



Llywodraeth Cymru  
Welsh Government

OPEN CONSULTATION

# Consultation on the electoral administration and reform White Paper

We are seeking your views on our proposals for electoral reform to modernise the electoral administration in Wales.

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# Ministerial foreword

I am proud of the progress we have made in the 5 years since the UK Parliament devolved responsibility for local and Senedd elections, through the Wales Act 2017. We have legislated to lower the voting age to 16, giving younger people a say in the running of their country. We enfranchised qualifying foreign nationals, in recognition of the contribution made by everyone who has made Wales their home.

We have also begun to lay the foundations for a 21<sup>st</sup> century voting system, including greater use of digital tools in the May 2022 local elections, and a clear set of principles to guide our longer-term programme of reform: equity, accessibility, participation, improving citizen experience, simplicity and integrity.

These are fundamental principles that lie behind our vision for elections in Wales. They reflect this government's clear priority to increase voter participation and ensure that every citizen is able to play their full part in our democracy. They also stand in contrast to many of the actions pursued by the UK Government, which seem designed to make it harder for people to vote in UK elections.

This document gives more detail on our priorities in progressing our vision. This is a long-term vision, and not everything in this paper will be delivered overnight. This document is not about the new arrangements that the Senedd has voted for itself to allow it to better serve the people of Wales, but many of the propositions contained here help elections run more smoothly and bring the Senedd's Members ever closer to the public.

In introducing our vision for the future, I want to thank 2 groups of people in particular: first, every person who puts themselves forward to work for their community. The overwhelming majority of people are genuinely motivated by public service, and we see this at work each day in communities across Wales.

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Second, the people who work so hard behind the scenes throughout the year to make sure our democratic processes work smoothly.

Mick Antoniw MS.

Counsel General and Minister for the Constitution.

## Chapter 1: introduction

### Devolved elections policy

Responsibility for elections to local government and to the Senedd were devolved through the Wales Act 2017. Throughout this document these are referred to as “devolved elections”. The Westminster Government is responsible for policy relating to elections to the House of Commons and for Police and Crime Commissioner elections, which are referred to as “reserved elections” throughout this document.

In 2017, the Welsh Government consulted on immediate priorities for reform in the [Electoral Reform in Local Government in Wales White Paper](#). This included lowering the voting age for devolved elections to 16 and enfranchising more foreign nationals resident in Wales.

These immediate priorities were legislated for through the [Senedd and Elections \(Wales\) Act 2020](#) and the [Local Government and Elections \(Wales\) Act 2021](#). As a consequence of these 2 Acts, a number of changes have been made for devolved elections, including:

- the franchise has been extended to 16 and 17 year olds, and qualifying foreign nationals
- local authorities can decide to adopt the Single Transferrable Vote system

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for their elections, in place of the First Past the Post system. Draft rules for STV elections will be published for consultation soon. Any Council looking to change its voting system must consult locally and pass a resolution by two-thirds of all its members by November 2024, if it wishes to introduce STV for the 2027 ordinary elections

- updating the disqualification regime so that local government employees who are not in politically restricted posts can stand for election to their own councils without having to resign first

The time is now right to accelerate our reform agenda and start to realise our ambitions to modernise electoral administration in Wales. In the **2021 Programme for Government**, the Welsh Government committed to “reforming local government elections to reduce the democratic deficit”. This White Paper sets out what those reforms will entail, but many of the propositions will also support improvements to Senedd Elections.

## Framework for electoral reform

On 15 July 2021 Mick Antoniw MS, the Counsel General and Minister for the Constitution, published a **Written Statement** setting out the Welsh Government’s framework for electoral reform. This explained how the Welsh Government would respond to UK-wide reform being taken forward by the Westminster Government, and what would underpin future reform for devolved elections.

Central to this framework were the following 6 principles, which the Welsh Government will use to benchmark electoral reform and guide our work to support democratic engagement and participation. These principles reflect how a resilient electoral system is part of our efforts to improve outcomes for all people, including the National Goals of the Wellbeing of Future Generations (Wales) Act 2015 and the **Anti-racist Wales Action Plan**. We invite comments on these principles.

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1. Equity: every person that wishes to participate in democracy must be enabled to do so, and to do so in a safe and respectful environment, so that our institutions are diverse and representative of the people they serve.
2. Accessibility: changes to electoral systems and electoral law should be based on the principle of making voting and participation in democracy as accessible and convenient as possible, building capacity to allow that to happen and encouraging creativity at every level of democracy.
3. Participation: we want as many people as possible to exercise their democratic right to vote. It is the role of everyone involved in electoral administration to maximise the number of people turning out at elections.
4. Improving citizen experience: citizens should be provided with the tools to shape their communities and country through engagement, representation and participation.
5. Simplicity: the administrative electoral system and electoral law in Wales must be modernised to make registering to vote, voting and participating more straightforward for citizens.
6. Integrity: integrity and transparency must underpin all electoral reforms in Wales. We must have a system that citizens trust and a sharing of information from legitimate sources.

## Senedd reform

Alongside the Programme for Government's commitment to electoral reform, the Welsh Government has agreed to take forward Senedd Reform, as part of its Co-operation Agreement with Plaid Cymru.

In June 2022, the Senedd voted to endorse the recommendations contained in **Reforming our Senedd: A stronger voice for the people of Wales**, the report of the cross-party Special Purpose Committee on Senedd Reform (SPC). The Welsh Government is working to prepare legislation to implement these

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recommendations. This includes 16 new constituencies for the Senedd, each returning 6 members through the d'Hondt system currently used for Senedd regions, and commitments to ensure diversity of membership.

The legislation to implement the Senedd's agreed reforms is not the subject of this White Paper, but there are areas where this White Paper takes account of the new arrangements for Senedd elections and broader changes that would support the new system.

## Structure of White Paper

This White Paper first sets out the longer-term vision for electoral reform. It seeks views on what changes may be desirable in the future and should be considered further by the Welsh Government. Chapters then set out aspects of more immediate reform, first to simplify electoral registration and more clearly identify the Welsh electorate in chapter 3, then proposals to improve the administration of devolved elections in chapter 4, approaches to support voters and candidates participate in elections are set out at chapter 5, ways that elections can be modernised to take account of new technology and citizen demands are at chapter 6, and finally chapter 7 sets out broader improvements to how local democracy operate beyond elections.

We want to know your views on all aspects of this document but have also indicated areas of the document likely to be of particular interest to different people to make it easier for you to respond. Electoral administrators might want to focus on chapters 3, 4 and 6 outlining our proposals for simplifying electoral registration, strengthening electoral administration and modernising Welsh elections. Voters could look in particular at parts of chapters 3, 5 and 6 covering our proposals for automatic registration, improving student and young people registration, and improving access to the democratic process. Candidates and elected members will be interested in much of chapter 4 on strengthening electoral administration and parts of chapters 5 and 7 in particular proposals on

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candidate safety, improving diversity, training for elected members and rules about councillors serving as members of the Senedd.

## **Chapter 2: long term vision for devolved elections**

This White Paper sets out our proposals for immediate reform of devolved elections. It is an important milestone on a longer-term journey. In the future, we have further ambitions.

### **Consolidating the law for accessibility and simplicity**

We hold an ambition to consolidate the statute book for Wales where we can, to deliver an accessible, bilingual legislative framework. We are taking the steps below to consolidate electoral law in Wales for devolved elections, as part of our longer term goal of modernising electoral law.

The National Assembly for Wales (Representation of the People) Order 2007, (“the Conduct Order”) sets out the detailed rules for the conduct of elections to Senedd Cymru. It sets out the way in which the election and the election campaign are conducted, including provisions for legal challenge to the election.

The Conduct Order has been reviewed and amended before each Senedd election. It was originally made and subsequently amended by the Secretary of State, before the function of making the Order was transferred to the Welsh Ministers by the Wales Act 2017.

As the original Order was made in 2007, this represents a valuable opportunity for us to consolidate and re-state the law as part of an accessible, bilingual framework for the first time. In doing so, we will take account of the principles set

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out in the Legislation (Wales) Act 2019 and seek to produce an Order which uses modern and clear language which is accessible to the reader.

We will look to consult on and remake a bi-lingual consolidated Conduct Order ahead of the 2026 Senedd Elections. In remaking the Order, we will reflect any changes needed as a consequence of taking forward policy proposals outlined in this consultation paper.

We will also ensure the Order implements any legislative changes required as the Welsh Government takes forward the proposals agreed by the Senedd for reforming itself in its [8 June 2022 debate](#).

## **Enfranchising some prisoners from Wales**

The 2017 White Paper asked for views on whether some prisoners from Wales should be able to vote in local government elections, with 50% of respondents in favour of such a change and 48% opposed. The Welsh Government is committed to enfranchising some prisoners from Wales, as participation in democracy would support their rehabilitation. This was also supported by the 5th Senedd's Equality, Local Government and Communities Committee.

The Welsh Government intended to introduce an amendment to the Local Government and Elections (Wales) Bill during its passage through the Senedd in 2020 which would have enfranchised some prisoners from Wales for local elections. However, following the suspension of Stage 2 scrutiny of the Bill in light of the Coronavirus emergency, the then Minister for Housing and Local Government confirmed to the Senedd this amendment would not be laid, given the complexity of issues in implementing such a change at such a challenging time.

This remains a priority but implementation requires a more collaborative and constructive relationship with the reserved justice system than currently exists.

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The UK Government is opposed in principle to prisoner voting which makes further progress challenging so we have decided not to include this in our immediate reform programme but will continue to consider it as a longer term priority.

## **Electronic remote voting/online absent voting**

The simplest expression of our Equity and Accessibility principles is that everyone who is eligible and wishes to vote should be able to. No one should miss their opportunity to vote due to the practical inconvenience of doing so.

For many voters, a modern, secure, and accessible system for voting remotely online using a computer or smartphone would be considered the gold standard of convenience. The Electoral Commission's October 2021 report '**The Future of Voting**' highlighted this as the most popular option for modernising elections and an expectation of the option among younger voters.

The report also noted the concerns around security and anonymity. While the current level of technology and the existing electoral systems do not necessarily provide the required security and assurance needed to deliver elections at a national level, innovations and technological advances continue to close the gap.

We therefore do not plan to legislate for electronic remote voting in the immediate term. That said, we recognise the potential benefits that online voting could bring and we will continue to consider the potential for such a system as a long-term goal.

In the meantime, we will consider establishing a set of practical criteria that a system would need to meet to be considered for implementation. These would be based around our reform principles with specific consideration around equity, integrity and participation with transparency also being a key consideration in

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any such system.

## Promoting diversity in democracy

Following endorsement by the Senedd, work is underway to consider the recommendation of the Special Purpose Committee on Senedd Reform (SPC) that the Senedd should be elected with integrated gender quotas, with mandatory zipping. The SPC also made several other recommendations to support an increase the diversity of Senedd members such as data on the diversity of candidates being made public and that political parties should be encouraged to publish diversity and inclusion strategies.

Promoting and supporting diversity amongst local elected members also remains a Welsh Government priority. Local elected members are in a privileged position: they are presented with opportunities to consider issues, discuss them, weigh up the evidence in favour of particular action and consider the implications of those actions for the communities they serve.

Communities are made up of individuals, each with different needs and aspirations, from different backgrounds and cultures, across a range of ages. It is important that those elected to represent communities reflect this diversity so that communities are confident all perspectives and points of view are being considered when decisions are made that impact on their lives.

The Welsh Government is therefore committed to promoting and supporting diversity in local democracy and has run 2 phases of the Diversity in Democracy Programme. This resulted in legislative changes such as the extension of family absence provisions for councillors, job sharing of offices for executive members, the creation of the role of assistant to the executive and making provision for multi-location meetings permanent. There has also been non-legislative action such as mentoring schemes and communications campaigns.

