a range of different geographical areas and across both urban and rural areas. We also think it would be useful to consider whether different pilots increase voter turnout across different age ranges.

¹⁴² Local Government and Housing Committee, 7 December 2023, paragraph 101

¹⁴³ Local Government and Housing Committee, 7 December 2023, paragraph 103

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.

217. We acknowledge the strong opposition voiced by some stakeholders to the power which would enable the Welsh Ministers to compel local authorities to participate in a pilot, and that even stakeholders who supported the provision emphasised that a consensual approach would be preferable and that the power should only be used as a last resort. We understand the concerns raised against the power, in particular that local authorities may be forced to participate in a pilot which they do not have the capacity to deliver. We accept that, under such circumstances, a pilot may prove counter-productive. We therefore welcome the commitment from the Counsel General that pilots will be properly resourced.

218. Despite our concerns, we understand why the power to compel has been included in the Bill, but we concur with the views expressed that consensual pilots would be more effective and that the power should only be used by the Welsh Ministers in exceptional circumstances. We acknowledge that the Counsel General gave us such an assurance. However, local authorities were clearly very concerned by the prospect of being compelled, therefore the Welsh Government should continue to work with local government to provide further assurances that the power to compel would only be used in exceptional circumstances and that pilots would be sufficiently resourced financially and in terms of staff capacity.

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.

Accessibility and diversity: Welsh elections

219. Sections 25 – 31 make provisions around accessibility and diversity, and the creation of a voter information platform.

Duty on Electoral Commission on assistance for voters with disabilities

220. The EM sets out that the UK Elections Act 2022 made a number of changes for reserved elections to make it easier for disabled people to vote. For example it broadened the requirement to provide such equipment as is reasonable for the purposes of enabling, or making it easier, for disabled people to vote independently, including their ability to mark the ballot paper secretly. The EM also states that provisions in the Bill would “bring accessibility rules for elections in Wales in line with the UK legislation.”¹⁴⁴

221. Although the EM provides significant detail on the Welsh Government’s intention to make similar changes for Welsh elections, the majority of these changes are not made in this Bill. Instead the EM says these will be made using secondary legislation. It does not state which powers it will use to do this, when it will do this nor why these changes are not being made on the face of this Bill.

222. The powers in the Bill itself are focussed on making changes to reporting duties placed on the Electoral Commission. The Bill places an additional duty on the Electoral Commission to report on steps taken to assist disabled persons at local government and Senedd elections.

223. Section 25 amends the Political Parties, Elections and Referendums Act 2000. It inserts a new Section 5A, placing a duty on the Electoral Commission to publish a report on the administration of each Senedd and local government election in Wales that must include details of steps undertaken by ROs to assist people with disabilities to vote. Section 25(4) defines ‘disability’ as being “in relation to doing a thing, includes a short term inability to do it”.

224. The EM sets out the Welsh Government’s intention to bring forward, through secondary legislation:

“a new broader requirement to 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. There will also be provision in secondary legislation for the Electoral Commission to issue

¹⁴⁴ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.52

guidance setting out how Returning Officers should fulfil that duty. Similarly, requirements will be placed on Returning Officers to have due regard to relevant guidance in the election rules for Welsh elections in Wales.”¹⁴⁵

225. A Welsh Government official explained:

“What our Bill does is it requires the Electoral Commission to report on what ROs did in respect of making the elections accessible for disabled voters. The requirement for them to observe the Electoral Commission guidance will follow in the conduct Order for the Senedd elections and local government rules for local government elections. So, because they can be carried out through secondary legislation in our context, they're not on the Bill, but the requirement for the Electoral Commission to report on the actions taken by returning officers is.”¹⁴⁶

226. RNIB Cymru told us of their concern that such a change could actually weaken the legal rights of blind and partially sighted people as the responsibility will be on Returning Officers to decide what they consider to be reasonable to help someone vote independently and in secret.¹⁴⁷ They went on to explain why they are concerned that the change could result in a “post code lottery” of provision, depending on the opinion of Returning Officers as to measures that are considered reasonable:

“the change in the legislation will require a returning officer to decide how they meet the need of their electorate, so they will have to decide what equipment is reasonable to put in a polling station in order to help someone vote independently and in secret. They will be looking to the Electoral Commission's guidance to help them make this decision and unless that guidance is very comprehensive and in our view includes an audio piece of equipment and a tactile piece of equipment as a

¹⁴⁵ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.57

¹⁴⁶ Local Government and Housing Committee, 26 October 2023, paragraph 150

¹⁴⁷ Local Government and Housing Committee, 15 November 2023, paragraph 86

minimum standard, so an absolute minimum requirement, we do think there'll be a postcode lottery because, of course, every returning officer might have a different opinion on what's reasonable."¹⁴⁸

227. RNIB Cymru added:

"We also worry a little bit about the dialogue between returning officers and their electorate. So, we don't know how they'll be communicating with blind and partially sighted people, whether that'll be proactive, and how they'll find out what is needed in order to ensure that they are able to vote independently and in secret.

Also, we'd want the guidance by the Electoral Commission to give plenty of detail on what pieces of equipment do help blind and partially sighted people vote independently and in secret. We don't expect returning officers to be accessibility experts. So, again, that guidance would need to be comprehensive."¹⁴⁹

228. The WLGA set out some of the challenges faced by local authorities in securing accessible buildings to be used as polling stations, in particular older buildings which do not have step-free access or wide doorways, and the associated costs of making them accessible. Councillor David said it involved "thinking about the cost and value of some of those improvements", but acknowledged that improvements can be permanent which would be beneficial to community facilities and buildings that are used throughout the year.¹⁵⁰

229. Councillor Medi added that the situation can be more challenging in rural areas where there are fewer facilities,¹⁵¹ while Councillor Andrew Parkhurst also referred to the "substantial costs involved in improving the accessibility" and suggested that any changes should be fully funded.¹⁵²

¹⁴⁸ Local Government and Housing Committee, 15 November 2023, paragraph 178

¹⁴⁹ Local Government and Housing Committee, 15 November 2023, paragraphs 179-180

¹⁵⁰ Local Government and Housing Committee, 22 November 2023, paragraph 75

¹⁵¹ Local Government and Housing Committee, 22 November 2023, paragraph 79

¹⁵² Local Government and Housing Committee, 22 November 2023, paragraph 77

230. The Electoral Commission acknowledged that “everybody should have the ability to register and place their vote without any barriers” and supported the alignment of provisions with the Elections Act 2022, saying:

“making a system that is available to all disabled voters that they understand is going to be the same for every election is really important.”

231. The Electoral Commission welcomed the flexibility returning officers would have to provide what their electorate needs, and suggested that the new EMB could have a role in ensuring consistency in provision across Wales.¹⁵³

232. The WECB agreed with the principle of the provision but referred to the logistical challenges in providing some of the equipment suggested by RNIB Cymru:

“If you have more kit, you have to get it there, and it's a lot of things for people to administrate on a complex day. And polling stations don't often lend themselves well because they're not very big or they're not very modern, and then there's cost for usage.”¹⁵⁴

233. The WECB added that:

“trying to find out what that minimum set of standards is is going to be quite a task, where we meet the principle, but, equally, we have something that works.”¹⁵⁵

234. The AEA told us of the need to balance using polling stations which may be less accessible against voters potentially needing to travel further to reach more accessible venues.¹⁵⁶

235. In response to a question as to whether the provisions could result in a ‘post code lottery’ of services for disabled voters, the Counsel General told us that the new EMB will have a role in ensuring consistency of practices across Wales and

¹⁵³ Local Government and Housing Committee, 22 November 2023, paragraph 294

¹⁵⁴ Local Government and Housing Committee, 22 November 2023, paragraph 295

¹⁵⁵ Local Government and Housing Committee, 22 November 2023, paragraph 296

¹⁵⁶ Local Government and Housing Committee, 22 November 2023, paragraph 298

to co-ordinate best practice.¹⁵⁷ The Counsel General added that provision of services to assist disabled voters would be reviewed following elections.¹⁵⁸

Our view

236. The ability to vote is a democratic right and voters should be able to exercise that right, regardless of any disability or impairment. We recognise that the postal vote system provides an effective means for any voter to cast a vote without needing to attend a polling station, and we welcome that service, however this does not negate the duty on returning officers to ensure that polling stations are accessible to all. We realise that some people prefer to vote in person at their polling station rather than by post, and this option should be available to them. We therefore welcome the requirement on the Electoral Commission to report on the steps taken by returning officers to assist people with disabilities to vote independently, as this should act as a catalyst for them to give careful and detailed consideration to this in preparing for an election.

237. However, we are also mindful of the concerns raised by RNIB Cymru that, if left to individual returning officers to determine what steps they consider reasonable, there could be inconsistencies in provisions across Wales. We hope this will not be the case. We welcome the commitment from the Welsh Government to legislate to require the Electoral Commission to provide guidance to returning officers and for returning officers to have due regard to that guidance. We feel that this guidance will be key. We note that the Welsh Government intends to bring forward secondary legislation to implement the requirements, but believe this should be included on the face of the Bill.

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.

¹⁵⁷ Local Government and Housing Committee, 7 December 2023, paragraph 108

¹⁵⁸ Local Government and Housing Committee, 7 December 2023, paragraph 109

238. We believe that, in preparing guidance for returning officers, the Electoral Commission should work collaboratively with stakeholders representing people with disabilities to ensure their needs are heard and that the guidance accounts for differing needs. Ensuring that people with disabilities can vote independently and that a consistent approach to achieving this across Wales should be the aim of the guidance. We believe that returning officers should also be involved in producing the guidance as their commitment will be vital in delivering the provisions.

239. In making provisions, it will be crucial for returning officers to understand the needs of the communities they serve. We understand that it would be impossible to understand the needs of every individual voter, but we feel that every effort should be made by returning officers to reach out to voters to encourage them to make their requirements known.

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.

240. We acknowledge the challenges of securing suitable accessible venues to use as polling stations and accept that there will be costs involved in adapting venues to increase their accessibility. However, this is not a new issue, the accessibility of polling stations has been highlighted in reports in recent years. We recognise that local authorities understand the issue and have taken steps to address this, yet we are concerned that the inaccessibility of polling stations remains a barrier for some in exercising their right to vote in person.

Local Government Candidate Survey

241. Since 2011, local authorities in Wales have been legally required to monitor the diversity of candidates seeking election to principal and town and community councils. The questions and form of the survey are set out in the [Local Election Survey \(Wales\) Regulations 2012](#), as amended by further regulations in [2016](#) and [2022](#). Surveys were carried out in 2012, 2017 and 2022. Currently, the survey can only be changed through regulations.

242. The EM explains that questions may be asked about gender, sexual orientation, language, race, age, disability, religion or belief, health, education or qualifications, employment, and work as a councillor, party affiliation, involvement with the third sector and length of political activity. It notes that “participation is optional and response rates are lower than we would like”.¹⁵⁹ The EM sets out that the purpose of the survey is to:

“understand the characteristics of the broad pool of people actively engaged in seeking election as councillors; and to understand how the profile of this group changes over time. The information collected from the surveys enables the Welsh Ministers to understand the impact of policies aimed at widening participation in local government and to support future policy development.”¹⁶⁰

243. Section 26 amends the Local Government (Wales) Measure 2011, and removes the requirement for the questions and form of the survey to be set out in regulations. It replaces this with the power for Welsh Ministers to issue a direction to local authorities on the questions and form of the survey. Section 26(2)(d) allows local authorities to include their own questions in the survey, in addition to the direction from Welsh Ministers.

244. The EM explains:

“The survey will include a core set of questions that will apply to participants in all parts of Wales. This provides for consistency across Wales and allows comparisons to be made across the full set of surveys conducted since the introduction of the surveys in 2012. There will also be provision for local authorities to add questions aimed at providing information about local initiatives.

This approach provides for consistency across Wales, continuity of the time series of the data set, and also enables local flexibility.”¹⁶¹

¹⁵⁹ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.65

¹⁶⁰ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.66

¹⁶¹ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraphs 3.69-3.70

245. ERS Cymru welcomed the provisions, noting their strong belief that “the current candidate survey isn’t fit for purpose”. ERS Cymru raised concern at the low response rate to the survey, which they said was around 12 per cent overall at the local elections in 2022, which:

“is clearly not giving an accurate picture of where diversity is at a local government level, and it’s a self-selecting survey. Those responses could quite likely be skewed.”¹⁶²

246. ERS Cymru went on to say:

“we welcome provisions in the Bill around removing those questions of the candidate survey from primary legislation. I think it’s been, frankly, quite crazy that the questions have been put in primary legislation because it makes it so difficult to amend the survey ahead of an election. [] That has led to specific delays, so amending the legislation every time has led to the survey going out late, which has then led to a low response rate.”¹⁶³

247. We heard that changing the procedure for amending the questions may result in the survey being available earlier, possibly in time to be included in candidate packs. ERS Cymru told us:

“That would be the No. 1 thing for increasing take-up in that.”¹⁶⁴

248. ERS Cymru added it would like consideration to be given to proactively encouraging or putting a duty on candidates to complete the survey at local government level and Senedd level.¹⁶⁵

249. The EHRC told us it would recommend that the survey wording and format be reviewed, in particular for representatives of equality groups, explaining:

“we’re concerned that removal of the requirement to set out specific wording and format could have the potential impact

¹⁶² Local Government and Housing Committee, 15 November 2023, paragraph 174

¹⁶³ Local Government and Housing Committee, 15 November 2023, paragraph 175

¹⁶⁴ Local Government and Housing Committee, 15 November 2023, paragraph 175

¹⁶⁵ Local Government and Housing Committee, 15 November 2023, paragraph 176

that not all protected characteristics would be captured by the new format, which would actually, then, make it more difficult for you to measure the increase or decrease in diversity.”¹⁶⁶

250. The EHRC went on to recommend that:

“as a minimum, the protected characteristics set out in the Equality Act 2010 are included in the survey, because we wouldn't want to see data gaps for some protected characteristic groups.”¹⁶⁷

251. The provisions were welcomed by the WLGA, with Councillor David telling us:

“We welcome that greater flexibility, so that we can add to some of those questions. Of course, there'll be a set of core questions for candidates across Wales, so that will help with the consistency of data, to explore trends over time, and identify ways that we can try and improve what we do.”¹⁶⁸

252. WEN Wales told us they would welcome the flexibility from removing the precise wording of the survey from primary legislation, but acknowledged a balance with needing to collect core data. They welcomed the commitment in the EM that future changes to the survey would be reviewed by a group of stakeholders, including equality organisations.¹⁶⁹

253. WEN Wales expressed concern that neither the wording of section 26 nor the EM refers to surveying candidates on their experiences of harassment and abuse, despite support for such a proposal being voiced in responses to the Welsh Government's White Paper. They noted:

“We are concerned that this presents a missed opportunity to establish a sorely needed evidence base on candidates experience of harassment and abuse, which is a major barrier to elected office. It is also a missed opportunity to signal the

¹⁶⁶ Local Government and Housing Committee, 15 November 2023, paragraph 253

¹⁶⁷ Local Government and Housing Committee, 15 November 2023, paragraph 254

¹⁶⁸ Local Government and Housing Committee, 22 November 2023, paragraph 82

¹⁶⁹ Local Government and Housing Committee, 30 November 2023, paragraph 293

importance and seriousness with which harassment and abuse of candidates are considered.”¹⁷⁰

254. WEN Wales suggested that the survey questions could be tailored depending on whether a candidate had previously stood for election:

“If they have, the survey could ask about their past experiences, any incidents that they have reported and if these have been resolved to their satisfaction, if they have been able to find support, and if they haven't, what support they would have liked to have had. If candidates are standing for the first time, I think some of the questions should be framed slightly differently. They could ask, for instance, if concerns about candidate abuse and harassment have featured in their deliberations about whether to stand for election or not, and also if they know what support is available if they would experience it.”¹⁷¹

255. They acknowledged that safeguards would need to be in place, including full anonymity in order to protect sensitive information.¹⁷²

256. A Welsh Government official told us:

“Whilst there isn't going to be an exclusive list of questions put forward by Ministers, it does mean that that core will allow the really important matters to not have disparity or discrepancies across the country.”¹⁷³

Our view

257. We considered the Local Government Candidate Survey in detail in our recent inquiry into [diversity in local government](#) and expressed our concern at the low response rate. We recognised in that report that response rates varied between local authorities and called for greater consistency. We recommended that the Welsh Government should work closely with the WLGA to improve the response rate. We said this should include increasing awareness and promotion

¹⁷⁰ Local Government and Housing Committee, EEB 07 – WEN Wales

¹⁷¹ Local Government and Housing Committee, 30 November 2023, paragraph 297

¹⁷² Local Government and Housing Committee, 30 November 2023, paragraph 298

¹⁷³ Local Government and Housing Committee, 7 December 2023, paragraph 114

of the survey among candidates and councillors, and sharing best practice between local authorities.

258. We heard from stakeholders, both through that inquiry and our scrutiny of this Bill, that the current procedure for amending the survey questions is onerous and time consuming due to the need to change primary legislation, which results in the survey being distributed to candidates late in the process. We therefore welcome the provision to update the current procedures so that the questions can be amended in a more timely way.

259. We also welcome the change in approach of including core questions set by the Welsh Government combined with the flexibility of being able to include questions relevant to individual authorities. Our inquiry into diversity in local government demonstrated the need for robust, national data on candidate diversity, therefore we agree that it will be important to retain the core questions in order to assess diversity across Wales. We heard the EHRC emphasise the importance of the protected characteristics set out in the Equality Act 2010 being included in the survey and recommend that the Welsh Government should take this into account in setting its core questions. We welcome the commitment expressed in the EM to include stakeholder groups in reviewing the wording of the survey.

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.

Recommendation 21. We recommend that the Local Government Candidate Survey should include a question relating to candidates' caring responsibilities among the core questions.

260. We support the call made by WEN Wales to include questions relating to candidates' experience of harassment and abuse in the survey. The importance of tackling such harassment was another integral strand of our work on diversity in local government. The impact of experiencing abuse or harassment has long been identified as a barrier to entering politics, especially for women, and people with protected characteristics, therefore it is disappointing that there are no provisions in this Bill relating to harassment and abuse. Although candidates and

elected members have often cited anecdotal evidence of abuse and harassment towards themselves or colleagues, it would be useful to have qualitative data to evaluate the extent of the problem. We believe that including questions relating to abuse and harassment in the Local Government Candidate Survey would provide an opportunity to start gathering that much needed evidence.

Recommendation 22. We recommend that the Local Government Candidate Survey should include core questions in relation to candidates' experience of abuse and harassment.

Voter information platform

261. Section 27 makes provisions around the creation of a Welsh elections information platform. The EM states that

“One of the key findings from the Welsh Government commissioned research published in 2020 stated that “a lack of knowledge, finding politics confusing and unappealing and general disillusionment were key engagement barriers”.”¹⁷⁴

262. Section 27 states that Welsh Ministers must, through regulations, provide for the establishment and operation of a Welsh elections information platform, defined as an electronic facility to provide electors with up-to-date information relating to Senedd elections, and ordinary elections to Principal Councils in Wales.

263. Section 27(4) specifies that Welsh Ministers may make provision around information that should be available on the platform, including “the publication of candidate statements and other information about candidates”. Regulations could also include provision to make the information on the platform available other than by electronic means.

264. Section 27(5) places a requirement on Welsh Ministers to publish and lay before the Senedd a report on the platform, no more than 12 months after the relevant election.

¹⁷⁴ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.71

265. The EM states that the platform would be able to include simple information about the powers, role and responsibilities of each level of government, increase knowledge and understanding of elections including practical information and provide a single point of entry for voters looking for information.

266. The Counsel General explained the purpose of creating a voter information platform:

“It’s about making information available, giving easier access, and better information, I think, in terms of people’s understanding of how to vote.”¹⁷⁵

267. A Welsh Government official added:

“the key point around the elections information platform is to be this one-stop shop, where people can access information about where can they vote, when and who are the candidates before them. I think there is a growing concern about possible disinformation as people gather more of their news online. [] So I think the purpose of the elections information platform is to ensure that people know where they can go to get information that is reliable and accurate about when, where and who they can vote for.”¹⁷⁶

268. The Counsel General told us there would need to be parameters as to how much information can be posted, saying “it cannot be an open process to publish as much as you want” and that there would need to be “guidance to candidates as to what they could or should not put in”.¹⁷⁷

269. The Counsel General confirmed that the responsibility for the information posted by candidates would lie with the candidates themselves and their agents, but acknowledged that “there does need to be some sort of oversight” and that the Welsh Government would “want to ensure that what is there is in

¹⁷⁵ Local Government and Housing Committee, 26 October 2023, paragraph 117

¹⁷⁶ Local Government and Housing Committee, 26 October 2023, paragraph 119

¹⁷⁷ Local Government and Housing Committee, 26 October 2023, paragraph 123

accordance with the guidance”.¹⁷⁸ The Counsel General acknowledged there would be “real learning curves”, such as:

*“how to achieve it; how to review how it is operated; and potentially how you might have to deal with circumstances that might arise where there might be those who want to abuse the system and so on. So, that, again, is the work in progress and the regulations will need to have some sort of provision for that.”*¹⁷⁹

270. A Welsh Government official told us that should regulations be brought forward they would likely include language expectations, including whether there would be an onus on candidates to translate their statements.¹⁸⁰

271. Reform Political Advertising noted:

*“The ‘voter information platform’ should carry the requirement that parties and candidates’ and third parties’ paid and unpaid publicity material is included and authenticated under a separate but connected ‘Register of Political Advertising.’”*¹⁸¹

272. A register of political advertising was also called for by Ian Lucas who also recommended that registered political parties and candidates be required to deposit copies of advertisements for an advertising register as well as the establishment of an advertising review panel, as piloted by Reform Political Advertising. Ian Lucas further recommended that a procedure relating to use of third party political advertising be formulated, which should draw on international precedents and regulating the ability of campaigns to target voters based on individualised personal data.¹⁸²

273. The creation of a voter information platform was supported by some stakeholders. ERS Cymru stated that they “are really pleased to see provisions around a voter information platform within the Bill.” They noted particular areas of information they believe a platform should include:

¹⁷⁸ Local Government and Housing Committee, 26 October 2023, paragraph 135

¹⁷⁹ Local Government and Housing Committee, 26 October 2023, paragraph 136

¹⁸⁰ Local Government and Housing Committee, 26 October 2023, paragraphs 130-133

¹⁸¹ Local Government and Housing Committee, EEB 12 - Reform Political Advertising

¹⁸² Local Government and Housing Committee, EEB 05 – Ian Lucas

“Registration- how to register to vote, or in the case of a rollout of automated registration, signposting on how to check if you are registered

What the election is about- e.g. what the Senedd does, how it relates to Welsh Government and the role of Members of the Senedd

Who the candidates are- linking to personal statements

The process of casting a vote- polling station locator, different voting options and what to expect in each (e.g. what to expect in a polling station and how to cast a vote there)

Where to seek advice and support- this would be particularly useful for questions about accessibility.”