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Prior to this, the Local Government (Wales) Measure 2011 created the local government candidates' survey, requires councils to survey their councillors about the timings of meetings, created the role of head of democratic services and the Democratic Services Committee to ensure councillors have access to support to undertake their roles. We have recently strengthened the statutory guidance relating to these issues.

The Welsh Government will continue to support and work actively with partners to increase diversity in local democracy.

## All-Wales database

An all-Wales database offers potential benefits in terms of data accuracy, identifying duplicate entries across multiple registers, single unique identifier codes and Wales wide look-up functions. These benefits are particularly useful in terms of potential future electoral reform such as vote anywhere schemes and advance voting.

The Local Government and Elections (Wales) Bill included provisions giving Welsh Ministers powers to establish an all-Wales database of electoral registration data. This was removed as part of the reassessment of legislative priorities in response to the Coronavirus emergency.

While the provision for such an all-Wales database was broadly welcomed by stakeholders and the Senedd's Equality, Local Government and Communities Committee, issues were raised relating to privacy, loss of local expertise in engaging under-represented groups, and the cost of such a database.

An all-Wales database would likely be helpful in modernising electoral registration systems although it could represent a significant financial cost and disruption to registration services. The implementation method and the potential additional benefits which could be provided by such a system will need to be

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considered.

We will continue to consider the desirability of an all-Wales database and the need to legislate for such a provision. Views from the electoral community on the desirability of such a database and the potential benefits or costs would be welcome.

## **Monitoring impact of existing legislation**

There are areas where we would like to understand views on the implications and effectiveness of recent legislation that affect how elections in Wales are run. The following are of particular interest.

### **Coincidence or combinations of elections: dissolution and Calling of Parliament Act 2022**

Elections to the Senedd and local government have always operated differently to elections of Members of Parliament, but the differences have become more pronounced over time. With the Fixed-term Parliaments Act 2011, Westminster elections were ostensibly on more predictable timescales, and the Senedd and local elections moved to similar cycles to avoid elections to the Westminster parliament, which would be confusing to voters and complicated for administrators if they coincided or were combined.

We strongly asserted to the Westminster Government that the repeal of the Fixed-term Parliaments Act, by the Dissolution and Calling of Parliament Act 2022, should not lead to Westminster elections being held on the same day as devolved elections. During the second reading debate in the House of Lords, the UK Minister gave a commitment that the Prime Minister would consider the dates of scheduled elections to devolved legislatures. We will continue to press for the avoidance of combined or coinciding reserved and devolved elections.

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## Digital imprints: Elections Act 2022

UK Government provisions introduced in the Elections Act 2022 can be broadly summarised as introducing a new digital imprints regime which requires political campaigners to explicitly show who they are and on behalf of whom they are promoting digital campaigning material. Once in force, all paid for digital political material will require an imprint, regardless of who it is promoted by. Certain campaigners, such as elected representatives and political parties will also require a digital imprint on their organic material if it constitutes digital election material, referendum material or recall petition material.

In March 2022, the Senedd granted its consent for the digital imprints provisions to apply to devolved elections. This means that there is consistency in the requirements which apply to digital campaign material used in Senedd, local government, Westminster and Police and Crime Commissioner elections.

The Welsh Government recommended consent for these requirements to apply to devolved elections, so that elections would be simpler for voters and candidates or agents. We also stated that, as responsibility for local and Senedd elections is devolved, it is appropriate for the Senedd to scrutinise the rules of such elections.

If the UK-wide regime is implemented as expected through secondary legislation, we do not expect we would need to produce different requirements for digital campaign material for devolved elections.

While we set a high bar for considering divergent rules in this area, given the likelihood of confusion and significant complications for enforcement where it may be unclear if digital campaign material relates to devolved or reserved elections, we may need to return to it if the UK-wide regime does not progress as expected.

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## **Online nominations: Local Government and Elections (Wales) Act 2021/2021 Rules**

For the local elections in May 2021, nominations of candidacy could be filed online. This innovation has been discussed extensively with electoral administrators, in particular the balance between convenience and speed against accuracy and the challenges presented by late filing of electronic nominations.

In some areas, an online portal was used for nominations. This appeared to help reduce errors and improve the process for both electoral administrators and candidates or agents. The Wales Electoral Coordination Board has undertaken a review to identify possible options in this space, and we may need to update legislation to support innovation in this area.

## **Term lengths: Local Government and Elections (Wales) Act 2021**

Principal councils and Town and Community Councils now operate with a term of five years between elections. This was introduced to align with the cycles of other elections, with the intention of reducing the likelihood of elections coinciding, this was prior to the Dissolution and Calling of Parliament Act 2022 removing the regularity of House of Commons elections.

While there was broad support for this provision during the scrutiny of the 2021 Act, there remain different views on whether a 4 or 5 year term is preferable for local government members. This includes the balance of voters being empowered to keep their elected representatives in check, and councils' longer term planning capability to make significant changes locally. A shorter period between elections would also limit the potential for electoral reviews (**discussed below**), and the time for principal councils to opt for the Single Transferable Vote, the decision in respect of which must be taken by 15 November in the year

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3 years before the next ordinary election (roughly 18 months after an election in the current 5 year cycle).

## Chapter 3: simplifying electoral registration in Wales

### Restating the franchise

In order to be eligible to vote in a Senedd or local election in Wales a person must be:

- eligible to be registered to vote in the constituency
- be of voting age, 16 years old on polling day
- not subject to any legal incapacity to vote
- meet one of the following criteria on nationality:
  - be either a British, qualifying Commonwealth citizen or a citizen of the Republic of Ireland
  - a legally resident foreign citizen (with leave to enter or remain in the UK or not require such leave)
  - a citizen of an EU country

The current franchise for devolved elections, as set out above, reflects amendment through the [Senedd and Elections \(Wales\) Act 2020](#) and the [Local Government and Elections \(Wales\) Act 2021](#) since responsibility for elections was devolved. Both these Acts amended the Representation of the People Act 1983, with a link to the Government of Wales Act 2006.

The current provisions setting out the franchise for devolved elections in Wales are untidy, which creates complexity for those responsible for interpreting the legislation and those who are responsible for administering elections.

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In addition, as the UK is no longer a member of the European Union (EU), the legal basis for an automatic grant of voting and candidacy rights to all EU citizens no longer exists. Therefore, we are considering the changes we need to make to the franchise to reflect the fact that EU citizens no longer have an automatic right to vote in the UK. One option is to treat EU citizens in the same way as we treat foreign nationals from other countries, whilst another option may be to align voting rights with immigration status. We may also need to consider the effect of the reciprocal voting and candidacy rights agreements.

We are considering restating the franchise for Welsh elections in one bilingual Act and updating the franchise and candidacy rights for EU citizens now that the UK has left the EU.

## Automatic registration

To be on the electoral register, voters in the UK must currently take part in the Individual Electoral Registration process on an annual basis. This system requires the local authority to contact each household to either verify existing electoral data or identify new voters, who are then invited to apply to be on the register.

In 2017 the Welsh Government consulted on expanding the methods available to Electoral Registration Officers (EROs) to register voters for local government elections. [The Electoral Reform in Local Government in Wales](#) consultation asked, “Should Electoral Registration Officers have a greater range of sources available to them to assist citizens in being added to the register?”. This question included automatic registration as an option. 77% of respondents agreed that EROs should have a great range of sources at their disposal, including automatic registration.

These proposals were taken forward in the Local Government and Elections (Wales) Act 2021, which made provision for an Electoral Registration Officer at a

local authority to register a voter without application using local data to identify the person. These provisions were not mandatory and have not yet been commenced. At the moment this option is not available.

The provisions were not commenced because of the major changes taking place to the annual canvass process, and we supported efforts being focussed on administering the extension of the franchise for devolved elections. We were also keen to make sure that the most vulnerable voters were safeguarded by any system of automatic registration and the processes around registering to vote were as straight forward as possible.

Following this further reflection, we now propose some changes to the current provisions and making automatic registration of voters mandatory for all Electoral Registration Officers in Wales. This would allow EROs to add anyone to the local government electoral register (which is also used for Senedd elections) using data held by the local authority. We believe this would be of particular benefit to those newly enfranchised 16 and 17 year olds and qualifying foreign citizens in Wales, that will be supported through this process in realising their right to vote in devolved elections. We also believe making registration a more straight forward process for these groups will help them in developing their relationship with democracy in Wales and could increase participation in Senedd and local government elections.

Having looked closely at the use of electoral registers, we are proposing to remove the open register for devolved elections in Wales. This would mean that the data of voters on the local government register in Wales could not be sold to some third parties. However, the data would still be available to those organisations and agencies the law currently provides for (such as for electoral purposes, credit checks and law enforcement purposes).

We are seeking views on the best way to make the process of automatic registration as easy as possible for the voter while safeguarding those who would want to register anonymously. We would also ask for views on how best

to collect and use locally held data to make sure that the local government electoral register remains as accurate as possible and uses the best quality data.

We propose to work with local authorities to run a series of pilots in a future year on automatically registering electors. These pilots will focus on how best to collect data, how to use existing data most effectively to identify electors and verify their identity and how best to communicate with electors. We are particularly keen to hear from local authorities that would be willing to participate in these pilots so they can work with us to develop the programme over the coming months.

## **Improving student and young people's registration rates**

University students in Wales have proportionately lower rates of registration and participation in elections. Several barriers may hinder students from having their voices heard on issues that are important to them, for example more regularly moving addresses means traditional registration efforts, like Household Notification Letters, are less effective.

We propose allowing students to register to vote during their enrolment week through a data sharing agreement between their university and the student's relevant local authority. This could happen immediately by including an invitation to register to vote form within the information pack received by students during enrolment. Universities could receive and check this form before sending on to the relevant Local Authority's Electoral Services Team who could add the student to the register. Evidence suggests this process is highly effective in engaging students, helping them to become aware of their rights within the area they are educated in and assisting them to register to vote. Cardiff Council reported that for the 2021 to 2022 academic year, their data sharing agreement with Cardiff University led to 8,340 students being registered.

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We wish to work with local authorities and institutions in the higher education sector in Wales to establish a model in which data sharing agreements, for the register to vote process only, are in place across Wales. Greater data sharing could also support the approach to automatic registration set out above.

University student voter registration is a subject of concern which the Welsh Government has been made aware of and is seeking to address through this approach. This work will sit alongside the proposed automatic registration pilots until a time in which that work goes beyond the pilot phase. Should this be the case, University student registration work will become part of automatic registration.

## **Chapter 4: strengthening electoral administration**

### **Electoral Management Board**

There is currently no statutory body responsible for coordinating elections for Wales. The Wales Electoral Coordination Board (WECB) was set up in 2017 with a remit of co-ordinating electoral events and activity, modernisation and reform. It also promotes and supports greater collaboration between Returning Officers, Electoral Registration Officers and other key partners. Normally, it comprises of the 5 Regional Returning Officers, who currently have a formal role in relation to the Senedd's 5 electoral regions.

The WECB is a non-statutory, voluntary body facilitated by the Electoral Commission, it does not receive Welsh Government funding and Returning Officers are not mandated to participate or take account of the WECB's discussions or recommendations. In Scotland, the body that plays a similar but more official role is the Electoral Management Board for Scotland, which was established by the Local Electoral Administration (Scotland) Act 2011. This Board has the general functions of co-ordinating the administration of Scottish

parliamentary elections, and local government elections in Scotland.