274. ERS Cymru told us that although much of this information is available elsewhere, a voter information platform should bring all of this together in one place.¹⁸³ They did not have a fixed view on which organisation should be responsible for hosting the platform, but noted that it could be suitable for the DBCC to host. They emphasised the need for strong guidance to candidates on what they could and could not include in their personal statements.¹⁸⁴

275. Professor Clark welcomed the provision to establish a voter information platform, but added that “it needs to be engaging and easy to use”. He suggested that it would be useful for a platform to include practical information such as deadlines ahead of an election, how to find polling stations, information on the electoral system and post-election results.¹⁸⁵ As to whether a platform should include candidate statements, Professor Clark told us it would depend on the electoral system for a particular election, for example he questioned how useful they would be for an election using a proportional closed list system, such as the system proposed for Senedd elections in the Senedd Cymru (Members and Elections) Bill:

¹⁸³ Local Government and Housing Committee, EEB 09 – ERS Cymru

¹⁸⁴ Local Government and Housing Committee, 15 November 2023, paragraph 144

¹⁸⁵ Local Government and Housing Committee, 30 November 2023, paragraphs 258-259

“then it's less clear to me what those individual candidates may actually be saying in such a statement, because their ranking would be quite simply down to party nomination processes, party candidate selection processes. Voters would actually have very little role in which candidates get elected. Voters' choice in that regard would revolve around which party they preferred, and that would effectively be it.”¹⁸⁶

276. Professor Clark emphasised the importance of keeping the information on a platform up to date:

“in the run-up to an election period, this is going to be needing to be an almost live, updated quickly resource for voters. The worst thing I think that it would be is something that's slow to be updated, and that implies a lack of responsiveness. So, voters need something that's accessible and is going to draw them in. It could have a lot of information on it that's useful to them, but it needs to be carefully handled in how it's published.”¹⁸⁷

277. Professor Toby S. James described the provision to establish a voter information platform as “an enormous step forward in improving the quality of information that can be provided to citizens”. He noted:

“It is vital that citizens in Wales have a single website that includes:

- a. Information on candidates*
- b. Information on polling locations*
- c. Information on how to vote*
- d. Information on how to apply for postal and proxy votes*
- e. Past results of elections.”*

278. Professor James said that, in his view:

¹⁸⁶ Local Government and Housing Committee, 30 November 2023, paragraph 260

¹⁸⁷ Local Government and Housing Committee, 30 November 2023, paragraph 261

“one of the main logistical barriers to the provision of such a website is that there are currently insufficient carrots and sticks for EROs and Ros to provide the necessary data to a central organisation.”

279. Professor James recommended that the Bill should require electoral registration officers and returning officers to:

“provide the necessary information to the new Electoral Management Board including:

a. Information on candidates;

b. Information on polling locations;

c. Election results immediately after the RO announcement of results, including the numbers of votes per candidate and party, the number of postal votes, and the number of rejected ballots.”

280. Professor James highlighted a logistical barrier in that “there are currently no standard reporting formats for the data to be provided”, and suggested that the Bill should require the new EMB to “specify the data formats by which EROs and ROs are required to return the information”.

281. Professor James concluded:

“A legislative requirement is vitally important mechanism for ensuring that this project is delivered.”¹⁸⁸

282. RNIB Cymru told us they would welcome a digital platform and that it would be useful for blind and partially sighted people who rely on digital sources of information. They emphasised that there should be audio formats of the information and that the platform should comply with web accessibility standards and screen readers. RNIB also suggested that it would be helpful if the platform included information on what to expect at a polling station and what support and equipment is available.¹⁸⁹

¹⁸⁸ Local Government and Housing Committee, EEB 06 – Professor Toby S James

¹⁸⁹ Local Government and Housing Committee, 15 November 2023, paragraphs 185-186

283. Disability Wales told us that an information platform “could be a really useful resource” but also emphasised the need for accessible formats to be available, including in British Sign Language video, easy-read and in hard copy. They called for the platform to be developed closely with disabled people.¹⁹⁰

284. Dr Christine Huebner told us that young people appreciate looking up information on their local candidates and party programmes and suggested that they would find a platform “really useful”.¹⁹¹ Dr Huebner added that some European countries “see huge use and uptake of voter information platforms” and that:

“one of the key principles is that the voter information platform should be hosted by a trustworthy source, that voters know that that information is the kind of information they're looking for and that they can trust.”¹⁹²

285. The WLGA questioned the need for a voter information platform. Councillor Medi told us:

“we don't see what additional value it will add, because we do now see that the candidates themselves can engage far more effectively with electors than that process of putting it on the website would do. And it is quite a burdensome process, in ensuring that the information provided is entirely accurate and that all the processes are being followed, and there is some room for error there, too.”¹⁹³

286. Councillor Medi went on to say:

“if people are truly interested they will find the information, because social media are now so accessible and candidates have become very accessible as a result. I think the most important thing for us is to raise awareness of the fact that there is an election taking place and that they need to have been

¹⁹⁰ Local Government and Housing Committee, 15 November 2023, paragraph 188

¹⁹¹ Local Government and Housing Committee, 15 November 2023, paragraph 28

¹⁹² Local Government and Housing Committee, 15 November 2023, paragraphs 31-33

¹⁹³ Local Government and Housing Committee, 22 November 2023, paragraph 62

registered and they need to be ready to vote, and to promote that element of democracy and the importance of voting, and then the candidates themselves should ensure publicity.”¹⁹⁴

287. Councillors Medi and David also raised concerns around ensuring the accuracy of the information posted on a platform.¹⁹⁵

288. The need for a voter information platform was also questioned by the WECB and why, its creation requires being legislated for. They told us:

“we would question the need for this. And again, unless people know it’s there, even if they want it, how are they going to access it? So, it’s the same challenge as any other website. So, we would question its benefit cost per person.”¹⁹⁶

289. The WECB referred to a platform hosted by the Home Office for Police and Crime Commissioner elections, but noted that it dealt with lower numbers of candidates. They told us “you couldn’t replicate it on a big scale”. They also noted that usage of that site and requests for printed versions of the information was “very low”.¹⁹⁷ The views expressed by the WECB were supported by the AEA.¹⁹⁸

290. The Electoral Commission told us:

“if there were to be an online platform, it would need to be developed in a way that doesn’t duplicate the commission’s existing statutory duties around voter awareness and information.”¹⁹⁹

291. The Counsel General told us he believes legislative provision is required to establish a voter information platform as it “makes it very clear that there does need to be such a platform” and sets out “how will it actually operate itself”.²⁰⁰

¹⁹⁴ Local Government and Housing Committee, 22 November 2023, paragraph 66

¹⁹⁵ Local Government and Housing Committee, 22 November 2023, paragraphs 64&66

¹⁹⁶ Local Government and Housing Committee, 22 November 2023, paragraph 310

¹⁹⁷ Local Government and Housing Committee, 22 November 2023, paragraph 315

¹⁹⁸ Local Government and Housing Committee, 22 November 2023, paragraph 318

¹⁹⁹ Local Government and Housing Committee, 22 November 2023, paragraph 321

²⁰⁰ Local Government and Housing Committee, 7 December 2023, paragraph 143

The Counsel General acknowledged the importance of raising awareness of a platform:

“it has to be publicised, people need to know— that there’s the awareness of it, that it actually contains what is actually wanted within it.”²⁰¹

292. A Welsh Government official confirmed that due to capacity reasons and the high number of candidates standing in town and community council elections, initially a voter information platform would only hold candidate statements for Senedd elections and for Principal Council elections. The Bill would allow the extension of the platform to include statements relating to town and community council candidates at a future point.²⁰²

Hosting an information platform

293. Although it has not been specified on the face of the Bill, we were told that the Welsh Government’s intention is for the platform to be hosted by the Electoral Management Board.²⁰³ The EM states that:

“Regulations will set in detail what they will be required to deliver.”²⁰⁴

294. In a letter to the Legislation, Justice and Constitution Committee, the Counsel General stated:

“We consider that the EMB is likely to be the natural host for the platform, however, the EMB has not yet been established and so we should bear in mind the possibility of the EMB not being able to host the platform, or of a better alternative being identified. Given the host will be specified in the regulations made under section 27, hosting will inevitably be for the Senedd to take into account when it considers those regulations.

²⁰¹ Local Government and Housing Committee, 7 December 2023, paragraph 145

²⁰² Local Government and Housing Committee, 7 December 2023, paragraph 153

²⁰³ Local Government and Housing Committee, 26 October 2023, paragraph 122

²⁰⁴ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 9.122

The Bill has been drafted to make clear that the Welsh Ministers would be responsible for ensuring the sustainability of any platform. There is scope for the host of the platform to be revisited in the future, taking into account the fast-moving technological environment, the opportunity to learn lessons from experience, and the views of the EMB itself once established. The provisions therefore provide flexibility for the future, in particular lessons from evaluations of elections, while ensuring that a platform is provided.”²⁰⁵

295. The Regulatory Impact Assessment provides an estimate of capacity and resource requirements of the EMB to host a platform:

“An exercise will need to be carried out to identify the appropriate capacity within the EMB to manage the work related to the information platform. However, we believe resourcing within the Commission would need to accommodate a contract/content manager (SEO FTE at £66,364 annual average gross cost), and business analyst (G7 FTE at £86,731 annual average gross cost). It is anticipated that these staff would also provide procurement support. It is likely the resource employed by the EMB will be utilised for work in addition to the voter information platform. This would balance against other staff capacity needed to deliver the platform, such as administration and communications.”²⁰⁶

296. On the question of who should be responsible for hosting a platform, the WECB told us that a formal EMB could potentially host a public awareness platform, but strongly opposed the EMB hosting candidate statements. They told us:

“It would be impossible, and I'm not dramatising this, for electoral administrators to be able to receive, check for compliance— there would have to be checking for compliance on the size of the statement, its truthfulness and particularly

²⁰⁵ Legislation, Justice and Constitution Committee, 8 January 2024, LJC(6)-01-24 [Paper 24](#)

²⁰⁶ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 9.126

*that it didn't breach any law for rules, for defamation for example, because some candidates like to talk openly about others. It would be impossible, particularly in a local election, when you have such a tight timescale, with lots of nominations coming in quite close to the wire, when you're fielding hundreds of community and principal council candidates. It's impossible; we'd say 'no', we couldn't do it. And if this goes ahead, it will need, in our view, to be a self-posting system, hosted probably nationally by a.n.other, and not a requirement. Because, if it's a requirement, theoretically, somebody not producing a statement in good time that is compliant, would then have to have their nomination disqualified."*²⁰⁷

297. The LDBCW said they believe the EMB would be a sensible organisation to host a platform. They told us:

*"We would have the resources, the staffing structure, to do the updates, to carry out the work that's needed to maintain that platform. We've already got links as an organisation to electoral registration officers, so, when they're dealing with candidates, there's already a pathway that's there. I'm not sure where else or which other body would hold it and provide that level of support, because I think it would make sense for it to go along with the electoral management board."*²⁰⁸

298. They acknowledged that "a lot of planning" would be required, but said:

"As an organisation, we're used to bumping up operations and then slowing down, when we've had to do peaks and troughs of work. I think the challenge with holding that much information is that it will always be a challenge, regardless of who holds that information. We're used to dealing with electoral data, so there is an element of integrity and strength in terms of how we manage our data. [] Whoever ends up with the voter information platform, they will have to work very closely with

²⁰⁷ Local Government and Housing Committee, 22 November 2023, paragraph 313

²⁰⁸ Local Government and Housing Committee, 22 November 2023, paragraph 136

the EMB, with electoral administrators, on how that is managed. You'll have very busy periods, obviously, in the run-up to elections, so we could scale up operations then in order to support the information that's going to be put on the voter information platform.”²⁰⁹

299. A Welsh Government official acknowledged that, when considering who should host a platform:

“independence is really important, which is why the EMB is our first choice of host for this platform, and we've worked through the process of understanding the amount of resource required when we were doing the policy development around the EMB. The intention then, of course, would be to supply guidance to any candidates and agents around how to complete a candidate statement.”

300. The official also confirmed:

“the candidates will be responsible for the content of those statements themselves. Support would be given through the EMB, around managing the process of the statements, but, ultimately, that responsibility would sit with the candidate.”²¹⁰

Our view

301. We note there has been a mixed response from stakeholders on the provisions to establish a voter information platform – it has been warmly welcomed by some whereas others have questioned its necessity. It is vital that voters are well informed ahead of elections, not just about the candidates they are able to vote for, but also about the voting process. We recognise that overall voter turnout for Welsh elections has not been as high as we would like to see, therefore if creating a platform where people can access the information they need will empower them to vote, this would be a welcome result. Much of the information recommended for inclusion on a platform is already available, however we understand that bringing this together on one platform could be

²⁰⁹ Local Government and Housing Committee, 22 November 2023, paragraph 141

²¹⁰ Local Government and Housing Committee, 7 December 2023, paragraph 156

helpful. Further, as the provisions in this Bill around automatic registration should result in people voting for the first time, creating a platform where they can easily access the information they need would be useful.

302. It is clear from the evidence we received that ensuring the information available on the platform is up to date and complete is crucial, as providing outdated or incomplete information will be of no benefit and could result in a lack of trust. Ensuring that the platform is updated will be a challenge, particularly in the lead up to an election when new information could be received on a daily basis and could be a full-time job.

303. We have heard many suggestions as to the types of information that should be available on an information platform. We realise that these details will be set out in regulations at a later stage, however, we believe that to be effective, a platform should include all of the practical information voters need to know ahead of an election. This should include, but not be limited to, the registration process, how to apply to vote by post or by proxy and the deadlines for doing so, the type of election being held and the voting system, how to find your polling station and how to get support to vote at a polling station. We believe that election results should also be published to the information platform as soon as they are available.

304. We believe that ensuring the accessibility of a platform is one of the most important factors to focus on, it is crucial that the information is available to everyone who needs to access it. We believe that the most effective way of ensuring this is to involve a range of organisations in the platform's development. This should be a collaborative approach to ensure that the information is available in all accessible formats. We are pleased that the Bill provides for the provision of hard copies of information in addition to an online platform, we believe this to be an important provision for people who are digitally excluded.

305. We heard that the language requirements for a platform would be set out in regulations. We understand that many people would prefer to receive such information in Welsh, therefore it will be important that this is included in the plans.

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.

306. We also believe that raising awareness of such a platform will be essential, which the Counsel General acknowledged. Designing a new platform and publishing the information will be of little or no benefit if the electorate are not aware of its existence. If the provisions are enacted, a wide ranging campaign to raise awareness of the platform will be vital. If one of the aims of the platform is to empower people to vote, particularly first time voters, significant resources will be needed to fund such a campaign. We are unclear as to whether awareness raising costs have been included in the associated costs published in the Regulatory Impact Assessment, these will need to be made clear should regulations be brought forward. We are aware that the Finance Committee has recommended that the Welsh Government commits to providing full and robust Regulatory Impact Assessments to accompany any relevant subordinate legislation made under this Bill and we support that recommendation.

307. We recognise that the evidence we received in relation to publishing candidate statements was mixed. We understand the principle of candidates publishing statements to inform voters of their priorities and believe this could be a beneficial addition. However, we are also mindful of the concerns raised around ensuring accuracy in the information published. We welcome the Counsel General's confirmation that ensuring accuracy will be the responsibility of the candidates themselves and their agents, however we are concerned that some liability could also fall to the platform host should any defamatory or libelous materials be published. This is clearly an area where further work is needed, which the Counsel General acknowledged.

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.

308. We believe that robust guidance will be needed for candidates and the platform host. Being responsible for checking that statements are not libelous or defamatory would be a challenging role for the platform host, but particularly in the lead up to an election when they would be under pressure to publish large volumes of information as quickly as possible. Guidance must therefore be robust and clear to ensure that those responsible for publishing can make informed judgements, without inadvertently infringing upon the human rights of a candidate to include the details they wish.

309. We welcome the clarity provided that, initially at least, the requirement to publish a statement would not include candidates in town and community council elections. We recognise that, given the high number of candidates in those elections, the task of publishing a statement for each one would pose a significant challenge to the host. We acknowledge the provision is there to extend the requirement in future.

310. Whilst we understand that information on individual candidates standing in elections to primary councils could be beneficial to voters, we note the suggestion that personal statements may be less useful in elections using a closed list of candidates. Provisions in the Senedd Cymru (Members and Elections) Bill would, if passed, change the voting system for Senedd elections to such a system in time for the 2026 election. We therefore believe that, for such elections, statements issued by political parties should be made available on the information platform. We recognise that candidate statements could still be beneficial in closed list elections and they could help to shape people's decisions on which political parties to vote for.

311. We appreciate that hosting a voter information platform will be a significant responsibility. The Welsh Government has been clear that it believes the responsibility should lie with a new statutory electoral management board, but that it would be possible to move responsibility should an alternative host be identified. Despite stating a preference for the EMB to host the platform, this has not been included on the face of the Bill, and we understand the Counsel General's rationale for this.

312. We have heard arguments both for and against a platform being hosted by the EMB. Having heard both sides, we do not draw a conclusion as to whether

the EMB would be the most appropriate host, however we do believe that in order to maintain the integrity of the platform, the host should be an independent body. The importance of demonstrating independence will be crucial, especially if the body will be responsible for policing the platform and the type of information that can be included in candidate statements. We are concerned that, if the platform is to be hosted by a government sponsored body, it could potentially be perceived by the public as not being truly independent, particularly should it need to take steps to remove a candidate statement posted by an opposition politician or political party. Even if the body is acting with integrity and best intentions, the potential perception of bias and a lack of independence could mean that public confidence in the body is undermined from the outset.

313. We do not underestimate the challenges the host body may face in the lead up to an election period. This would be a demanding role where staff may be under significant pressure to publish information correctly and accurately. We heard from the Local Democracy and Boundary Commission For Wales that in their new guise as the Democracy and Boundary Commission Cymru, they believe they will have the resources and capacity to undertake this responsibility. However, we also heard strong pleas from the Wales Electoral Coordination Board that responsibility should lie elsewhere. This is clearly an issue which requires further and detailed consideration. Whoever takes responsibility for a platform, it will be essential they receive the necessary resources, support and training to fulfil these functions.

Promoting diversity in persons seeking elected office

314. Section 28 places a duty on Welsh Ministers to put in place services to promote diversity in the protected characteristics and socio-economic circumstances of persons seeking election to the Senedd and to local government. The duty states that Ministers must have regard to whether there are groups currently under-represented in Senedd Cymru or councils in Wales. They must also have regard to the desirability of reducing inequalities of outcome that result from socio-economic disadvantage.

- 315.** Section 28(3) states that for the purposes of the Bill, under-represented groups must be considered by reference to the population served by the body being considered.
- 316.** Section 28(5) provides examples of the services that Ministers must make arrangements for in terms of promoting diversity. These include the provision of information, advice, coaching and training, work experience, equipment and assistance with tasks.
- 317.** Provisions of services can include financial assistance to individuals directly or financial assistance to persons who provide relevant services to others.
- 318.** Section 28(6) ensures that Welsh Ministers cannot make decisions about the access of specific individuals to services. The EM says that this will ensure schemes operate in a politically neutral way.
- 319.** Section 28(11) states that protected characteristics has the meaning as defined by Section 4 of the Equality Act 2010.
- 320.** Disability Wales welcomed the provisions in section 28, in particular that there is a specific duty in place. They also welcomed the inclusion of the provision relating to financial assistance for support. They suggested that a suitable scheme would be a network of disabled politicians and aspiring politicians to engage with and support each other.²¹¹
- 321.** The EHRC welcomed the inclusion reducing inequalities of outcome that result from socio-economic disadvantage:
- “Socioeconomic circumstances can often be a barrier, so the fact that it's reflecting those new obligations under the socioeconomic duty is welcomed.”²¹²*
- 322.** The EHRC emphasised the importance of arrangements being transparent and politically neutral, and said that clarity was needed on who would be responsible for oversight of provision.²¹³ They acknowledged the challenges in

²¹¹ Local Government and Housing Committee, 15 November 2023, paragraph 159

²¹² Local Government and Housing Committee, 15 November 2023, paragraph 233

²¹³ Local Government and Housing Committee, 15 November 2023, paragraph 234

assessing socio-economic circumstances, but suggesting using population data as a basis.²¹⁴ The EHRC told us:

“We know people from socioeconomically disadvantaged backgrounds are less likely to be digitally connected, they're less likely to have disposable income, so, when we're looking at how much it costs to run a campaign, for example, there might need to be those financial considerations put into it. I think that having some practical sessions to encourage people from socioeconomically disadvantaged backgrounds to stand would be good.”²¹⁵

323. WEN Wales spoke of the need for “clear commitments” and “clear timescales” for providing the support, and told us:

“many of these measures will really take time to make a difference, but we do need them to make a difference before the next election. If we do not get this right, in time before the Senedd is expanded, when those additional seats are coming up for the first time, it might be a lot harder to correct it in the future.”²¹⁶

324. They welcomed the inclusion of the services listed under section 28(5), but raised concern at the exclusion of support to deal with harassment and abuse and for caring responsibilities, which they cited as “two of the main barriers that particularly women are facing”. They called for the inclusion of training for candidates on issues such as how to keep themselves safe, social media training and active bystander training, which they said would:

“send a powerful message that the Welsh Government recognises it and is committed to doing something about it.”²¹⁷

325. ERS Cymru noted that robust data would be needed for the effective delivery of the provisions:

²¹⁴ Local Government and Housing Committee, 15 November 2023, paragraph 237

²¹⁵ Local Government and Housing Committee, 15 November 2023, paragraph 244

²¹⁶ Local Government and Housing Committee, 30 November 2023, paragraph 315

²¹⁷ Local Government and Housing Committee, 30 November 2023, paragraphs 317-318

“one of the big things that's going to contribute to the effective delivery of section 28 of the legislation is having effective data, and there is a question, I think, about socioeconomic circumstances, and what data you can actually gather around that. But, I think, more broadly, having more effective data in place will allow Ministers to understand where particular gaps lie, and whether the interventions they are making are actually effective or not.”²¹⁸

Our view

326. We welcome the provisions in section 28 to promote diversity in persons seeking elected office. As we noted in our recent report on diversity in local government, we believe that initiatives such as mentoring schemes provide opportunities for people from under-represented groups to gain confidence, receive training, and connect with role models. We realise that not all mentees will wish to stand for election, but such schemes will help inform, support and hopefully inspire many to participate in public life more generally. We are therefore pleased to see that the list of services that may be provided to increase diversity include a range of support, including offering information, advice, training, coaching and mentoring, work experience, equipment and assistance with tasks.

327. As we also noted in that report, we were saddened to hear of Chwarae Teg's closure. Chwarae Teg made a significant contribution over many years in developing and running mentoring and training schemes, and we noted our concern of the impact their closure is likely to have on the development and implementation of future schemes. We recommended that the Welsh Government should assess the capacity across sectors to deliver mentoring schemes and take steps to ensure gaps resulting from Chwarae Teg's closure are filled quickly.