We propose to legislate for the establishment of an Electoral Management Board in Wales (“the Board”) which would perform functions independently of government that are currently undertaken by the WECB. The functions carried out by the Board could develop over time in line with future electoral reform.

In our proposal, the Board would bring together representatives from the professional electoral community and be accountable to the Senedd. Its role would be distinct from, but complementary to, the work of Electoral Commission and the Association of Electoral Administrators (AEA).

In facilitating co-operation and mutual support between electoral registration officers and returning officers, the Board would be well placed to advise Welsh Ministers on the capacity of local election teams. By placing the Board on a statutory footing, we also propose that the chair of the Board could, after consultation with other members, be able to make directions and give advice in areas where a consistent, all-Wales position would be beneficial. This is the case with the Convener of the Electoral Management Board for Scotland. An example of where a power of direction could be helpful would be in interpreting and applying guidance such as was seen in response to the coronavirus emergency.

Given it would operate independently of government, there is potential for the Board to provide a neutral platform for both hosting information and signposting to other trusted sources of electoral information. This could include information for voters on how to register or cast their vote, or on candidates standing in elections. This would support our ambition to improve accessibility by providing easily available information to anyone needing. If we were to progress with this proposal, we would want to protect the Board from responsibility for policing the content of material it hosts, for example on behalf of candidates.

A further role the Board could play would be to commission and publish data and

research. This would enable the Board to advise both Welsh Ministers and the Senedd on issues related to the democratic health of the nation, for example, turnout at elections, and in particular participation of under-represented groups.

## **The Local Democracy and Boundary Commission for Wales**

The recent completion of the ten-year programme of principal council electoral reviews resulted in better electoral arrangements for voters and councils across Wales. Following its completion, discussions with local government, the WLGA and the Local Democracy and Boundary Commission for Wales (the Commission) identified potential improvements to the review process that could better support the aim of effective and convenient local government.

Part of the reforms the Senedd has agreed for itself affect the Commission. The Special Purpose Committee recommended Senedd Reform legislation should reconstitute and rename the Commission to reflect a new function of undertaking boundary reviews of Senedd constituencies. These matters are not considered in this consultation paper. However, we propose amending the name of the Commission's current Audit Committee to the Governance and Audit Committee, and to amend its functions in any legislation arising from this White Paper. This would ensure scrutiny within the Commission is based on current best practice.

## **Principal Council Electoral Reviews**

### **Period for making Electoral Review Orders**

Section 29(8) of the [Local Government \(Democracy\) Wales Act 2013](#) (the 2013 Act) prohibits the Commission from publishing any electoral reviews of principal councils during the period of nine months or less before the day of an

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ordinary council election. The purpose of this provision was to ensure the electoral arrangements for a principal council area were certain, so that principal councils, election teams, political parties and others have sufficient time to prepare for the elections in reliance on that certainty.

However, there is no similar provision to prevent Welsh Ministers from making electoral review orders during this period. Though Welsh Ministers can choose not to implement reviews under section 37(1)(b) of the 2013 Act and the Gould convention suggests electoral legislation should not be made 6 months or less in advance of an election, the existing legislation does not prevent Welsh Ministers from making an electoral review order during this period. We do not believe existing legislation and the convention give sufficient assurance to voters, candidates, political parties, and other stakeholders that orders will not be made in the run up to ordinary council elections. We therefore propose confirming in legislation Welsh Ministers may not make electoral review orders in any period of 6 months preceding the day of an ordinary council election thereby removing the possibility of uncertainty.

As a consequence of this, we intend to amend the timescale specified in section 29(8) of the 2013 Act so that the Commission could not publish final reports or recommendations relating to the electoral arrangements for principal councils within a specified period (of either twelve or fifteen months) in advance of an ordinary council election. We need to ensure any provision provides Welsh Ministers with sufficient time to consider the Commission's final reports, including if the Commission were asked to revisit a part of a review (see sections 4.33 to 4.34). The provision currently preventing Welsh Ministers from making decisions and orders during the period of 6 weeks from the date of the receipt of a final report (Section 37(3) of the 2013 Act) would be retained (the purpose of this period is to provide an opportunity for voters and others to make representations to the Welsh Ministers about the Commission's final report). We also propose to clarify this purpose in law (see section 4.32)).

## Maximum Periods for the Conduct of a Review and the Making of Decisions

The 2013 Act currently includes no maximum period for the conduct of a review or a maximum period from the receipt of a final report during which the Welsh Ministers must decide whether they will implement the report's recommendations, with or without modification, or decide to take no action.

Although in practice new electoral arrangements following the conclusion of an electoral review come into force for the next ordinary council election, extended review periods and the absence of decisions can create electoral uncertainty. We therefore propose the maximum period for the conduct of an electoral review by the Commission should be 15 months and decisions should be made by Welsh Ministers to either implement the Commission's recommendations with or without modification, or decisions to make no order should be made within three months of their receiving the final report from the Commission. This would support focussed, meaningful engagement from stakeholders during the review period and ensure electoral arrangements are as up-to-date and relevant as possible.

## Pausing reviews

Section 14 of the 2013 Act provides the Welsh Ministers with a general power of direction in relation to the Commission, and section 48 of that Act sets out the specific powers of the Welsh Ministers to issue directions in relation to the conduct of all the classes of review set out in Part 3 of that Act. These powers include a power to direct the Commission to undertake electoral reviews of principal councils in an order other than that which appears in their published ten-year programme and to direct that a review under Part 3 of the 2013 Act is stopped. However, these powers do not explicitly provide for the Welsh Ministers to pause an electoral review.

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Recent public health emergencies suggest it could be of benefit for Welsh Ministers to hold more explicit powers in this regard. We propose the effect of a pause would be to ‘stop the clock’ on the review for a period, and then when it is restarted, the review would need to be completed in the remaining period of the maximum review period rather than extending the maximum period in which a review might be completed.

## **The 10 year programme of electoral reviews**

Section 29(1) and (2) of the 2013 Act require the Commission to undertake an electoral review of each principal area’s electoral arrangements at least once every 10 years and to prepare and publish a programme for the conduct of all those reviews.

We intend to amend these provisions to clarify there is a requirement for the Commission to consult with the following in the preparation of the programme for the conduct of electoral arrangement reviews:

- County and County Borough councils
- Town and Community councils
- National Park authorities
- Fire and Rescue authorities
- Port Health authorities
- Welsh Language Commissioner
- Trade Unions
- other bodies to be specified in regulations by the Welsh Ministers

We will amend the Act to provide for a common list of mandatory consultees for the 10 year programme, the pre-review process and consultation on the draft proposals for electoral arrangements. We will maintain the provision for the Commission to consult any other persons or organisations it feels would have an interest in the review.

Also, we intend to require that the Commission must ensure as far as is reasonably practical that it schedules electoral reviews no later than two years after the conclusion of a community review ([see below](#)). This will ensure the currency of the electoral arrangements for the next scheduled ordinary council elections.

## Voter engagement

The Welsh Government believes it is essential eligible voters (we mean everyone who is entitled to vote in principal council elections whether they are registered to vote or not) have as much opportunity as possible to engage with and shape the arrangements that will ultimately determine how they will be represented on their county or county borough councils. We therefore intend to strengthen the requirement for the Commission to demonstrate that it has arrangements in place to ensure the opportunities for voter engagement are maximised. We will therefore:

- add local government voters to the list of mandatory consultees (this will not extend to providing them with copies of reports)
- require the procedure and methodology for reviews (section 34(2) of the 2013 Act) to include arrangements for maximising opportunities for directly seeking the views of local government voters
- provide in statutory guidance made under section 44 of the Local Government and Elections (Wales) Act 2021 that principal councils set out in their participation strategies how they will seek and enable the views of voters to be captured and considered as part of the review process

## Ward names

It was clear in the response from the public to consultation on the draft and final electoral review reports in the recently completed ten-year cycle, there is a deep

interest and passion in the naming of electoral wards in both Welsh and English. The Welsh Government feels this should, therefore, be given a more central place in the review process and the methodology and approach to determining ward names should be set out clearly and consulted upon in the Commission's procedure and methodology for conducting reviews. We therefore propose to introduce legislation to make this a requirement.

Section 29(9)(d) of the 2013 Act includes the name of any electoral ward in the definition of electoral arrangements. We intend to require consideration of the name of an electoral ward includes ensuring the Commission demonstrates in its reports that it has considered both the Welsh and English name of every ward in the local government area under review. As part of this we will require the Commission to publish ward names in Welsh and English in both the Welsh and English language versions of their reports and documentation. This will enable electors and other stakeholders to more easily and readily consider the approach taken in identifying the recommended ward names.

## **Considerations for the review of Principal Area Electoral Arrangements**

Section 30 of the 2013 Act sets out considerations the Commission must take into account when making recommendations in relation to the electoral arrangements for a principal council.

These considerations are expressed in 2 parts. Firstly, section 30(1) provides that the Commission must:

1. seek to ensure that the ratio of local government electors to the number of members of the council to be elected is, as nearly as may be, the same in every electoral ward of the principal area
2. have regard to:
  - the desirability of fixing boundaries for electoral wards which are and will

- remain easily identifiable
- the desirability of not breaking local ties when fixing boundaries for electoral wards

Further to this section 30(2) states “For the purposes of subsection (1)(a), account is to be taken of:

1. any discrepancy between the number of local government electors and the number of persons that are eligible to be local government electors (as indicated by relevant official statistics)
2. any change to the number or distribution of local government electors in the principal area which is likely to take place in the period of 5 years immediately following the making of any recommendation

This creates an impression the current number of registered local government electors is the most important factor to be taken into consideration and any differences between registered electors and population or future changes are second order issues and can be given less weight. This is not the intention of the legislation, as each electoral review must be robust enough to provide for effective and convenient local government for at least the next 10 years. For clarity, we intend to express these criteria in such a way as to ensure there is no doubt all these factors must be considered and given even weight during consultation and deliberation on the electoral arrangements for a principal area.

As part of discussions with stakeholders further important considerations were identified which can impact on the number of councillors and the size of an electoral ward these include:

- whether there is a student population
- whether there are significant numbers of visitors
- whether there is a concentration of businesses
- whether the ward is urban or rural
- the levels of deprivation in the proposed ward

We therefore also intend to legislate to extend the range of considerations the Commission must take into account when formulating its recommendations for electoral arrangements. We will require the Commission to set out and consult upon how it will balance these considerations when setting out its draft and final recommendations, and in its procedure and methodology for electoral reviews.

## **Requirement for the Commission to set out the data sets used to underpin their review**

In its conduct of electoral reviews, the Commission draws on many data sets and is likely to be required to draw on even more sets to fulfil the requirements set out in these proposals. Everyone impacted by the review should be able to understand which data sets are being drawn on, we will therefore require the Commission to set out this information in its procedure and methodology and its draft and final proposals reports.

## **Further consultation on recommendations in the final report**

It was clear from representations made to the Welsh Ministers on several final reports in the recently completed ten-year electoral review process, and from engagement with stakeholders more widely, where final recommendations introduce proposals for new electoral arrangements which were not an option in the draft proposals report, there should be further specific consultation with the voters and councillors in the wards affected by those changed proposals. We therefore intend to require in those circumstances, the Commission undertakes a further targeted consultation with these voters and councillors before being able to prepare the final report and submitting it to the Welsh Ministers. The Commission will also be required to enable all mandatory consultees and others they deem to be interested in the review to submit further responses on this aspect of the review only.

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## **Submission of final reports to the Welsh ministers**

Section 37(3) of the 2013 Act requires the Welsh Ministers to wait for a period of six weeks before taking action to implement any review recommendations which fall to them to implement or to decide to take no action. This applies to implementation of the recommendations either with or without modification. This period is often referred to as ‘the representation period’ where voters and other stakeholders can submit their views on the final recommendations in a review report to the Welsh Ministers. We intend to legislate to clarify the purpose of the 6 week period is for this process and the Welsh Ministers will not consider or take any action on review recommendations until this period has elapsed. We will also clarify until this period is completed, the Welsh Ministers cannot make an Order, decide to take no action or remit the report to the Commission for further consideration. Further when this period is completed, Welsh Ministers will be required to take into consideration any representations they have received about the final recommendations report, before deciding whether to make an order, to take no action or to remit the report to the Commission for further consideration.

## **Implementation following an electoral review**

Section 37 of the 2013 Act sets out the Welsh Ministers’ powers in relation to the implementation of the recommendations contained in the Commission’s final reports. The powers include accepting all the recommendations, rejecting the recommendations, or modifying them. Modification is only possible if the Welsh Ministers consider it would improve the arrangements for effective and convenient local government having considered the criteria under which the Commission must undertake electoral reviews as set out in section 30 of the 2013 Act (discussed above).

There is currently no power for the Welsh Ministers, having considered these

criteria, to direct the Commission to reconsider and consult again on a part of an electoral review. We propose such a power is introduced but that it is confined to situations where the majority of the recommendations have resulted in proposals for more effective and convenient local government but, having considered the criteria and representations submitted during the 6 week representation period, the Welsh Ministers conclude that arrangements concerning a particular ward or collection of wards could be improved. We consider this would introduce further transparency into the process, enabling voters and communities specifically impacted by the arrangements to be directly consulted and have focused input into any further proposals, as well as all mandatory consultees and other interested parties.

## **Publication and distribution of hard copies of reports and other documentation**

Finally, we intend to remove any requirements in current legislation on the Commission relating to the production and distribution of hard copy reports and other documentation. This will remove a significant burden from the Commission and reflect current practice. We will retain a requirement for the Commission to make hard copies, including in accessible forms, available on request.

## **Community reviews**

Section 22 of the 2013 Act requires principal councils to monitor the communities and their electoral arrangements in its area. In doing so councils must have regard to the ten-year programme of electoral reviews published by the Commission and any directions issued to it by the Welsh Ministers.

In keeping the community arrangements and related electoral arrangements under review, the council must seek to ensure effective and convenient local government, provide the Commission with such information as it may require

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and once every 10 years publish a report describing how it has discharged these duties and send a copy of the report to the Commission.

Experience from the recent programme of electoral reviews suggests that these provisions are not robust enough to ensure effective and convenient local government is achieved both with community arrangements and principal council electoral arrangements in the most efficient way or in a way that enables voters to engage with the process in a full awareness of the implications of both processes.

We are therefore proposing to introduce legislation which will make it clear that a principal council must undertake a full review of all its communities and their related electoral arrangements once in every 10 year period. This 10 year period would be linked to the 10 year period that the Commission sets out for its electoral review programme and principal councils and the Commission will be required to discharge their duties to ensure the principal council can then discharge its duty in relation to completion of a community review in advance of an electoral review being completed.

We also propose introducing legislation to require principal councils to report annually to their full council on their communities and community electoral arrangements, including a summary of any local orders made during the year. As well as sending a copy of this report to the Commission, as they already do, a copy of the report must also be sent to the Welsh Ministers. We believe an annual report is essential to demonstrate active consideration of the duty to keep communities and their electoral arrangements under review and to ensure voters and communities feel their concerns are addressed in a timely manner.

We will also require principal councils to publish any local orders in a dedicated section of their website and send electronic copies to the Commission and to the Welsh Ministers. These orders are critical building blocks for principal council electoral reviews and are integral to the Commission and Welsh Ministers being able to discharge their statutory duties in this regard. We will therefore legislate

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to ensure these local orders cannot take effect until the duty to send copies of the local orders to the Commission and the Welsh Ministers is discharged. In addition, to ensure there is transparency and a single database of these orders, we propose requiring the Commission to publish the orders on its website.

In addition, where a community council requests a change of name under section 76 of the Local Government Act 1972, we will maintain the requirement for the principal council to provide notice of the change to the Commission and the Welsh Ministers, but we propose that the name change cannot take effect until the duty to provide notice to the Commission and Welsh Ministers is discharged. This information is also essential in enabling the Commission and the Welsh Ministers to discharge their statutory duties in relation to electoral reviews. We will require each principal council to maintain an up-to-date list of community areas and their names in a dedicated area on their websites. We will also require the Commission to maintain and publish on its website an aggregate register of community area and community council names.

Community reviews are time consuming and rightly involve lengthy periods of consultation with local communities. However, like electoral reviews they lose their currency and relevance if conducted over too long a period. We therefore intend to set a maximum time period for the undertaking of a community review of 24 months and a three-month requirement for decisions to be made on whether the recommendations should be implemented once the final report is published.

**As noted above**, when fulfilling their duty under section 22 of the 2013 Act principal councils must seek to ensure effective and convenient local government. Section 33 of the 2013 Act also requires principal councils to consider whether a community should be divided into wards or whether there should be a single election to the community as a whole. In doing this it has to take into account the number of voters in the community and whether this is likely to change in the next 5 years, any discrepancies between registered voters and the population, any local ties and the desirability of fixing boundaries that

are easily identifiable.

However, in terms of the determination of community areas, current legislation sets out no specific considerations to be taken into account. The Welsh Government would like your views on whether there should be further considerations and, if so, what these should be. Examples could be considerations similar to those relating to electoral reviews: urban and rural communities, students and day visitors, deprivation, the numbers of businesses as well as the desirability of fixing community boundaries that are easily identifiable, community ties, current and future population and the difference between registered voters and population.

The Commission has recently revised its guidance to principal councils on undertaking community reviews, but we intend to introduce legislation to require the Commission to consult and set out a procedure and methodology for community reviews to be used by itself and principal councils when undertaking reviews along similar lines to the requirement in section 34(2) of the 2013 Act in relation to principal council electoral reviews. We propose that the Welsh Ministers should have the power to make regulations requiring community reviews to be undertaken in accordance with guidance issued by themselves or in accordance with such other guidance issued by other bodies, that the Welsh Ministers may specify in regulations.

Like electoral reviews the current legislation does not provide for a part of a full community review i.e., a review of all the community areas in a principal council area, to be re-consulted upon prior to the implementation of a final recommendations report. Neither does it expressly provide for a full community review to be paused (there is express reference to a community review being stopped). We intend to legislate to enable partial reviews to be undertaken at the request of the decision-making body, the Commission, or the Welsh Ministers, following the completion of final recommendation reports and for the pausing of a community review.

In relation to pausing a full community review, we propose that the Welsh Ministers be given a clearer power to pause a community review for the same reasons as are set out in relation to electoral reviews, such as a public health or other emergency.

The arrangements we have suggested above for principal councils' electoral reviews in relation to mandatory consultees would also apply in the case of community reviews, as would the proposals relating to changes in the final recommendations report which were not options consulted upon in the draft report.

Similarly, we intend to clarify the purpose of the 6 week 'representation period' in section 38 of the 2013 Act in respect of the implementation of community reviews. This would mean the Commission should treat this 6 week period as a further consultation period where representations can be received from interested parties which it must then take account of as part of its decision-making process on the final report recommendations. Neither would it be able to make any orders or decisions to undertake its own review during that 6 week period.

We also intend to remove any requirements relating to hard copy distribution of reports and other documentation in relation to community reviews, but will retain a requirement for hard copies, including in accessible forms, to be made available on request. In addition, we will also require the reports relating to community reviews to clearly set out the data sets that underpin its considerations.

## **Seaward boundaries**

Sections 28 of the 2013 Act makes provision for the Commission to review the seaward boundaries of local government areas (and preserved counties), while section 46 sets out the extent to which parts of the seashore and projections

from the seashore (whether natural or artificial) already form part of the communities to which they adjoin.

The provisions were carried forward from the Local Government Act 1972 and were made before the advent of the possibility of developments such as tidal lagoons. We believe it is likely that Wales could see more proposals for such developments, and it is important the legislation relating to seaward boundaries is considered in terms of its fitness for purpose to accommodate such developments, which might span the seaward boundaries of multiple local government areas or require an area's or areas' seaward boundary to be extended and then contracted to provide for construction. We therefore intend to review these provisions to ensure the legislative basis for seaward boundary reviews is fit for purpose. In particular, we propose to enable the arrangements for multiple local government areas and the expansion and contraction of seaward boundaries to be made as part of a single review and for any recommendations, if accepted, to be made or modified in a single order.

## **Matters relating to electoral and other reviews not requiring legislation**

Electoral reviews and other review reports are complex but need to be accessible to a wide range of stakeholders and interested parties not all of whom are professional or technical experts. We will therefore work with the Commission to improve the accessibility of reports and data by using digital opportunities such a mapping portal and best practice in accessible reporting.

## **Functions of the Independent Remuneration Panel for Wales**

In October 2021, we published the **10 Year Review of the Independent Remuneration Panel for Wales** (the review). The independent report made recommendations in relation to the operation of the Independent Remuneration

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Panel for Wales (the Panel) and the secretariat support it receives from the Welsh Government.

We agree with the recommendation secretariat support for the Panel should be provided by a body other than the Welsh Government, which would reinforce the independence of the Panel's operation and functions and avoid conflicts of interest within the Welsh Government. We therefore propose to enable the Commission (the current Local Democracy and Boundary Commission for Wales) to provide secretariat support, removing the function from the Welsh Government. The Commission is already a body corporate and can employ staff, hold assets, is required to have an audit committee, and produce accounts. We believe, therefore, as well as addressing the recommendation in the Review relating to the secretariat function these arrangements will provide for greater transparency and efficiency of the Panel's operation.

We propose moving further than the Review's recommendations by dissolving the Panel and transferring its functions to the Commission. This would mean one set of commissioners would determine the numbers of councillors across Wales, the electoral arrangements, and the remuneration of councillors. There is significant synergy in this work, which relies on the same data relating to the role of councillors, the matters impacting upon that role and an understanding of the communities councillors represent.

The functions to be transferred would include those set out in the Local Government (Wales) Measure 2011 relating to the remuneration of elected members of relevant authorities and functions in the Local Government and Elections (Wales) Act 2021 (sections 142 to 144) (the 2021 Act) which confer specific functions on the Panel in the event of a voluntary merger between two or more principal councils or other form of restructuring.

As part of the transfer, we intend to remove the function set out in section 143A of the 2011 Measure in relation to the remuneration of principal council chief executives. This provision was added in response to a specific set of

circumstances which are no longer relevant and other mechanisms, such as the requirement to publish pay policy statements in accordance with sections 38 to 43 of the Localism Act 2011, now exist to ensure transparency in relation to the remuneration arrangements for a principal council's most senior employee.

We are also seeking views on whether the functions transferring should be clarified to enable the Commission to consider 'parachute' payments for local elected members as part of the councillors' total remuneration package. Parachute payments are available for members of the UK Parliament and the Senedd when candidates have stood for election but have failed to be re-elected. The payments are sometimes likened to redundancy payments for employees and are linked to length of time served in the elected office. This recognises these roles are full time and individuals have forgone full time employment or career development to undertake them. There have been many previous calls for parachute payments to be available to local elected members on a similar basis. We are therefore interested in views as to whether this should be enabled.