328. We are pleased that this recommendation has been accepted by the Welsh Government and we note from the Minister for Finance and Local Government's response that discussions have already taken place to assess the impact of the Chwarae Teg cessation of operations. We also note from that response that,

²¹⁸ Local Government and Housing Committee, 15 November 2023, paragraph 163

through the Equality and Inclusion Grant, the Welsh Government provides funding to the Equal Power Equal Voice mentoring programme. Given the provisions in this Bill, we believe it will be even more important to work with organisations who can provide the services outlined and to ensure they are adequately resourced to do so. The closure of Chwarae Teg demonstrated the need for adequate funding to ensure the sustainability of such organisations. to ensure the sustainability of such organisations.

329. We support the inclusion of the services listed in section 28(5) and recognise that each element can play an important role in assisting people from under-represented groups to stand for election. However, we share the concerns raised by WEN Wales that provisions to support people dealing with harassment and abuse have not been included.

330. In our report on diversity in local government, we were pleased to hear of increased support and guidance for councillors on dealing with online abuse and harassment, as well as e-learning modules such as social media awareness. We noted that we were unclear as to whether such support and guidance is provided to candidates as well as to elected councillors. We believe that such training is vital to empower more people from diverse groups to stand for election. We know that the Minister for Finance and Local Government is committed to tackling the issue of abuse and harassment in politics, and we believe that including specific training as a service on the face of this Bill would demonstrate this commitment.

Recommendation 25. We recommend that specific training to assist under-represented groups in dealing with abuse and harassment should be included in the services listed in section 28(5).

331. We welcome the inclusion of a person's socio-economic circumstances as well as the protected characteristics in this section. We believe it is vital that more people from disadvantaged backgrounds are supported to participate in politics and wider civic society.

332. We recognise that, in order to properly understand the diversity of people standing for election in Wales, improved data is needed. Without better data, it will be difficult for the Welsh Ministers to accurately assess which groups of people are under-represented among Members of the Senedd and Welsh

councils. This lack of data was evident during our inquiry into diversity in local government. We hope that the proposed changes to the Local Government Candidate Survey will result in higher response rates as this information is vital if services to increase diversity are to be targeted effectively.

Financial Assistance Schemes

333. Sections 29-31 would give Welsh Ministers the power, through regulations, to provide for schemes of financial assistance to help candidates in Welsh elections with specified characteristics to overcome barriers to participation.

334. The pilot Access to Elected Office Fund for Wales was introduced in February 2021 for candidates standing in Senedd elections in May 2021. The second stage opened in October 2021, and was specifically targeted at supporting disabled candidates at the local government elections in May 2022. The fund was delivered by Disability Wales, with funding from the Welsh Government. The pilot had 21 applicants, with six elected to community councils.

335. Expanding the existing Access to Elected Office Fund was included in the Welsh Government's Programme for Government. A Review of the Access to Elected Office Fund Wales Pilot was published in July 2023.

336. The Review of the fund concluded that the operation was successful. The Review said:

“The pilot provided enabling provision to those who applied, meaning that they were able to canvass more effectively than would have otherwise been possible. [...] The application process was said to be straightforward and, when needed, the provision from Disability Wales was highly commended.”

337. The Review recommended that provision for disabled candidates seeking election in Wales should be made available in future. It recommended that the fund should not be standalone, and the wider package should be extended to individuals with other protected characteristics.

338. The EM states:

“[this] broader policy objectives requires a different approach through the creation of an overarching statutory duty placed upon the Welsh Ministers to put in place arrangements aimed at improving diversity within Senedd and local government democratic structures by providing assistance to remove barrier to participation.”²¹⁹

339. The Bill contains different provisions for a financial scheme that supports disabled candidates, and for a financial scheme to provide assistance for candidates with ‘specified characteristics or specified circumstances’. Section 29(2) states that Welsh Ministers must by regulation establish a scheme for disabled candidates but Section 29(1) says Ministers may introduce a scheme for other candidates. The EM states that some concerns were raised in the White Paper about how criteria would be formed for groups with specified characteristics other than those who are disabled. The EM does not set out a timetable for the introduction of either type of scheme.

340. Section 29(13) defines disabled as:

“Having a physical, mental, intellectual or sensory impairment (including a temporary impairment) that, in interaction with any barrier, may hinder the person’s full and effective participation in society on an equal basis with others.”

341. Section 30 provides a list of excluded people from the fund, including a Member of the Senedd and elected local government officials.

342. The Counsel General told us funding schemes have got to be focused and have “to be there to actually promote accessibility”, he said that the provisions in section 29 are “very much focused on the issue of disability”. The Counsel General added:

“There is scope within the regulations there to broaden that out, but it does need to be very specific.”²²⁰

²¹⁹ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.86

²²⁰ Local Government and Housing Committee, 26 October 2023, paragraph 159

343. In a letter to the Legislation, Justice and Constitution Committee, the Counsel General stated:

“Section 29(1) enables other such schemes to be put in place by Welsh Ministers when evidence identifies barriers of additional costs that are experienced by individuals of a particular group of underrepresented persons which prevent them from standing for elected office.

Section 29(8) provides for Welsh Ministers to set out the detailed arrangements for each separate financial assistance scheme including those who are to administer the scheme, the components of the scheme and the reporting arrangements required for the purpose of audit. As individual schemes will target different barriers to participation it is appropriate the details are set out in regulations rather than on the face of the Bill. This will enable greater flexibility to ensure the details of each scheme underpins its purpose and enables actions to be taken to address the barriers identified.”²²¹

344. A Welsh Government official acknowledged the importance of raising awareness of the scheme at the right time:

“I think that the point of it isn't so that people who are already thinking about standing for election who are disabled get the support, it's that people who are disabled are more likely to think about standing for election. So, I think a big piece of work that would accompany the detail that would be in the regulation will be raising awareness through our networks.”²²²

345. Disability Wales told us they were “very pleased” to see the provisions relating to financial assistance schemes for disabled candidates in the Bill. They referred to feedback received from candidates involved in the scheme piloted ahead of the 2021 Senedd and 2022 local government elections:

²²¹ Legislation, Justice and Constitution Committee, 8 January 2024, LJC(6)-01-24 [Paper 24](#)

²²² Local Government and Housing Committee, 26 October 2023, paragraph 167

“In terms of some of the feedback that we've had on the access to elected office fund, after it was launched in February 2021, of the two candidates the funding was made available to for the Senedd elections, one told us that the availability of the fund played a significant role in their decision to stand. That kind of feedback was also reiterated in the subsequent Welsh local government elections, in which 90 per cent of the candidates approved of the scheme, and told us that the access to elected office fund was a key part in their decision to stand and that they would be willing to re-stand for elected office with the knowledge that this fund was in place.”²²³

346. We heard that while the EHRC welcomed the provision to set an Access to Elected Office Fund on a statutory footing, they told us they “find the language of that section as it’s currently written quite unhelpful; it’s vague”. They note that their concern relates to the reference in section 29 to candidates having ‘specified characteristics or specified circumstances’ but that:

“it's not clearly defined what groups have specified characteristics, it doesn't set out what 'specified circumstances' would include”

347. The EHRC noted that this “is in direct contrast to section 28, which clearly sets out the protected characteristics”. They recommended that similar wording is used in section 29, “but that it is also expanded, as seems to be the intention, to include people from socioeconomically disadvantaged backgrounds”.²²⁴

348. The EHRC added that it would like to see details on the oversight of the scheme by a person or body to ensure political neutrality and transparency, noting:

“Section 30 sets out which bodies would be excluded from that role, but we think there should be a bit more clarity on who would oversee the schemes.”²²⁵

²²³ Local Government and Housing Committee, 15 November 2023, paragraph 150

²²⁴ Local Government and Housing Committee, 15 November 2023, paragraph 240

²²⁵ Local Government and Housing Committee, 15 November 2023, paragraph 241

349. WEN Wales voiced their support for putting financial assistance schemes for disabled people on a statutory footing, noting that it “provides certainty to disabled candidates”.²²⁶ WEN Wales called for the provisions relating to financial assistance schemes to be expanded to include unpaid carers, noting that “lack of support for caring responsibilities is quite clearly a major barrier to elected office, especially for women”. They emphasise:

“there are really obvious parallels between providing assistance for care-related expenses and those that are already in place for disabled candidates. So, like the support that is available for disabled people, financial support for care-related expenses would relate to costs that really contribute in a direct and tangible way to levelling the playing field between different groups of candidates. I mean, the way that would look in practice is that candidates could get financial assistance for paying for things like a childminder or a personal assistant.”

350. WEN Wales also referenced that expenses related to care and those related to impairment or health-related barriers:

“are both already covered to some extent for elected Members, and that is both at the Senedd and local government level.”²²⁷

351. WEN Wales told us they would be happy to work with the Welsh Government to develop a scheme.

352. A Welsh Government official explained the rationale for the different definitions between sections 28 and 29, using unpaid carers as an example:

“carers' responsibilities is a really good example of why there is a different description of the recipients of the support in section 29, because, obviously, caring responsibilities isn't a protected characteristic; it wouldn't align neatly to any of the protected characteristics in the Equality Act 2010. [] The characteristics that might require financial assistance to overcome don't necessarily always align to a specific protected characteristic. []

²²⁶ Local Government and Housing Committee, EEB 07 – WEN Wales

²²⁷ Local Government and Housing Committee, 30 November 2023, paragraph 309

So, that more flexible approach was with things like carers' responsibilities in mind, because that's an area where the case has been made, including to this committee, by the Women's Equality Network Wales, that carers' responsibility is something that we should be looking at in the future."²²⁸

Our view

353. We considered the issue of an Access to Elected Office Fund in our recent report on diversity in local government, and noted our support for the pilot held at the 2022 local government elections. We concluded in that report that the availability of the fund was useful in supporting disabled candidates to access the practical assistance needed to stand for election, and we welcomed the Welsh Government's intention to legislate to ensure the fund continues to be available for future elections.

354. We are therefore very pleased to see provisions to put a scheme of financial assistance for disabled candidates in Welsh elections put on a statutory footing. As we noted in our previous report, despite the positive feedback, the evaluation of the pilot identified areas where the fund could be improved, particularly in relation to its timeliness and raising awareness. This was acknowledged at the time by the Minister for Finance and Local Government and we were encouraged by her willingness to build upon the findings of the pilot and make changes ahead of future elections. We recognise that commencing a future scheme in a timely manner and learning from the pilots was again acknowledged by the Welsh Government during our scrutiny of this Bill.

355. We believe that, if this Bill is enacted, increasing awareness of the financial assistance scheme should be a priority for the Welsh Government and political parties in preparation for future elections. As we have stated previously, we realise that not all candidates will be affiliated to political parties, and although raising awareness among independent candidates may be more challenging, it is vital that all potential candidates are aware of the fund.

356. We previously recommended that the Welsh Government should work with all relevant partners to identify opportunities to further promote the Access to

²²⁸ Local Government and Housing Committee, 7 December 2023, paragraph 135

Elected Office Fund and the benefits of the fund. We also recommended that the Welsh Government should ensure that lessons learnt from the evaluation of the Access to Elected Office Fund are taken forward, ensuring there is sufficient and timely support for disabled candidates before future local government elections.

357. We are pleased that our previous recommendations have been accepted by the Welsh Government and, as this Bill includes specific provisions to implement a scheme of financial assistance for Welsh elections, we expect the Welsh Government to progress our recommendations.

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.

358. We noted in our report our sympathy with calls from stakeholders to expand the Access to Elected Office Fund to support other under-represented groups of people. We agreed that other groups require additional support packages to enable them to stand for election, but acknowledged that the financial assistance provided for the purposes of acquiring practical support may not be right for everyone.