## **Technical, consequential, transitional and saving provision**

We propose to make any necessary consequential, transitional, or saving provision to support these proposals as required, for example, phasing the transfer in of the current functions of the Panel, saving the effect of any of its previous determinations, ensuring electoral and community reviews started under previous legislation can be finished and implemented on the basis under which they commenced. There are also a small number of technical legal changes we intend to make to section 38 of the 2013 Act relating to the Commission's order making powers to ensure it can make any necessary provision for the practical arrangements that may be needed to give effect to a community review order, for example, the transfer of staff from one community council to another.

## Campaign finance, expenses and political party spending

The existing regulatory framework governing the spending and funding (political finance) of candidates, political parties and third-party campaigners and other campaigners is contained within the Representation of the People Act 1983 and the Political Parties, Elections and Referendums Act 2000 (PPERA). Part 4 of the UK Elections Act 2022 expanded and strengthened the law about political finance by:

- clarifying the rules on notional spending
- strengthening the rules so that third-party spending is restricted to UK based entities and eligible overseas electors only
- increasing transparency around third-party campaigning

It also made provision for changes to the registration of political parties and prohibits dual registration to prevent parties and campaigners from unfairly expanding their spending limits.

Whilst the amendments in relation to the registration of political parties will apply to Westminster elections, local elections in England and devolved elections in Wales, the provisions relating to notional spending, and those strengthening the rules around third-party spending apply only to Westminster elections and local government elections in England. As a result, in future there will be a difference in the political finance rules as they apply to reserved and devolved elections in Wales. This has the potential to create voter confusion and administrative complexity for the electoral community.

Whenever there is policy alignment, we want a clear and consistent regulatory framework for both reserved and devolved elections in Wales as far as possible. We consider that this would be beneficial for voters, candidates and campaigners. Therefore, where appropriate, we propose to introduce equivalent provisions in respect of devolved elections in Wales. This could entail:

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- clarification of the law in relation to Senedd and local government elections so candidates need only report notional expenditure (i.e. the use of property etc. on behalf of candidates or others) that they or their election agent have directed, authorised or encouraged someone else to use on the candidate's behalf. They would not be responsible for reporting benefits in kind that they did not know about. Consideration is also being given to applying the same principle to spending by other campaigners, including political parties, during regulated periods in respect of standalone Senedd elections (i.e. where the regulated period for a Senedd election does not overlap with the regulated period for UK parliamentary elections)
- restricting third-party campaigning during a regulated period prior to standalone Senedd elections to groups eligible to register with the Electoral Commission only, removing the scope for spending by ineligible foreign third-party campaigners. This could also involve the Welsh Ministers having a power to amend the list of eligible campaigners specified in PPERA for the regulated period of such elections
- clarification of the law in relation to the payment of expenses through election agents to ensure that third parties are able to incur and pay for authorised expenses, rather than those expenses having to be paid through the agent of the candidate they are promoting
- the introduction of a lower-tier expenditure limit for the notification of expenditure by third-party campaigners
- the Electoral Commission would also be enabled/instructed to provide guidance in respect of any such changes

## Electoral pilots

In July 2021 we invited all local authorities in Wales to submit proposals to pilot different ways of voting, which resulted in four authorities piloting advance voting at the local government elections in May 2022. We wanted to see if we could make the electoral process more accessible, and voters in Blaenau Gwent,

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Bridgend, Caerphilly and Torfaen were given the opportunity of voting in advance of polling day and also had choice over where they voted.

The pilots were delivered under Section 10 of the Representation of the People Act 2000, which allows local authorities to vary electoral rules for local elections, subject to Ministerial approval. This allows local authorities to trial innovative processes in 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 and the administration of the election after votes have been cast
- sending by candidates of election communications free of charge for postage

The independent evaluation of the pilots conducted by the Electoral Commission was published on 2 August 2022. The experience of running the pilots and the Electoral Commission's evaluation of them provide useful evidence about how electoral innovations work in practice, as well as identifying areas which would need to be addressed before consideration could be given to any further rollout of advance voting. In terms of potential future pilot schemes, we are likely to want to test further innovations in electoral administration to respond to lifestyle changes and emerging technologies and we will use the evidence provided by the advance voting pilots and Electoral Commission's report to consider how best to design, develop and deliver pilots in other areas of electoral administration. For example, we are currently considering a set of registration pilots to establish the most effective, and accurate, way of registering voters without application. We are interested in views about what other types of pilots the electoral community would like to deliver and what other electoral innovations could be piloted. We can consider whether these can be delivered within the existing powers or whether those powers would need to be broadened to allow for their delivery.

While Ministers must approve pilot proposals submitted by authorities, the current power does not allow Ministers to direct authorities to undertake pilots.

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While it was a strength that the May 2022 pilots were co-designed by the participating authorities, the electoral community and the Welsh Government, only 4 authorities, all in South Wales, responded positively to our invitation to deliver advance voting pilots.

For future pilots we would be interested in a more varied mix of authorities, including in different regions or rural authorities. We consider that this could potentially be achieved through the Welsh Ministers having a power to direct authorities to participate in a pilot, or by earlier and varied communications and engagement to encourage take up.

## **Returning Officers and requirements relating to the Welsh language**

The Welsh Government is committed to ensuring that the Welsh language is treated no less favourably than the English language when elections are held in Wales.

During the legislative scrutiny of the Local Government and Elections (Wales) Act 2021, concerns were raised about the office of Returning Officers (ROs) not being subject to any legal duties in relation to the Welsh language. Ministers therefore committed to consider this issue in future legislation on the reform of the electoral administration.

To date, ROs have, in practice, been complying with the spirit of the Welsh Language Standards when providing some services. The Welsh Language (Wales) Measure 2011 makes provision for the specification of standards of conduct in relation to the Welsh language known as the Welsh Language Standards.

However, this matter is quite complex because there are some interconnected issues to be considered. Firstly, the role of ROs, being varied and depending on

the type of election and its legal requirements (including where there are combined polls at devolved and reserved elections), secondly their statutory independence as officeholder, and last their accountability for the elections being administered.

ROs do not fall under one of the categories of bodies listed in Schedule 6 of the Welsh Language (Wales) Measure 2011 and there is not currently any legal duty on them to comply with the Welsh Language Standards.

However, guidance issued by the **Electoral Commission** sets out that:

“ROs in Wales are also required to have regard to the Welsh Language Act 1993 and the Welsh Language (Wales) Measure 2011, which require services in Wales to be delivered equally in English and in Welsh”.

## Chapter 5: building democratic health

### Section A: for voters

A wide body of research argues that the availability, quality and accessibility of information available to voters is lacking. **The Doing Democracy Better report**, based on research by the University College of London’s Constitution Unit, states that:

“Voters are currently badly let down by the quality of campaign information and discourse”.

A lack of knowledge and understanding is a key barrier to people taking part in democratic life, including elections. One of the key findings from the **Welsh Government-commissioned research published in 2020** was:

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“ “A lack of knowledge, finding politics confusing and unappealing and general disillusionment were key engagement barriers”. ”

This lack of knowledge is not exclusive to elections but to politics more generally. Participants in the research expressed confusion about the differences between the levels of government and who is responsible for the delivery of services.

Local authorities and the Electoral Commission provide information to voters about the electoral register, ways to vote, when an election is taking place and polling details. However, information about candidates and/or political parties to help voters make an informed decision is sometimes unavailable or inaccessible. Wider information about the importance of taking part in an election is even more disparate.

## **Accessible voter information**

Currently, a range of organisations provide information to voters. The Electoral Commission is the independent body which oversees elections and regulates political finance in the UK. They have a duty to promote public awareness of electoral systems (section 13 Political Parties, Elections and Referendums Act 2000). The Electoral Commission run campaigns, so people know when the deadlines are for registering to vote, and applying for postal and proxy votes, as well as ensuring that people have all the information they need to vote, including how to find their polling station.

Local authorities are responsible for providing voters with ‘procedural information’ on such matters as when an election is taking place and how and where voters can cast their ballots. Typically, this information is provided by the council via communications like the annual canvass, Household Notification Letters, and poll cards.

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Candidates standing in local government elections are now required to declare if they have been members of a registered political party, other than that shown in their candidacy, in the twelve months prior to the election. However, there is no legal requirement for additional ‘factual information’ to be collected and provided to voters about candidates and/or political parties to help voters make an informed decision on how to cast their vote.

Our 2017 Electoral Reform in Local Government in Wales White Paper asked about the provision of candidate statements, and whether respondents agreed that each candidate should be required to provide a personal statement for inclusion on a website provided by the authority to whom they are seeking election. 84% of respondents supported this proposal, or 89% of respondents to the youth-friendly version. A key reason cited in support was that such a move would improve democracy and voters' understanding of what a candidate stood for.

The Welsh Government originally made provision for the publication of candidate statements in the draft Rules for the 2021 local elections, which were consulted on with stakeholders. Following responses to the consultation, we decided to remove these provisions from the final Rules given concerns expressed about the administrative and legal burdens for Returning Officers.

Some digital solutions to this information gap have been developed by not-for-profit organisations like the Democracy Club, who provide citizens with information to make participation easier. However, these solutions tend to be delivered by organisations that rely on volunteers and with unpredictable funding.

The Welsh Government is considering how provision for candidate statements can be taken forward, including whether centralising and simplifying the provision of voter information should be a statutory responsibility of a body with access to secure funding.

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## **Improving accessibility of electoral process for underrepresented people**

Some people, particularly disabled people, can find it particularly difficult to access the electoral process. This includes the issue of accessibility of the information discussed above being particularly acute and some physical barriers faced in independently casting a vote.

The Welsh Government is committed to using the Social Model of Disability in all aspects of its work. The Social Model of Disability tells us that individuals may have an impairment or difference, but it is society that disables them by the obstacles we put in their way. Using the Social Model requires that barriers are removed so that disabled people are able to participate fully.

Discussions with stakeholders have suggested support for a reliable, trusted and easy to access source of information, which should take into account the need for information to be provided in other formats, for example easy read. We have been told some disabled people, particularly people with learning disabilities and their carers, are not aware they are eligible to vote. Information may be available but is not always easy to access.

We are continuing to work with organisations that support disabled people and carers to encourage voters to register and signpost them to support available to help them exercise their vote. As part of this work, we will consider information needs in languages other than English and Welsh, and how information can be provided in a convenient, accessible and trusted way; including for voters who cannot or do not wish to access information digitally.

We are also keen to explore how we can encourage political parties to produce accessible materials. We are aware of a number of organisations who can support best practice in terms of engagement and propose working collectively with these organisations, political parties, the Electoral Commission and others

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to produce best practice guidelines, and to set out accessibility standards that should be considered when designing election publicity material.

There is robust evidence (for example, the Electoral Commission's report, '[Elections for Everyone](#)' and the UK Government's '[Access to Elections: Call for Evidence](#)') disabled people face physical barriers when trying to exercise their right to vote. We want to ensure the physical environment in which voting takes place is accessible for all voters, and are working with the Electoral Commission, electoral administrators and other stakeholders to consider whether changes can be made to guidance and training for polling station staff to better support disabled people.

We will also consider changes to electoral legislation to ensure devolved elections can be administered in a manner that is accessible for all, while also safeguarding the integrity of the elections. Our ongoing conversations with stakeholders and other governments in the UK have identified innovations which could be used to help disabled people vote whilst also protecting their right to cast their vote in secret. The Elections Act 2022 amended Schedule 1 of the Representation of the People Act 1983, which previously required Returning Officers at reserved elections to provide each polling station with a device for voters with sight loss. The 2022 Act replaces this with 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.

We want to consider what measures can be put in place to make it easier for disabled people to vote independently, and how that can be achieved in a way that is flexible and ensures the assistance provided reflects the needs of voters. This will include further stakeholder engagement and consideration how an amendment to legislation, similar to that in the Elections Act 2022, could best operate.