359. We are therefore very interested in the recommendation from WEN Wales that the financial assistance scheme set out in section 29 be expanded to assist people with unpaid caring responsibilities, as we recognise that carers would be a specific group which fits the criteria set out in that section. Further, we believe that expanding the scheme in this way would remove a barrier to standing for election, which disproportionately impacts women. We realise that the Welsh Government may first need to pilot such a scheme, but we would like to see work undertaken to progress a scheme for unpaid carers.

Recommendation 27. The Welsh Government should commit to developing and piloting a financial assistance 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.

Campaign finance

360. Sections 32 – 39 make provisions around campaign finance rules for Welsh elections.

361. Sections 32 and 33 make provisions around notional expenditure. Notional expenditure occurs when services or goods are given to a candidate in an election for free or at a discount. Notional expenditure is included as part of campaign expenditure in order to prevent candidates evading their spending limits.

362. The Elections Act 2022 introduced measures to allow notional expenditure to be incurred only if the candidate or election’s agent had authorised it. The Bill would introduce for Welsh elections these same rules around notional expenditure as were included in the Elections Act 2022 for reserved elections.

363. Section 32 amends the Representation of the People Act 1983 to provide that property, goods, services or facilities used by or on behalf of a candidate should only be considered incurred where it has been directed, encouraged or authorised for use by the candidate or the candidate’s election agent.

364. Section 33 amends the Political Parties, Elections and Referendums Act 2000 to include Senedd elections in these notional expenditure rules, where notional expenditure is classified as an election expense only where it is directed or authorised by the campaign.

365. Section 34 amends the Representation of the People Act 1983 to clarify that the Electoral Commission can issue guidance on expenses incurred for candidates in local government elections in Wales.

366. Section 35 amends the 1983 Act to allow a person other than the elections agent to make payments on behalf of a campaign for local government elections in Wales, which would bring Welsh elections in line with changes made by the Elections Act 2022 for reserved elections. The EM states:

“The equivalent change for Senedd elections will be made in the revision of the National Assembly for Wales (Representation of

the People) Order 2007, where the equivalent provisions are found.”²²⁹

367. Sections 36 – 38 make provisions around third party campaigners incurring expenditure during election campaigns. Section 36 would bring Senedd elections into the regime established by the Elections Act 2022, which states that no controlled expenditure above £700 may be incurred by a third party during a Welsh devolved regulated period, unless the third party is listed in Section 88(2) of the Political Parties, Elections and Referendums Act 2000.

368. Section 37 would allow Welsh Ministers to amend the list of third parties who can incur controlled expenditure above £700. The EM notes that any amendments to the list made by Welsh Ministers would be subject to the affirmative procedure in the Senedd.

369. Under section 38, the Electoral Commission would be required to prepare a code of practice on controlled expenditure by third parties during a Welsh devolved regulated period. The Electoral Commission would be required to consult with the Llywydd’s Committee and the Legislation, Justice and Constitution Committee on a draft code.

370. The WLGA noted its support for the intent to make changes to campaign finance rules for Senedd and local government elections, so they are aligned with changes made for the UK elections in 2022.²³⁰

371. The Electoral Commission noted that the provisions would bring several campaign finance laws for devolved elections in line with the equivalent changes for reserved elections that were introduced by the Elections Act 2022, and added that:

“Maintaining consistency across different types of election in this way should make it easier for campaigners to comply with the law across both reserved and devolved elections.”

372. The Commission stated that it will “continue to provide guidance to help the regulated community understand and comply with the law”. They said that this

²²⁹ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.92

²³⁰ Local Government and Housing Committee, EEB 16 - WLGA

would include producing a code of practice for non-party campaigners and added that they would also continue to monitor the impact and implications of these changes, at both reserved and devolved elections.²³¹

373. ERS Cymru told us they were disappointed that the UK Government's Elections Act 2022 did not include measures to tighten the regulation of political finance, as recommended by the Committee on Standards in Public Life 'regulating election finance' report. They noted:

"It is important that there is a robust and transparent regime for political finance that applies to both parties and campaigners without stifling democratic debate and participation. To that end we support the recommendations of the CSPL and would like to see them implemented at a UK level.

*However, we also recognise that there is the potential for confusion if the regulatory framework differs for different elections. Whilst we would like to see more done at the UK level, these changes make sense in terms of ensuring consistency across elections."*²³²

374. ERS Cymru clarified:

*"I think our criticism very much stems around the UK Elections Act, rather than this legislation. This legislation just seems to bring Wales in line with the Elections Act, which is fine from a devolved standpoint."*²³³

*"I think it's absolutely welcome that Welsh law around this should be brought into line with UK law; I just do think that there are limitations in what Wales could do beyond what the UK has already done."*²³⁴

²³¹ Local Government and Housing Committee, EEB 11 – The Electoral Commission

²³² Local Government and Housing Committee, EEB 09 – ERS Cymru

²³³ Local Government and Housing Committee, 15 November 2023, paragraph 203

²³⁴ Local Government and Housing Committee, 15 November 2023, paragraph 207

Our view

375. We note that the provisions relating to campaign finance would bring rules for Welsh elections in line with those for UK elections and that this consistency has been welcomed by stakeholders.

4. Part 2 – Elected bodies and their members

Part 2 of the Bill makes provisions around boundary review arrangements, abolishing the Independent Remuneration Panel for Wales, and the disqualification regime for Members of different electoral bodies.

Arrangements for local government

376. Under the 2013 Act, the LDBCW is required to undertake a review of local government electoral arrangements at least once every 10 years. The last review commenced in 2017 and concluded in 2021. The EM states that following that review the Welsh Ministers committed to reflect on the arrangement for review set out in the 2013 Act and, based on feedback, make improvement where necessary. The EM states that Bill includes a series of provisions to make such improvements to the review process.

377. Section 40 amends section 30 of the 2013 Act to require the Commission to have regard to a wider set of criteria when developing recommendations for change. These include:

- The desirability of having a ratio of local government electors to the number of members of the council to be elected that is the same, or nearly the same, in every electoral ward of the principal area;
- Special geographical considerations such as size, shape and accessibility of the ward;
- Any local ties that would be broken by such changes.

378. Section 41 amends the 2013 Act to change the length of the review cycle from 10 to 12 years. It also contains the power for Welsh Ministers to amend this through regulations.

379. The Counsel General explained the rationale for changing the review period from 10 to 12 years:

“that is because the Bill makes several other changes to the timings of electoral reviews, including increasing the time the local democracy board is not able to work on reviews in advance of local government ordinary elections from nine months to 12 months, and introducing a new requirement on Welsh Ministers not to make any electoral review orders within six months of an ordinary election.

So, basically, I think the change comes from lessons that have been learnt that there needs to be a period of stability in advance of the election to enable preparations to be made.”²³⁵

380. Section 43 amends the 2013 Act to clarify that Welsh Ministers cannot implement recommendations from an electoral review (or decide to take no action) until at least six weeks has elapsed from the date they received the recommendations. Ministers must have regard to any representation received during this period.

381. Section 44 requires the Commission to consider the process of naming electoral wards as part of the pre-review consultation procedure.

382. Sections 45-50 contain technical provisions relating to the conduct of boundary reviews, including:

- a duty on the Commission to make the public aware that representations may be made during a public consultation on a review;
- a duty on Welsh Ministers to “use their best endeavours” to make a decision on each recommendation from the Commission within three months of receipt; and
- the power for Welsh Ministers to pause a review, and a restriction on the use of this power for a period greater than 9 months in total.

²³⁵ Local Government and Housing Committee, 26 October 2023, paragraphs 186-187

383. In relation to section 46, which adds additional bodies to the list of mandatory consultees for reviews under Part 3 of the 2013 Act, the LDBCW noted its support for the change but added that, from previous experience, its attempts to communicate with some consultees had not been acknowledged. They therefore suggested that mandatory consultees should be required to provide contact details for a single point of contact and recommended that the Bill be amended to specify that listed bodies would cease to be mandatory consultees should they fail to nominate an individual as a point of contact.²³⁶ They explained that their rationale was to avoid situations where a mandatory consultee did not engage, but then made a representation later on which could affect the outcome or timeline of a review.²³⁷

384. In relation to section 48, the LDBCW raised concern at the requirement on the Commission to “use its best endeavours” to meet certain deadlines, noting:

“The Commission suggests that an obligation to use “best endeavours” to meet the relevant deadline in the course of a review under Part 3 of the 2013 Act may be disruptive and may have unintended consequences. This is because an obligation to use “best endeavours” may require the reviewing body to use all reasonable measures available to it to meet the deadline, and (if challenged) to justify why it has not taken particular steps which may be suggested by others. This could significantly impact on the work of the Commission and other reviewing bodies.”²³⁸

385. They clarified that the concerns relate to the “allocation of resource”, adding:

“moving forward, because we've got lots of new things coming through, we want to be able to protect ourselves as a commission. [] It'll be best endeavours from us; that's how we function. However, it's just protecting the commission from the

²³⁶ Local Government and Housing Committee, EEB 08 – Local Democracy and Boundary Commission For Wales

²³⁷ Local Government and Housing Committee, 30 November 2023, paragraphs 68-69

²³⁸ Local Government and Housing Committee, EEB 08 – Local Democracy and Boundary Commission For Wales

challenge of, 'You did not put in your best endeavours', it was just, 'You endeavoured.'"²³⁹

386. Section 51 requires principal councils to publish an annual report on work it has undertaken within a given year on actions it has taken to review community names, community boundary changes, community council changes and electoral arrangements and submit this to Welsh Ministers. It would also require each principal council to conduct a review of the electoral arrangements for each community in its area at least once in every 12 year review period.

387. The Counsel General told us that section 51 makes “minor changes”²⁴⁰ in relation to principal councils’ annual reports relating to community names, community boundary changes, community council changes and community electoral arrangements.²⁴¹

388. The WLGA noted its support for changing the review period from at least once in every 10 to at least once in 12 years and, for local authorities to review electoral arrangements for each community every 12 years.²⁴²

389. The WECB also noted its support for the provisions, in particular they welcomed the provisions relating to:

*“timescales for the completion of reviews, flexibility in the criteria/matters to be taken into account in determining the number of representative councillors, and the power for Ministers to make modifications to recommendations for example in response to representations.”*²⁴³

390. We heard that the LDBCW supported the provisions but commented on the timing of the reviews:

“how we'd like it to work is that the first six years is given to local authorities to carry out community reviews, establishing the

²³⁹ Local Government and Housing Committee, 30 November 2023, paragraph 76

²⁴⁰ Local Government and Housing Committee, 26 October 2023, paragraph 182

²⁴¹ Local Government and Housing Committee, 26 October 2023, paragraph 185

²⁴² Local Government and Housing Committee, EEB 16 - WLGA

²⁴³ Local Government and Housing Committee, EEB 04 – Wales Electoral Coordination Board

building blocks for us to carry out electoral reviews in the second six years.”²⁴⁴

Our view

391. We note that the provision to change the review period for principal areas from once every 10 years to once every 12 years has been welcomed by the stakeholders involved.

392. We note the concerns raised by the LDBCW in relation to the requirement to using its best endeavours to meet certain deadlines and acknowledge that this would set a high bar for them, which could potentially require diverting resources from elsewhere. We think it would be beneficial for the Welsh Government to provide further detail to the Commission as to why this specification has been included in the Bill.

Remuneration of elected members

393. Section 56 amends the Local Government (Wales) Measure 2011 to abolish the Independent Remuneration Panel for Wales (the “IRP”), the independent body that makes decisions about the allowances and pensions for principal councils, community and town councils, National Park Authorities, Fire and Rescue Authorities and Corporate Joint Committees. Section 57 inserts a new section into the 2013 Act to give effect to Democracy and Boundary Commission Cymru taking on the powers of the IRP around remuneration.