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## Education

The extension of the voter franchise to 16 and 17 year olds for Senedd and local government elections in Wales, allows them to participate in the democratic process when they are more likely to be in a stable environment and in education. This would not be the case for all young people and we will continue our efforts to ensure that all young people have the same opportunities to participate, regardless of their circumstances.

The **Curriculum for Wales**, which began its roll-out in September 2022, is the biggest reform in devolved education in Wales to date. The underpinnings of the previous curriculum were developed over 30 years ago in a wholly different cultural and technological context. To better reflect the world we live in and to ensure that we equip our learners for the world ahead of rapid technological, social and economic change, the new curriculum has been designed to better prepare our children and young people to thrive in a future where digital skills, adaptability and creativity, alongside knowledge, are crucial.

Our legacy to the next generation of our children and young people is that they are able to lead fulfilling personal, civic and professional lives in our modern democracy. That is why the **4 purposes** sit at the very heart of the Curriculum for Wales's framework and outlines our aspirations for every learner in Wales. Crucially, one of these is to help learners develop as ethical, informed citizens of Wales and the world. For our learners to realise the 4 purposes, high expectations are set for everyone, promoting individual and national well-being, tackling ignorance and misinformation, and encouraging critical and civic engagement.

The four purposes are supported by 27 statements of what matters, across six Areas of Learning and Experience. Collectively these represent what we want for all educated 16 year old learners in Wales. The statements of what matters are mandatory under **Statement of What Matters Code** within every school's

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curriculum ensuring consistency across Wales.

The Humanities Area of Learning and Experience, as well as the Health and Well-being Area includes “what matters” statements that outline the mandatory learning for all learners. These include learning that helps learners in understanding and applying their democratic and their legal rights and protections. One such example of a what matters statement is “Informed, self-aware citizens engage with the challenges and opportunities that face humanity, and are able to take considered and ethical action.” This will support learners to participate in decision-making and share opinions and evidence with decision-makers and elected representatives in their community. Mandatory aspects of this statement include:

- helping learners to consider the impact of their actions when exercising their democratic rights and responsibilities
- developing learners’ understanding of their responsibilities as citizens of Wales
- helping learners identify with and contribute to their communities
- developing learners as self-aware, informed, ethical global citizens

As the Curriculum for Wales is rolled out, the Welsh Government will work closely with our education partners in our regions and local authorities to develop a coherent and sustainable framework for supporting schools to ensure learners progress in this area of learning. We want to ensure that learners have opportunities to increase their understanding of democracy and the role they must play as citizens in an engaging way that promotes a lifelong habit of participation.

To deliver the new curriculum effectively and realise our shared vision, it is vital that our schools have the support, understanding and resources. We have developed resources to help our young people develop as ethical, informed citizens who understand their rights and exercise their democratic responsibilities and ensuring politically neutral materials for our teachers to

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teach this area with confidence.

## Section B: for candidates

The safety of people standing to represent their local communities as candidates to the Senedd or local authorities has become an increasing concern over recent years. While serious incidents thankfully remain rare, according to the Local Government Association’s Councillors’ “Guide to Handling Harassment, Abuse and Intimidation”, we intend to support candidate broadly in two areas: changes we will make to the Undue Influence Offence and broader measures we intend to take forward to monitor and tackle a growing issue.

### Strengthening of the undue influence electoral offence

The Elections Act 2022 introduced for reserved elections new language to modernise and strengthen one of the classic electoral offences, Undue Influence. Others electoral offences are ‘bribery’ and ‘treating’. All are labelled ‘corrupt practices’ in electoral law and carry an additional electoral sanction.

This change followed a number of different reports and consultations on electoral offences in recent years. In 2016, in its review of electoral law the Electoral Commission recommended that the offence should be redrafted and modernised. Sir Eric Pickles in his report **Securing the Ballot** also advised that the offence should be strengthened. In 2018, the UK Government launched the consultation ‘**Protecting the Debate: Intimidation, influence and information**’ asking whether the offence should be redrafted and what it should cover. The language inserted into the Representation of the People Act 1983 by the UK Government’s Election Act 2022 subsequently clarifies the offence in two important ways, damage to a person’s reputation and the importance of intent.

We now also intend to update the definition of the offence in relation to devolved

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elections, replicating the revised language set out in the Elections Act 2022. This will strengthen the definition of Undue Influence with regard to the intent to commit an act and also with regard to damage a person's reputation.

## **Other measures we propose to take on candidate safety**

The Welsh Government recently commissioned the Wales Centre for Public Policy (WCPP) to assess existing evidence around a number of key electoral issues. This included whether electoral candidates, particularly those from under-represented groups, are deterred from seeking election by fear of abuse, including harassment and intimidation.

The **WCPPs report Reform of Electoral Law and Practice** indicated that where evidence was available that abuse can be gendered and racialised. Despite the lack of detailed data, there is also evidence to suggest this can be an issue for some candidates. This is reflected in evidence collected from local councillors, the General Election Survey 2017 and reports in social media and press, which detail online abuse through to threats to the physical safety of the candidate, families and property.

There are already several actions being taken by key stakeholders. For example, the Electoral Commission, and the National Police Chiefs' Council issued their **Joint Guidance for all Candidates** on safety measures which may be taken. The WLGA also provides supporting material that focus on early intervention for elected members and also facilitated a Fair and Respectful Campaign pledge prior to recent election.

However, while we are building the evidence base to allow us to take more targeted actions to help reduce instances of abuse of electoral candidates, we propose to focus on the following short and long-term actions:

- evidence: we would like to collect information from candidates post-election

to develop our evidence base on the type and frequency of abuse encountered and the personal impact that may have

- communication: we are considering what communications could be helpful in reducing abuse in campaigns, this could include in schools, or inclusion in a national communication campaign in advance of major elections
- costs: to ensure fairness in electoral campaigns, candidates may only spend a certain amount on their campaign, commonly referred to as election spending limits. We could introduce legislation to exempt spending on safety-related necessities or for protection of persons or property during campaigns
- support and advice: some support is already available to candidates on personal safety and online abuse. It may be helpful to better signpost this information to candidates, possibly supplemented with training in advance of major elections. This could be a responsibility of the Electoral Management Board discussed above
- campaign pledge: additional consideration could be given to encouraging all candidates to sign up to a campaign pledge, similar to WLGA's "Fair and Respectful campaign" pledge in advance of the 2022 local elections
- online abuse: the UK Government's Online Safety Bill is currently being considered in Parliament. This will place duties on certain companies to remove illegal content and to address harmful material in line with their terms and conditions and will place further duties on Ofcom as the regulator. We are monitoring the implications for devolved elections as this Bill makes its way through Parliament
- statement of persons nominated: the rules for local and Senedd elections could be amended to require that the SOPN form includes a standard description of the geographical qualifications for standing as a candidate to remove local pressure on candidates to publish their home address

## Access to Elected Office Fund

Another strand of our work to promote greater diversity amongst elected

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representatives is the establishment of the 'Access to Elected Office Fund'. The aim of the current fund is to support disabled candidates in devolved Welsh elections for the costs they incur when campaigning such as palantypists. Any support received from the Fund is excluded from candidates' spending limits. The Fund was established on a pilot basis for the 2021 Senedd and 2022 local government elections. We are awaiting the final evaluation report, but early indications are the Fund was valued and well received.

In light of this, and our Programme for Government commitment to extend the Fund to support for candidates from other underrepresented groups, we propose to legislate to require the Welsh Ministers to maintain an 'Access to Elected Office Fund' which is available for all devolved Welsh ordinary and by elections. We propose, following consultation with stakeholders and interested parties, the Welsh Ministers will be able to set out the scope of the scheme in regulations within parameters linked to the purpose of the Fund set out in primary legislation. The proposed parameters are to provide support for candidates from underrepresented groups.

## **Local government candidates' survey**

Since 2011, local authorities are legally required to monitor the equality and diversity of candidates seeking election to county and county borough councils and community and town councils. Questions may be asked about gender, sexual orientation, language, race, age, disability, religion or belief, health, education or qualification, employment, and work as a councillor.

The purpose of the survey is to understand the characteristics of the candidates, and those who are elected as councillors; and to understand how the profile of this group changes over time. The information collected from the surveys enables Welsh Ministers to understand the impact of policies aimed at widening participation in local government and to support future policy development.

Surveys have been undertaken in 2012, 2017 and again for the May 2022 local government elections. In advance of each election the survey questions have been reviewed and changes to those questions were made in regulations. This is because the survey once set cannot be changed without making regulations. In addition, there is no flexibility for local authorities to include questions they might wish to ask to inform local policies.

Removal of the requirement to set out the specific wording of the survey in regulations (secondary legislation) will make it easier to change aspects of it as policy develops. We believe, in future, the wording of the survey should be reviewed by a group of key partners, including local government, representatives of equality groups and other interested parties. Recommendations would then be made to Welsh Ministers to change or improve the survey. We believe these recommendations would form a core set of all Wales questions. Not defining this core set of questions in regulations would also mean that principal councils could add questions aimed at providing information about local initiatives. We believe this approach provides for consistency across Wales, continuity of the time series of the data set and also enables local flexibility to add questions.

## Chapter 6: modernising Welsh elections

### Advance voting

In May 2022, as part of four pilots schemes that were delivered in respect of the local government elections, voters in Blaenau Gwent, Bridgend, Caerphilly and Torfaen were given the opportunity to vote in advance of polling day, and had additional flexibility over where they voted. The Electoral Commission is required by law to evaluate any such pilot schemes, and it published its report on these schemes on 2 August 2022.

The Electoral Commission found that the pilots were well run and that there

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were no notable issues on either the advance voting days or polling day. Voters were satisfied with their experience of voting early and welcomed the flexibility and additional choice it afforded them. However, the opportunity to vote early did not increase voter turnout in the areas trialling the pilot schemes. The Electoral Commission concluded that this was not unexpected as people's decision to vote is driven by several factors. The Electoral Commission was unable to judge from the evidence of the pilots what impact advance voting, if introduced more widely, would have on voter turnout over time. Although the pilots were well run, the Electoral Commission was clear that further work would be needed to develop any future policy and supporting administrative structure before a decision could be taken on whether advance voting should be rolled out more widely.

We are keen to bring the ballot box closer to people's lives and make voting as easy as possible for voters. We need to consider the Electoral Commission's evaluation report carefully to consider whether enabling advance voting and voting at alternative venues, such as colleges, schools, workplaces or places where there are large gatherings of people, would assist in delivering this aim, and whether this should become normal practise in devolved elections (local government and Senedd Cymru elections) in the same way that postal voting and proxy voting has, and we are keen to hear your views on this proposal.

## Reforming postal and proxy voting

We are conscious of the divergence of reserved elections from our existing system following Elections Act 2022, which may create confusion and complexity for administrators and voters. This could have a knock-on effect for people being able to vote in absentia. The impact of the UK Government's change to a 3 year renewal cycle for absent vote applications must be considered against the implications of the divergence. Without a change the current divergence in renewal times could result in different sets or personal identifier being held for the same elector.

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The UK Elections Act 2022 contains powers to establish an Online Absent Voting Application system for reserved elections. While the system and approach were welcome, and a single system would have been simpler for voters, the inclusion of enhanced ID verification within the system made this inappropriate, amendments were laid to carve non-reserved elections out of the provisions.

We are in the process of considering both short and long-term options for a similar system for devolved elections. We are keen to gauge views on the range of options from a fully online system similar to the one intended by the UK Government to a central application portal providing voters with prefilled applications for them to return by post.

## Postal vote ballot tracking

The number of Welsh voters using postal voting has continued to increase in recent years. At the Senedd Election in 2021, over 458,000 postal votes were issued in Wales, this represents an increase of more than 16% since 2016.

One of the principal concerns about postal voting amongst electors is that postal ballot packs will not be delivered in time to be counted. Despite the reliability of the postal voting system and low rejection rate of postal votes, public confidence in the safety of postal voting lags behind at 68% according to research undertaken by the Electoral Commission.

In addition, there is not currently a mechanism for Electoral Administrators to inform an elector of an error in their Postal Vote Statement or seek a correction. Voters are usually only informed that their vote has not been counted after the election. The most common errors relate to providing the required personal identifiers, the voter's signature and date of birth (or date of birth in the case of an anonymous voter) on the Postal Vote Statement. In Wales, errors resulted in



3.8% of all postal ballots being rejected during the 2021 Senedd Election.

One of the key recommendations of the [Wales Centre for Public Policy's report on Electoral Reform](#) was to provide a process for voters to be able to correct an error made in their Postal Vote Statement to reduce the number of rejected ballots. Due to uneven and unpredictable volumes of postal votes that are received in the run up to an election, Electoral Administrators have generally considered manual solutions to be too time consuming and costly to manage within their existing electoral teams.

Postal ballot return tracking facilities were successfully **piloted** by 2 local authority areas in England during the 2006 local government elections. The Electoral Commission concluded that these type of electronic tracking facilities have the potential to address voter concerns about the perceived unreliability of the postal delivery service. The tracking systems trialled during these pilots allowed local authorities to electronically scan and cross match postal vote statements and postal ballots to identify which ballot packs had been returned and provided a web-based facility that enabled voters to check whether their postal ballot packs had been received by the Returning Officer.

We are interested in exploring the introduction of a postal vote e-tracking system that would allow for the processing of incoming Postal Vote Statements and provides a mechanism to notify electors of errors so that corrections can be made in time to ensure that their postal votes are counted. We believe that an electronic system such as this would help to reduce the number of postal votes rejected and would have a positive impact on public confidence in the postal voting system by providing electors with live updates on the progress of their postal ballots.

It is likely that the development and introduction of a postal vote e-tracking system in Wales would be incremental. Initially this could involve the establishment of a simple delivery notification and error notification system. In the future there is potential for it to provide a broader system for engagement

with voters through the inclusion of things such as voter information, candidate statements, elections results and post-election engagement.

## Digital registers

The use of digital registers in some local authorities during the flexible voting pilots in May 2022 demonstrated their viability as replacement for hardcopy Registers and corresponding number lists (CNLs). Electoral Administrators who have adopted the system have noted benefits in efficiency and staff usability.

The additional flexibility in the delivery of elections was shown within the Electoral Commission's evaluation of the 2022 Pilots. They allowed for quicker turnover for producing marked registers between polling days for advance voting. The live register functionality also allowed for electors to be eligible to vote in multiple locations. This would be essential for any future electoral reforms looking to allow electors to vote in any polling station within their area.

Feedback from Electoral Administrators who have employed the system has been positive with many wishing to continue using the system. Feedback from other Electoral Administrators has been mixed with questions around the cost and reliability of the system.

Examination and testing of existing Digital Register systems has shown them to have comparable levels of security to the traditional process. A review of the rules on the conduct of local government elections will be required, especially around the post-election storage of registers, to facilitate more convenient use of digital registers.

There is now strong evidence of the benefits of using Digital Registers in terms of convenience for voters, election staff and administrators. While we are not proposing to mandate the use of Digital Registers for devolved elections in Wales in the short-term, we will continue to facilitate and encourage their uptake.

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We would be interested to hear your thoughts on the use of Digital Registers for non-reserved elections in Wales.

## Chapter 7: improving our democracy

### Training for elected members

The Local Government (Wales) Measure 2011 requires county and county borough councils to secure the provision of ‘reasonable training and development’ for their members’. While the term ‘reasonable training and development’ is not defined, guidance to local authorities sets out subjects that should be included in member training programmes. These subjects include induction, standards of conduct, equality and diversity and undertaking their role as a local member. The Local Government and Elections (Wales) Act 2021 requires town and community councils to prepare and publish training plans for their members and guidance suggests the training should cover similar subject areas.

At present all training and development for councillors is taken forward on a voluntary basis, with individual councillors choosing whether to attend. While many councillors engage with the opportunities offered to them, others take the view that as volunteers, elected by the public, they should not be compelled to attend training activities. While accepting individuals put themselves forward on a voluntary basis to stand for election, once elected, councillors play a significant role in society and have many responsibilities. For example, the case work of councillors involves helping people, often when they are at their most vulnerable. Councillors can also influence decisions about the everyday lives of people in their area through various decision-making processes such as their membership of planning and licensing committees.

Each councillor has a different set of knowledge, skills, and experiences of

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life. However, with any role in society, especially those which exist to assist and represent others, there is an expectation councillors have the necessary level of knowledge and expertise to undertake activities on behalf of others. In addition, councillors need to put themselves in a position where they are not contravening legislation or endangering their personal safety or the safety of others. To do this they need to have a good understanding of things such as equality and diversity legislation, standards of conduct, working through social media and lone working.

As part of our work to support and encourage diversity amongst elected members, stakeholders have suggested mandating specific training for councillors. A programme which identifies areas of awareness and training all councillors should receive, with the training requirements building as councillors take on additional roles, such as a member or chair of a committee.

If mandatory training were introduced, there would be two aspects to be considered. The first would be the requirement for councils to provide the training including consideration of what levels, type and extent of training would be specified as mandatory. This would need to be considered to ensure councillors across Wales had access to the same quality and extent of mandatory training.

Secondly, we believe it would be important for candidates to understand and agree to undertaking the training in advance of being elected. This could be achieved through a declaration at the point of nomination that individuals understand and are willing to undertake mandatory training and reinforced by the oath of office if elected. The latter provides the opportunity for introducing sanctions under the ethical code of conduct if mandatory training is not undertaken without good reason. This would provide the candidate with a clear message they are expected to undertake appropriate training and would avoid individuals being elected and only then discovering they are required to undertake specific training.

Whilst we do not intend to legislate on this issue in this Senedd term we are interested in your views to inform future policy development.

## **Changes to the disqualification regime for Local Councillors from also serving as Members of the Senedd**

We are considering whether to make changes to the current disqualification regime for election to the Senedd, in particular:

- disqualifying town and community councillors in Wales from serving as Members of the Senedd, bringing arrangements into line with the disqualification regime for principal council members in Wales
- removing the “grace period” for all councillors elected to the Senedd, and for the Members of the Senedd elected as councillors. Each proposed change is explained in turn

## **Disqualification of Town and Community Councillors from serving as Members of the Senedd**

In 2014, the then National Assembly for Wales’s Constitutional and Legislative Affairs Committee **called** for the Welsh Government to review whether it was appropriate for an Assembly Member (known as a Member of the Senedd (MS) since 6 May 2020) to also serve as a county councillor. The Welsh Government felt that dual membership of the Senedd and a principal council was undesirable, time commitments of holding dual posts were incompatible and presented potential conflicts of interest. For this reason, the Welsh Government brought forward provisions as amendments to be included in the **Senedd and Elections (Wales) Act 2020 (part 4 Disqualification)** so that members of principal councils were disqualified from becoming members of the Senedd.

At that time, it was felt that the concerns and issues identified for principal

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councillors were less relevant to town and community councillors, whose role and responsibilities appeared to be different than those of principal councillors. This distinction has become less clear over time, particularly in the light of the recent introduction of the general power of competence for eligible community councils (see section 24 and Chapter 2 of [the Local Government and Elections \(Wales\) Act 2021](#)) which gives a qualifying council the same power to act that an individual generally has, enabling them to act in innovative ways.

Moreover, town and community councillors play a vital role in representing the interest of their communities and influencing decision-makers (see [The Good Councillor's Guide for Community and Town Councillors](#)). They can have several roles in their communities, have numerous legal powers and can make decisions on services and assets. Therefore, it is felt the concerns and issues identified for principal councillors also extend to town and community councillors. A significant number of principal councillors are also town and community councillors (“dual-hatted”), especially in large councils. This strengthens the need to bring arrangements for town and community councillors into line with the disqualification regime for principal council members.

We therefore propose disqualifying town and community councillors in Wales from serving as Members of the Senedd, to bring arrangements into line with the disqualification regime for members of principal councils.

Removal of the “grace period” for all councillors elected to the Senedd and for the Members of the Senedd elected councillors.

## **Removal of grace period for councillors elected to the Senedd**

Section 17E of the Government of Wales Act 2006 provides that principal councillors are not disqualified from becoming a Member of the Senedd where the next ordinary council election is due to take place within 372 days (“the

grace period”).

The grace period was conceived to avoid a casual vacancy and therefore a possible by-election or a vacant seat for up to 6 months at county and county borough council level in the 12 months before an ordinary election. If this vacancy arises outside of the grace period and the successful candidate is a member of a principal council, then (subject to section 17D of Government of Wales Act 2006) it will trigger a by-election in that member’s principal council.

During the grace period, principal councillors are entitled to remuneration for both roles. This places some principal councillors in a privileged position.

Whilst town and community councillors are not remunerated in the same way, the issues relating to conflicts of interest are still relevant and it could appear that those Senedd members who are town or community councillors are in an advantageous position over and above their peers for the grace period. This is because they have more access to Welsh Ministers through proximity and through the scrutiny process and form part of the legislation making body which sets the legislative framework for town and community councils.

We are interested in views on whether the current grace period for principal councillors elected as Members of the Senedd should be retained and whether there should be a grace period for town and community councillors who are elected as Members of the Senedd.

Removing the grace period would mean that if a member of a principal council or town or community council is elected as a Member of the Senedd and takes up that seat, the councillor’s seat will become vacant, and this may trigger a by-election at the local level (the outcome will depend on whether the relevant person is a member of a principal council or a town or community council and also when the vacancy arises).

## Removal of grace period for Members of the Senedd elected councillors

Section 17F of the Government of Wales Act 2006 makes corresponding provision for Members of the Senedd who are elected as principal councillors. In this scenario, the MS is not disqualified where the next ordinary Senedd election is due to take place in 372 days (“the grace period”). For the same reasons as outlined in respect of principal councillors elected as MSs, we therefore propose removing the current grace period for Members of the Senedd who are elected as principal councillors and not to introduce a grace period for Members of the Senedd who are elected as town and community councillors.

Currently if a Senedd seat is vacated during a Senedd term then it will either trigger a constituency by-election (unless the vacancy is created within the 3-month period before the next ordinary general election), or for regional seats the next candidate on the list will usually be sworn in.

The latter will be true under the proportional list system, proposed under the Senedd Reform Programme. When a vacant seat arises (for example, due to a member resigning or passing away), this would usually be filled through the next candidate on a party’s list gaining that seat. And therefore, there will not usually be a need for a by-election to be run for the Senedd seat. The development of policy on casual vacancies will be considered as part of the Senedd Reform programme.

## Impact assessments

We have published a draft Integrated Impact Assessment (IIA) and Regulatory Impact Assessment (RIA) alongside this White Paper, to provide best estimates for costs, benefits and impacts of the proposals. We will gather more information to bolster these assessments as we develop proposals following this

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consultation. We would be grateful for your views on the assumptions and the approach set out.

## Consultation questions

We would be keen to hear your views on these proposals, in particular on:

### Chapter 1

#### Question 1

To what extent do you agree or disagree with the 6 principles for electoral reform of equity, accessibility, participation, improving citizen experience, simplicity, integrity?