394. The EM sets out that, in 2021, the Welsh Government published a 10-year review into the Panel, and notes that one of the review’s recommendations related to the Panel’s secretariat arrangements.²⁴⁵ The review concluded and recommended:

“The Panel works with lean administrative support and performs well with a modest budget. However, as it currently organises its work, the Panel is stretched to carry out its tasks. It does not have the necessary technical support to do its job properly. This has been made worse by poor succession

²⁴⁴ Local Government and Housing Committee, 30 November 2023, paragraph 88

²⁴⁵ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.109

planning and recruitment. There is scope for working more efficiently if they can find technical support and by radically reducing the number of meetings it manages and changing the way it engages and collects evidence.

Recommendation 5 *The Panel should be hosted by a non-governmental arm's length body with synergies with the IRPW work, and the Department should review how best to achieve this. Existing budgets should be transferred including the value of the secretariat support. The Panel should seek legal, policy and technical support from the new hosting body.*²⁴⁶

395. The EM states that the Welsh Ministers agreed that the secretariat support for the Panel should be provided by a body other than the Welsh Government, and that this would “also help reinforce the independence of the Panel’s operation”. It explains the Welsh Government’s rationale for transferring the secretariat functions to the DBCC:

*“The Commission is considered to be the most appropriate body to provide this support, as it is an independent corporate body headed by a chief executive, which also has an effective internal secretariat function.”*²⁴⁷

396. The EM goes on to state that, “based on the synergies between the Panel and the Commission”, the Welsh Ministers intend to abolish the Panel and to confer the remuneration functions undertaken by the IRP on the DBCC, with the exception of the function relating to the salaries of chief executives which will cease with the abolition of the Panel.²⁴⁸ A Welsh Government official told us:

“the purpose of moving the functions of the independent remuneration panel into the Democracy and Boundary Commission Cymru is to reinforce the independence, which, I think, is what the 10-year review called for. Previously, it was staffed by a secretariat within the Welsh Government. The idea

²⁴⁶ Ten Year Review of the arrangements for the Independent Remuneration Panel for Wales

²⁴⁷ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.110

²⁴⁸ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.112

is that it will be part of a free-standing body, which is more independent.”²⁴⁹

397. The EM also stated that the Commission will be required to “revisit its staffing structure to establish the optimum structure to deliver these functions”. In terms of funding for the DBCC, the EM states that “based on the best available information:

“It is expected the Panel’s current annual running budget of £60,000 will transfer to the Commission. This would also cover other costs currently provided by the Welsh Government such as hosting of the Panel’s website, translation and other incidental costs. []

The Welsh Government will transfer a further £80,000 to the Commission, which is the cost of the current secretariat support provided by Welsh Government staff.”

398. The EM confirms that the additional cost would be met by the Welsh Government and that it will “continue to work with the Commission to ensure sufficient resources and capacity to meet these functions”.²⁵⁰ The Counsel General told the Senedd’s Finance Committee that he believed the funding outlined in the EM was sufficient to cover the transfer of functions.²⁵¹

399. The Counsel General explained the Welsh Government’s rationale for not transferring responsibility for chief executives’ pay to the DBCC:

“The issue of chief executive pay was one of those issues that we consulted upon in the White Paper. There was a lot of support for removing that, and, really, the logic for removing it is this: councils are democratically elected bodies; I think it’s their democratic responsibility in terms of establishing but also then being accountable for chief executive pay.”

²⁴⁹ Local Government and Housing Committee, 26 October 2023, paragraph 193

²⁵⁰ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraphs 9.227–9.220

²⁵¹ Finance Committee, 15 November 2023, paragraphs 216–219

400. We were told of a variance in views among the WLGA on the proposed changes. Whilst there was support for transferring the functions of the IRP to the DBCC, we heard that the Liberal Democrat group were concerned by the removal of oversight of chief executives' salaries. Councillor Andrew Parkhurst told us:

*"I'm conscious and my group is conscious that in previous years there have been situations where there have been severe pressures on council tax budgets and consequent increases in council tax. At the same time, there has been a perception that chief executive pay in some quarters has got out of kilter. Really, for that reason, and also to try and ensure a degree of consistency where that is appropriate, it seems reasonable to have a second pair of eyes or independent scrutiny to ensure that what is being proposed for chief executives is realistic and appropriate."*²⁵²

401. The WLGA stated that transferring the IRP functions to the DBCC would maintain independence, Councillor Huw David commented:

*"that all-important function about assessing and identifying and making recommendations will still be made independently of local government. I think that's the important point and the important principle that I think we'd all be supportive of— that those recommendations are not made by elected members but by a body independent of the local authority."*²⁵³

402. Councillor Llinos Medi added that scrutiny of the system will be important to demonstrate independence:

"I think what's important is that we scrutinise that that transfer of responsibilities keeps the same format and keeps the same system, which will mean that we can have confidence, those of

²⁵² Local Government and Housing Committee, 22 November 2023, paragraph 15

²⁵³ Local Government and Housing Committee, 22 November 2023, paragraph 92

us who are affected, that the process is still fair and is still independent and happens in the fairest way possible.”²⁵⁴

403. The transfer of the IRP functions to the DBCC was welcomed by the LDBCW, who told us:

“I think our board looks at quite similar evidence in terms of councillor workload. We engage in the same areas. It also means that you have a secretariat that's independent from Welsh Government, [] so you have an extra layer of independence there are well. [] Our current chair and a member of the commission are also members of the Independent Remuneration Panel for Wales, so there is also an element of continuity that would come through as part of the transfer of functions.”²⁵⁵

404. They were confident that the independence of the decisions taken would be maintained by the transfer of functions:

“the independent— 'IRPW have decided that, so we've got no choice.' That is not going to change. The deliberations of the commission on remuneration functions will have the same level of requirement and status as what the IRPW are currently doing.”²⁵⁶

405. Provisions in section 57 would also confer a new function on the DBCC in relation to resettlement payments for councillors who stand for re-election but are not returned to their seat. The Welsh Ministers would, by regulations, determine the relevant councillors eligible for the scheme. The EM explains:

“This is a function which has been requested and supported by councils to underpin our shared goal of diversity of elected membership in these bodies. Resettlement payments are made to other elected representatives across our democracy and are intended to support diversity by enabling people to put

²⁵⁴ Local Government and Housing Committee, 22 November 2023, paragraph 103

²⁵⁵ Local Government and Housing Committee, 30 November 2023, paragraph 99

²⁵⁶ Local Government and Housing Committee, 30 November 2023, paragraph 110

themselves forward for re-election in the knowledge if they are not returned, they will have a modest level of financial support to enable them to transition to the next phase of their lives. Payments will not be available to councillors who decide to stand down and not seek re-election.”²⁵⁷

406. The Counsel General explained that he views resettlement payments for councillors “as almost a sort of redundancy payment”.²⁵⁸ He told us:

“it is just about providing a buffer in terms of the fact that after an election there will be a number of candidates who have stood but are now basically unemployed.”²⁵⁹

407. The WLGA stated its support for the introduction of resettlement payments for councillors, noting that:

“Councillors are the only paid public roles that do not have financial protection and are not entitled to receive a ‘redundancy’ payment if they lose office at an election. Members of the Senedd and Members of Parliament receive a resettlement grant and redundancy payments are also a protected right for public sector employees. Senior councillors, in particular, tend to be full-time, often must give up careers to focus on their councillor role and many have family as well as other financial commitments; the personal risk of a sudden and significant loss of a salary is inconsistent and unfair compared to other public roles. It is also a disincentive for diverse people with careers or family responsibilities to consider taking on the most senior roles in local government.”²⁶⁰

408. Councillor Medi commented on the role resettlement payments could make in attracting a more diverse range of people to put themselves forward for election to local government, especially younger people with mortgages and other financial commitments. Councillor Medi told us of her own experience in

²⁵⁷ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.113

²⁵⁸ Local Government and Housing Committee, 26 October 2023, paragraph 197

²⁵⁹ Local Government and Housing Committee, 26 October 2023, paragraph 195

²⁶⁰ Local Government and Housing Committee, EEB 16 - WLGA

encouraging younger people to stand for election, but recommended they kept their existing employment:

*"I've asked them to keep their jobs, because I am concerned that they may find themselves in a situation where they still have dependants and that they might lose an election and they wouldn't have any financial security. And the risk that they take to become an elected member for their own area is a huge risk. And as we increase the number of young people, we do have to think in a different way, in terms of how we provide that certainty. [] We want to encourage them to do that, and to safeguard them if that doesn't work out for them too."*²⁶¹

409. Councillor David concurred, adding that finance should not be a barrier to people representing their communities, he told us:

*"We need to eliminate some of those barriers. It's accepted as a principle and I support it as a principle. It's the right principle for Members of the Senedd and Members of the UK Parliament, and I think that same principle should apply to elected representatives at a local government level as well."*²⁶²

410. Sections 58-60 include technical provisions around transferring the functions of the Panel to the Commission.

Our view

411. We note that the rationale for transferring the Independent Remuneration Panel's functions relating to the remuneration of councillors stems from the recommendation made by the Ten Year Review of the Panel's arrangements that it be hosted by a non-governmental arm's length body. We acknowledge that the evolved DBCC will meet these requirements, and note that the existing LDBCW welcome the transfer of functions. We therefore believe that the intention to transfer the hosting functions to the DBCC is reasonable.

²⁶¹ Local Government and Housing Committee, 22 November 2023, paragraph 124

²⁶² Local Government and Housing Committee, 22 November 2023, paragraph 126

412. We also acknowledge that the Ten Year Review concluded that the existing arrangements do not provide the necessary technical support needed by the IRP to do its job properly and recommended that it should seek legal, policy and technical support from the new hosting body. It will therefore be crucial that the DBCC will be able to provide the necessary support. We realise that the staff employed by the existing LDBCW will be familiar with this type of work, however we are mindful that the transfer of functions will significantly increase their workload. We note that the Welsh Government has provided estimated costs for the transfer of functions and that the Counsel General confirmed to the Finance Committee that he believes this to be sufficient.

413. We are aware that, by abolishing the IRP and transferring its functions relating to setting remuneration levels to the DBCC, the provisions in the Bill go further than the recommendation in the Ten Year Review, which only related to the hosting arrangements. We recognise that there are synergies between the work of the IRP and the existing LDBCW, and therefore we believe that the proposal to transfer the IRP's functions to the evolved DBCC to be reasonable.

414. We note the mixed opinions voiced by the WLGA on the proposal to remove the responsibility on the IRP to oversee the salary of local authority chief executives', however we acknowledge that the majority view was that salaries should be determined by local authorities themselves.

415. We welcome the provisions to introduce resettlement payments for councillors who are not re-elected and believe this to be an important tool in enabling a wider range of people, especially younger people, to put themselves forward for election. We understand that financial uncertainty can be a significant barrier for anyone wishing to undertake a full-time elected role. The prospect of leaving an existing career for a role they could potentially be removed from within four or five years will deter many people from entering into local government, particularly if they have a mortgage or other financial commitments. We therefore welcome the intention to introduce resettlement payments and hope they will remove a barrier which prevents increasing diversity.