### Chapter 2

#### Question 2

Should the Welsh Government commit resource to considering how electronic remote voting could operate for devolved elections?

#### Question 3

What impacts, if any, do you think the proposed introduction of an all-Wales database of electoral registration data would have on the electoral process (such

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as registration and electoral services)?

Please consider the potentially positive and negative impacts and provide evidence to support your response, where available. Please comment on each characteristic individually.

#### **Question 4**

What are your views on the application of Elections Act 2022 provisions on (a) digital imprints for digital campaign material, and (b) online nominations?

#### **Question 5**

Should principal and town and community councils revert to four year terms?

### **Chapter 3**

#### **Question 6**

To what extent do you agree or disagree that the franchise for devolved elections should be restated in one bi-lingual Welsh Act?

#### **Question 7**

From your perspective, should the franchise reflect the changes in the status of EU citizens now the UK has left the EU?

## Question 8

How can we best help people understand they have been automatically registered and feel confident that their data is protected, especially for people who may be vulnerable or wish to register anonymously?

## Question 9

To what extent do you agree with the removal of the open register in relation to devolved elections?

## Question 10

Should the Welsh Government place a duty on local authorities to have data sharing agreements within the authority itself, and where applicable, with other authorities or organisations?

## Question 11

Are there any specific aspects of automatic registration that should be piloted before we move to an all Wales roll out?

## Question 12

To what extent do you agree or disagree that students should have the option to register to vote whilst enrolling at university?

## **Question 12a**

Should any data that is provided be subsequently shared, via a data sharing agreement, with the relevant Local Authority's Electoral Services Team?

## **Chapter 4**

### **Question 13**

Do you agree that a statutory Electoral Management Board for Wales should be established?

### **Question 14**

If answered Strongly Agree or Agree to Question 13, what should its functions be?

### **Question 15**

Should the Electoral Management Board have powers to issue directions to Returning Officers and Electoral Registration Officers?

### **Question 16**

Should the Electoral Management Board have the power to issue advice to Returning Officers and Electoral Registration Officers on the carrying out of their functions?

## **Question 17**

What are your views on who should be members of the Electoral Management Board and how they should be appointed?

## **Question 18**

To what extent do you agree or disagree with our proposals to provide for greater electoral certainty by extending the statutory time during which no final electoral review reports can be published and no electoral review orders may be made?

## **Question 19a**

At which point in the electoral cycle should the Commission be prevented from publishing electoral review reports:

## **Question 19b**

Do you agree the Commission should, as far as possible, be required to schedule electoral reviews within two years of a community review being completed?

## **Question 20**

To what extent do you agree or disagree with the suggested proposals for setting maximum review and decision making periods?

## Question 21

What are your views on whether a power to pause the conduct of electoral reviews should be included in legislation?

## Question 22

To what extent do you agree or disagree with the principle of a common, extended list of mandatory consultees for all parts of the electoral review process?

## Question 23

To what extent do you agree or disagree that requirements to engage with eligible voters as part of the electoral review process should be strengthened, including in respect of ward names?

## Question 24

To what extent do you agree or disagree with the proposals to amend and extend the considerations the Commission must take into account when determining electoral arrangements which maximise effective and convenient local government?

## Question 25

Do you agree with our proposals requiring the Commission to undertake a further consultation where a recommendation in its proposed final review report is not one of the options it consulted upon in its draft report?

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## Question 26

Do you agree with our proposals to enable Welsh Ministers to require the Commission to revisit a part of an electoral review before they make an electoral review order?

## Question 27

Are there any further changes to the electoral review process that should be considered?

## Question 28

To what extent do you agree or disagree that the purpose of the six-week representation period should be clarified in the legislation?

## Question 29

Do you agree that Welsh Ministers should be required to consider any representations received during this period before taking any action to direct the Commission to undertake further work or implement, modify or not implement the recommendations set out in the final recommendations report?

## Question 30

To what extent do you agree or disagree that legal requirements on the Commission to provide hard copies of documentation should be removed, except for when they are requested?

### **Question 31**

To what extent do you agree or disagree with the proposals for legislative change in relation to community reviews?

### **Question 32**

Please provide any further comments on how you think the process of conducting community reviews could be improved.

### **Question 33**

To what extent do you agree or disagree that seaward boundary review arrangements should be revised to include the ability for the Commission to undertake reviews relating to multiple local government areas and the expansion and contraction of seaward boundaries in a single review process? Should those arrangements to be included in the same review order?

### **Question 34**

Do you agree with our proposals to transfer the functions of the Independent Remuneration Panel for Wales to the Commission?

### **Question 35**

Do you agree that functions relating to the determination of the salaries of chief executives should be abolished and not transferred?



### **Question 36**

What do you think about the idea that new powers should be created to enable determinations to be made about parachute payments for councillors?

### **Question 37**

Do you agree with our proposal for Wales to maintain a single regulatory framework on political finance for reserved and devolved elections in Wales, where appropriate?

### **Question 38**

Please provide any further comments on the specific measures under consideration regarding political finance.

### **Question 39**

What types of innovation in electoral administration would you like to see piloted in the future?

### **Question 40**

How could we facilitate a more varied mix of local authorities participating in future pilots?

## Question 41

What are your views on a power of direction for Welsh Ministers which would enable them to compel a local authority to pilot electoral innovations?

## Question 42

Should Returning Officers be subject to specific Welsh language requirements when elections take place?

## Question 43

Are there any types of services you would like to see Returning Officers providing in Welsh?

## Question 44

Have you ever experienced any issue related to the Welsh language during elections?

## Chapter 5

### Question 45

Should the Welsh Government consider making provision for an online voter information platform? What information should be provided on the platform and who should host it?

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## Question 46

Who would need to provide information to an online voter information platform and how could they be supported to do so?

## Question 47

What should be done to encourage political parties to produce accessible materials?

## Question 48

To what extent do you agree or disagree that that the returning officer at devolved elections should be under a duty to provide such equipment as it is reasonable to provide for the purposes of making it easier for disabled people to vote?

## Question 49

What support should be put in place to ensure the returning officer is able to effectively discharge that role?

## Question 50

Do you think the Welsh Government should specify in regulations the type of assistance which must be offered to disabled voters in polling stations?

## Question 51

What sort of assistance do you think should be offered to disabled voters in polling stations?

## Question 52

In addition to provisions in the Curriculum for Wales, are there any other measures that the Welsh Government should put in place through the education system to ensure that learners in Wales can confidently take part in Welsh elections?

## Question 53

To what extent do you agree or disagree that the definition of the electoral offence of Undue Influence provided by section 114A of the Representation of the People Act 1983 be used for devolved elections?

## Question 54

Do you think some or all of these proposed actions described in the White Paper will help to contribute to reducing instances of abuse of candidates?

## Question 55

If an exemption from candidates spending limits for security related spending is sought, what activities should be included in that exemption?

## Question 56

Will the proposed addition to the standard wording included in the Statement of Persons Nominated form have the desired effect of reducing occurrences of abuse or would different measures would be more effective?

## Question 57

What other actions would contribute to reducing instances of abuse of candidates?

## Question 58

Should Welsh Ministers legislate to require the establishment and maintenance of an 'Access to Elected Office Fund'?

## Question 59

Should this Fund be available to support candidates from under-represented groups for all devolved Welsh ordinary and by-elections?

## Question 60

If you agree the Fund should be a requirement set out in primary legislation, what should be the parameters within which the Fund should operate?

## Question 61

To what extent do you agree or disagree that the requirement to set out the Local Government Candidates' Survey questions in regulations should be removed?

## Question 61a

If Strongly Agree or Agree, should the survey be updated through a formal review process involving key partners?

## Question 62

Do you agree there should be flexibility for local authorities to ask questions about local widening participation measures?

## Question 63

Do you agree questions should be included in the survey about candidates' experiences of abuse and harassment (see the section on "other measures we are taking to ensure candidates safety")?

## Question 64

Do you think Welsh Ministers should approve the full set of questions or only the core all-Wales questions?

## Chapter 6

### Question 65

What are your views on the impact of maintaining the current renewal time of 5 years in light of the Elections Act 2022 changes?

### Question 66

Would you like to see advance voting and /or voting in a range of venues offered for devolved elections across Wales?

### Question 67

Do you support the introduction of an online absent voting application system in Wales? If yes, what would you like to see in place?

### Question 68a

Do you think that such a system would help to reduce the number of postal votes rejected due to errors on PVS' and help raise public confidence in the postal voting system?

### Question 68b

Could a manual system be used to do this?

## Question 69

Would the introduction of a postal ballot tracking system, such as that described above, create a significant administrative burden on local authority electoral teams?

## Question 70

Do you support the introduction of a postal vote e-tracking system in Wales?

## Question 71

Do you support the wider introduction and use of Digital Registers for non-reserved elections in Wales? What are the benefits or detriments of doing so?

## Question 72

Are there any potential barriers to a wider introduction of Digital Registers?

## Chapter 7

## Question 73

To what extent do you agree or disagree that there should be mandatory training and development for councillors?



## **Question 74**

If Strongly Agree or agree to question 73, should this mandatory training and development for councillors include principal councils and town and community councils?

## **Question 75**

If Strongly Agree or Agree to question 74, should the expectations for mandatory training be different between principal councils and town and community councils?

## **Question 76**

If Strongly Agree or Agree to question 75, what proposals would you make for areas to be included in mandatory training?

## **Question 77**

If Strongly Agree or Agree that there should be mandatory training, do you consider candidates should be asked to confirm their willingness to undertake it as part of the nomination of candidates' process?

## **Question 78**

Should there then be sanctions for candidates who do not confirm they are prepared to undertake mandatory training?

## Question 79

Should a commitment to undertake mandatory training and development form part of the oath successful candidates must take before being able to take up their office?

## Question 80

If Yes at Q79 what sanctions should apply to elected members for then not undertaking mandatory training and development?

## Question 81

To what extent do you agree or disagree with the policy proposal to bring arrangements for Town and Community councillors into line with the disqualification regime for principal council members in Wales, so that members of Town and Community councils are disqualified from becoming a member of the Senedd?

## Question 82

To what extent do you agree or disagree that the grace period for all councillors elected to the Senedd should be retained?

## Question 83

To what extent do you agree or disagree with the approach to assessing the impacts of the proposals set out in the draft IIA? Do you have any comments?

## Question 84

To what extent do you agree or disagree with the approach to assessing the costs and benefits of the legislative proposals set out in the draft RIA?

## Question 85

Are there other areas that should be considered as we develop the IIA and RIA further?

## Question 86

Please identify any other sources of data and information that we should consider in the IIA and RIA ?

## Question 87

We would like to know your views on the effects that our proposals for electoral reform would have on the Welsh language, specifically on:

- opportunities for people to use Welsh, and
- on treating the Welsh language no less favourably than English

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

## Question 88

Please also explain how you believe the proposed policy could be formulated or

changed so as to have:

- positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and
- no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language

## Question 89

We have asked a number of specific questions. If you have any comments on any related issues which we have not specifically addressed, please tell us below:

## How to respond

Submit your comments by **10 January 2023**, in any of the following ways:

- complete our [online form](#)
- download, complete our [response form](#) and email [elections.consultation@gov.wales](mailto:elections.consultation@gov.wales)
- download, complete our [response form](#) and post to:

Elections Division  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

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Data Protection Officer  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

E-mail: [data.protectionofficer@gov.wales](mailto:data.protectionofficer@gov.wales)

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Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Telephone: 01625 545 745 or 0303 123 1113

Website: [ico.org.uk](https://ico.org.uk)

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You should also be aware of our responsibilities under Freedom of Information legislation. If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

## Further information and related documents

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