Disqualification and undue influence

Disqualification and dual membership

416. Sections 61 – 63 make provisions around disqualification and dual membership.

417. Part 4 of the Senedd and Elections (Wales) Act 2020 states that members of principal councils are disqualified from becoming members of the Senedd. However, this does not apply to town and community councillors. Section 61 amends the Government of Wales Act 2006 to disqualify town and community councillors from being Members of the Senedd. The EM sets out the effect of the provision is to:

“make changes to the current disqualification regime for Members of the Senedd in Wales to support fairness, equality, and accountability of the Senedd and local government.”²⁶³

418. The EM also states:

“These changes will address concerns that individuals who are dual Members of the Senedd and community councillors could be in a potentially advantageous position over and above their peers by being in a position to press certain issues through their access to Welsh Ministers in the Senedd and will address concerns about time commitments and potential conflicts of interests when holding dual posts.”²⁶⁴

419. Section 61 also removes the grace periods currently provided to Senedd Members who are also either Members of the House of Commons or a principal council so that they must resign from these other positions immediately without exception. The grace period currently provides that a Senedd Member does not need to resign from their other position on an elected body if the next ordinary election for that body is set to take place within 372 days of the day they were returned as a Senedd Member. The EM states:

²⁶³ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.115

²⁶⁴ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.117

“This situation places some individuals in a privileged position, even if they were to choose to donate some of their remuneration to charities of their choice.

The removal of the grace periods will therefore ensure consistency and address issues with dual remuneration. It will also help to ensure that elected representatives are properly capable of carrying out their mandate in terms of time commitment and avoiding conflicts of interest at all times.”²⁶⁵

420. Section 61(7) states that this change would have effect for Senedd elections on or after 6 April 2026.

421. Sections 62 and 63 bring offences committed in a Northern Ireland district council election into the regime of disqualification from the Senedd.

422. The WLGA noted its support for the provisions:

“The WLGA supports consistency in disqualification arrangements for elections to the Senedd, community and town councillors and principal councillors (i.e., bringing community and town councils in line with the current rules for principal councils). We are also supportive of the proposal to remove the ‘grace period’ following the election of a councillor as a Member of the Senedd; the councillor should resign, and the seat become vacant immediately following election and a by-election triggered.”²⁶⁶

423. Although the WLGA supported the principle of removing the ‘grace period’, they also raised concern at the potential of having to hold a by-election shortly before a scheduled local government election. Councillor Huw David told us:

“if a councillor was elected to the Senedd just a few months before, for example, general local elections, there’s possibly a scenario there, isn’t there, where you would want that by-election not to take place, but simply hold it when the local

²⁶⁵ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraphs 3.118-3.119

²⁶⁶ Local Government and Housing Committee, EEB 16 - WLGA

elections are due to take place anyway. But generally, we are supportive of the principle.”

“I think, perhaps, that that potentially could be tweaked to reflect that circumstance, because I think that is a particular circumstance. [] And by-elections don't always attract the greatest of turnouts, do they, so I think trying to avoid by-elections where there are local elections due to take place very soon afterwards is a scenario that could be considered as that exception to the principle.”²⁶⁷

424. Councillor Llinos Medi also raised concern at the potential for leaving an area unrepresented for a short period of time should a by-election not be held due to close proximity to a scheduled election:

“And we need to be careful also about leaving any area without a democratic voice here, don't we. So, yes, we agree with the principle, but we don't want to leave any area without a voice, [] So, there may be an opportunity there for you as a committee to ask whether there is any way of wording this so that democracy in localities that are facing this issue would be safeguarded, because we don't want to weaken the voice of local people as a result of those circumstances.”²⁶⁸

425. The WECB noted its support for the provisions “in the interests of consistency and simplicity”.²⁶⁹

Our view

426. We note that stakeholders supported the principle of preventing community councillors from also being Members of the Senedd and the removal of the ‘grace period’ should a Member of a principal council or an MP be elected as a Member of the Senedd. We acknowledge the concerns raised by the WLGA at the potential of holding by-election(s) to fill the vacated council seat(s) should vacancies occur within close proximity to a scheduled local government election

²⁶⁷ Local Government and Housing Committee, 22 November 2023, paragraphs 134-136

²⁶⁸ Local Government and Housing Committee, 22 November 2023, paragraph 138

²⁶⁹ Local Government and Housing Committee, EEB 04 – Wales Electoral Coordination Board

and we would not want to see areas unrepresented as a result of the provisions. The provision to prevent a Member of the Senedd from also being a member of a town or community council is supported by a majority of Committee Members. We acknowledge that Members of the Senedd can effectively continue to undertake responsibilities relating to maintaining their professional qualifications, such as in the medical profession, alongside their work as a Member of the Senedd. Some Members believe that this principle should apply to Members who wish to remain as members of a town or community council.

427. We support the provisions in sections 62 and 63 in relation to disqualification for corrupt or illegal practice.

Undue influence

428. Section 64 makes changes to the offence of undue influence.

429. Provisions to clarify the legal meaning of undue influence were included in the Elections Act 2022, following a [2016 Law Commission report](#) that concluded the offence was “poorly expressed in legislation”. New provisions strengthened the importance of damage to a person’s reputation (bringing it in line with physical harm). They also clarified the importance of intent in the person committing the offence. Following requests from Welsh Ministers, these provisions were carved out of the 2022 Act for Welsh elections.

430. Section 64 brings local government elections in Wales in line with the updated offence of undue influence included in the Elections Act 2022. The EM states:

“The intention is the equivalent offence for Senedd elections, which is set out in the National Assembly for Wales (Representation of the People) Order 2007, will be similarly strengthened through this Bill, and will take effect prior to the next Senedd elections in 2026.”²⁷⁰

²⁷⁰ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.129

431. The Electoral Commission noted its support for the provisions to update the definition of the offence of undue influence in line with the changes introduced by the Elections Act 2022, adding:

“Clarifying the offence of undue influence in this way will provide voters with more meaningful protection against exploitation and make clear what is and is not acceptable behaviour. It will also make it simpler for the police to act when allegations of undue influence are made.”

432. The Electoral Commission went on to say that it would update its guidance for electoral administrators and polling station staff to set out what is and what is not allowed at polling stations and would also update its Code of Conduct for campaigners on what they should consider when campaigning outside polling stations. They confirmed that they would continue to run public awareness campaigns so that voters understand how to protect their vote from undue influence.²⁷¹

433. The WLGA noted its support for updating and modernising the definition of undue influence, stating:

“It will provide consistency and reduce divergence with UK legislation while also ensuring it reflects societal changes and address wider harms to individuals, rather than a focus on physical harm.”²⁷²

434. The WECB also noted its support in order to:

“(1) to be consistent with the provisions of UK legislation and to avoid divergence in regulation and practice between reserved and non-reserved elections and (2) to more easily enable prosecution where offences have occurred.”²⁷³

²⁷¹ Local Government and Housing Committee, EEB 11 – The Electoral Commission

²⁷² Local Government and Housing Committee, EEB 16 - WLGA

²⁷³ Local Government and Housing Committee, EEB 04 – Wales Electoral Coordination Board

Our view

435. We acknowledge that the provisions relating to undue influence were unanimously supported by the stakeholders who presented evidence to us. We welcome the provision to bring local government elections in line with the updated definition of undue influence, as per the Elections Act 2022 and the Welsh Government's intent to similarly strengthen the definition for Senedd elections.

Democracy and Boundary Commission Cymru

436. Sections 65 and 66 make provisions around strengthening the Commission's audit committee, and its power to charge in light of additional duties placed on the Commission by this Bill.

437. Section 65 relates to the DBCC's audit committee, the EM states:

"The Commission's audit committee provides an important check and balance to the Commission's governance arrangements. The Commission has a statutory duty to establish an audit committee under section 17 of the 2013 Act.

As a result of the additional functions being conferred on the Commission, the Welsh Ministers consider it appropriate to strengthen the role of the Commission's audit committee both in terms of the scope of its functions and the level of independent membership on the committee.

The Bill amends section 17 of the 2013 Act to confer additional review and assessment functions on the Commission's audit committee in relation to the management of the Commission's internal and external audit arrangements, handling of complaints and review of financial statements and reports.

The amendment will also enable the Commission to confer further suitable functions on the audit committee and specifies the maximum number of members of the committee, the minimum number of lay members of the committee and

requires that both the committee chair and deputy to the chair, must be lay members of the committee.

In taking forward the above, the Bill amends the duty placed on the Commission to establish an audit committee to a duty to establish a Governance and audit committee.”²⁷⁴

438. Section 65 would give the DBCC a power to charge recipients for goods and services, the EM explains that:

“This would be in relation to its newly added electoral administration functions (exercisable by the Electoral Management Board) or its functions in relation to Part 3 of the 2013 Act (arrangements for local government). For example, the Commission may procure optional training sessions to the electoral community, for which it could impose a charge on attendees to recover the cost of providing the training.”²⁷⁵

439. The LDBCW told us that the changes would bring the evolved commission “in line with other public bodies”, and added:

“with additional functions coming to the commission, having a strong governance and audit committee is really important, not just for us from a process and operations point of view, but also for public trust. So, we would welcome that.”²⁷⁶

Our view

440. We note that the provisions in sections 66 and 65 would bring the evolved DBCC in line with other public bodies and that this has been welcomed by the current LDBCW. Given the significant increase in the Commission’s responsibilities, we believe that strengthening its audit and governance arrangements and enabling it to charge for services is sensible.

²⁷⁴ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraphs 3.130-3.134

²⁷⁵ Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum, paragraph 3.135

²⁷⁶ Local Government and Housing Committee, 30 November 2023, paragraph 113

List of oral evidence sessions.

The following witnesses provided oral evidence to the committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the Committee's [website](#).

Date	Name and Organisation
26 October 2023	<p>Mick Antoniw MS, Counsel General and Minister for the Constitution</p> <p>Michael Kay, Welsh Government</p> <p>Gareth McMahon, Welsh Government</p>
15 November 2023	<p>Dr Christine Huebner, University of Sheffield</p> <p>Jess Blair, Electoral Reform Society Cymru</p> <p>Dr Nia Thomas, Electoral Reform Society Cymru</p> <p>Megan Thomas, Disability Wales</p> <p>Liz Williams, RNIB Cymru</p> <p>Ruth Coombs, Equality and Human Rights Commission</p>
22 November 2023	<p>Councillor Huw David, Welsh Local Government Association</p> <p>Councillor Llinos Medi, Welsh Local Government Association</p> <p>Councillor Andrew Parkhurst, Welsh Local Government Association</p> <p>Clare Sim, Association of Electoral Administrators</p>

Date	Name and Organisation
	<p>Colin Everett, Wales Electoral Coordination Board</p> <p>Catherine Uphill, The Electoral Commission</p>
<p>30 November 2023</p>	<p>Shereen Williams, Local Democracy and Boundary Commission For Wales</p> <p>Tom Jenkins, Local Democracy and Boundary Commission For Wales</p> <p>Malcolm Burr, Electoral Management Board for Scotland</p> <p>Professor Alistair Clark, Newcastle University</p> <p>Dr Jessica Laimann, Women’s Equality Network Wales</p>
<p>7 December 2023</p>	<p>Mick Antoniw MS, Counsel General and Minister for the Constitution</p> <p>Michael Kay, Welsh Government</p> <p>Laura Mitchell Welsh Government</p> <p>Angharad Thomas-Richards Welsh Government</p>

List of written evidence

The following people and organisations provided written evidence to the Committee. All Consultation responses and additional written information can be viewed on the Committee's [website](#).

Reference	Organisation
EEB 01	RNIB Cymru
EEB 02	Professor Alistair Clark
EEB 03	Association of Electoral Administrators
EEB 04	Wales Electoral Coordination Board
EEB 05	Ian Lucas
EEB 06	Professor Toby S. James
EEB 07	Women's Equality Network Wales
EEB 08	Local Democracy and Boundary Commission For Wales
EEB 09	Electoral Reform Society Cymru
EEB 10	The Electoral Management Board for Scotland
EEB 11	The Electoral Commission
EEB 12	Reform Political Advertising
EEB 13	Disability Wales
EEB 14	Welsh Language Commissioner
EEB 15	Rhondda Cynon Taf County Borough Council
EEB 16	Welsh Local Government Association