

# Creating a Parliament for Wales: Consultation document

This consultation begins on 12 February 2018 and closes on 6 April 2018



The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

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## Foreword by the Llywydd



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The *Wales Act 2017* marks the start of a new phase of devolution in Wales, giving us the opportunity to make profound changes to our legislature. We now have an opportunity to forge the national parliament that the people of Wales deserve to champion their interests and hold the Welsh Government to account; a parliament that better reflects the people of Wales and of which they can be proud.

An important step will be to use the powers in the *Wales Act 2017* to change the Assembly's name to Welsh Parliament/Senedd Cymru. We also now have the power to change the size, electoral system and internal arrangements of the institution, to create a parliament with the capacity and design to truly work for Wales.

Last year, the Assembly Commission established the Expert Panel on Assembly Electoral Reform to provide us with robust, impartial advice on the number of Members the Assembly needs, the most suitable electoral system, and the minimum voting age for Assembly election. In December 2017, the Panel published a report of its findings and recommendations. The Panel provided a clear message about this organisation's capacity to deliver for the people of Wales, and concluded that with only 60 Members the Assembly is too small to carry out its functions effectively.

I understand that calling for more politicians is unlikely to be popular. Nevertheless, in order to build a parliament that works for Wales, the Expert Panel's report says that action needs to be taken to address the capacity gap. Other ways to increase the capacity have been tried, but they have not, by themselves, been sufficient.

This consultation seeks your views on the Expert Panel's recommendations, and on other reforms to the Assembly's electoral and operational arrangements that could make it a more accessible and effective legislature. It is the beginning of a conversation with you, the people and communities of Wales, about the institution you want your Welsh Parliament to be.

A handwritten signature in black ink, appearing to read 'Elin Jones', written in a cursive style.

Elin Jones AM  
Llywydd, National Assembly for Wales

## Overview

The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

The Assembly Commission serves the National Assembly to help facilitate its long-term success as a strong, accessible, inclusive and forward-looking democratic institution and legislature that delivers effectively for the people of Wales.

The Commission consists of the Llywydd (Presiding Officer) and four other Assembly Members nominated by the main political parties in the National Assembly. It has responsibility for the provision of property, staff and services to support the National Assembly.

From 1 April 2018, the *Wales Act 2017* will give the National Assembly powers to determine its own electoral and internal arrangements. The Commission is seeking views on how the Assembly's electoral and internal arrangements could be changed.

This document:

- Explains how to respond to the consultation, and how your views will be used.
- Provides background information on devolution in Wales since 1999.
- Outlines the powers in the *Wales Act 2017* which will enable the Assembly to determine its own electoral and internal arrangements.
- Seeks your opinion on potential changes to the Assembly's electoral and internal arrangements.

## How to respond to this consultation

The Assembly Commission is keen to hear your views. We would like to hear from members of the public, academics, organisations and other stakeholders, from those who frequently engage with the Assembly and politics in Wales, and from those who would not normally do so.

The consultation period is from **12 February 2018** to **6 April 2018**.

Questions are presented throughout this document, and are also grouped together in Annex 1.

You are welcome to respond to any or all aspects of the proposals. We also welcome the submission of additional supporting written evidence where relevant.

You can respond to the consultation in the following ways:

- Via the consultation website: **[www.FutureSenedd.wales](http://www.FutureSenedd.wales)**
- By completing this response form:  
**<http://bit.ly/Future-Senedd-Response-Form>**
  - Emailing it to:  
**[AssemblyCommission.Consultations@assembly.wales](mailto:AssemblyCommission.Consultations@assembly.wales)**
  - Sending it by post to:  
**Freepost, National Assembly for Wales**

## How we will use the information you provide

### Who we are

The Assembly Commission is the data controller of the information you provide, and will ensure it is protected and used in line with data protection legislation.

### Why we are collecting this information

Your submission will be used to inform the Assembly Commission's work on reforming the National Assembly for Wales, for example in relation to its size and its electoral, operational and internal arrangements.

### What we will do with your information

Submissions will be seen in full by the Assembly Commission staff involved in the consultation. Submissions may also be seen by Assembly Commissioners and other Assembly Members. All responses to the consultation questions (including those submitted in hard copy) will be stored in Survey Monkey. Survey Monkey may store your information outside of the European Economic Area. See their website for details about how they will use your information:

<https://www.surveymonkey.com/mp/policy/privacy-policy/>

### Publication of submissions

The Assembly Commission may publish some or all of your submission to this consultation on the Assembly's website. We may also publish extracts from your submission within documents produced following the consultation and published on the Assembly's website. Any submissions that are published on the Assembly's website will remain in the public domain.

Please let us know if you would prefer that your submission or extracts from it are not published.

If we publish a submission you have provided on behalf of an organisation, we will include your name, job title and the name of your organisation with your submission. If we publish a submission you have provided on your own behalf, we will only publish your name if you have asked us to do so.

## How long your information will be retained

Responses will be stored on our own secure IT system until the Assembly Commission has completed the consultation and any subsequent work in the areas outlined in this document.

## Contacting you

We may use the contact details you provide to contact you in relation to this consultation and your submission. We may also like to contact you in the future in relation to this consultation, your submission, and the Commission's Assembly reform work. Please inform us as you respond to the consultation if you would like us retain your contact details and contact you for these purposes. If you decide to opt into further contact, you may opt out of further contact at any point by letting us know.

## Requests for information made to the Assembly Commission

In the event of a request for information being made under access to information legislation, it may be necessary to disclose all or part of the information that you provide. This may include information which has previously been removed by the Assembly Commission for publication purposes. We will only do this if we are required to do so by law.

## Your rights

Your personal data will be processed for the performance of a task carried out in the public interest by the Assembly Commission i.e. a consultation on Assembly reform. If you would like to: engage any of the rights that you have under the legislation (such as the right of access); ask a question; or make a complaint about how your information is used; please contact the Assembly's Information Governance Manager. [alison.bond@assembly.wales](mailto:alison.bond@assembly.wales).

You can also make a complaint to the Information Commissioner's Office (ICO) if you believe we have not used your information in line with the law. ICO Contact details on their website: <https://ico.org.uk/concerns/>

## Background

### Devolution in Wales

Today, the National Assembly for Wales is a very different institution from the one established in 1999 (see Annex 2 for further information on devolution in Wales). The Assembly now has the power to make laws and agree taxes, as well as holding the Welsh Government to account for the decisions it makes and the £15 billion it spends each year. As a consequence, the role and responsibilities of the Assembly and its Members have increased significantly since 1999, but the number of Members has remained at 60.

On 1 April 2018 devolution in Wales will enter a new phase. On this day, many of the provisions of the *Wales Act 2017* will come into force. Among other things, the Act introduces a new model of devolution—a ‘reserved powers’ model similar to that in place in Scotland and gives the Welsh Government new powers in certain subject areas.

A key part of the *Wales Act 2017* is that it gives the Assembly, for the first time, powers to amend parts of the 2006 Act which set out the Assembly’s electoral, organisational and internal arrangements. Previously, these powers rested with the UK Parliament.

In November 2016, the Assembly Commission announced that it would, acting on behalf of the institution, explore how the new powers in the *Wales Act 2017* might be used to reform the Assembly, including measures to address the capacity of the Assembly.<sup>1</sup>

Following the unanimous agreement of the Assembly and a period of public consultation, the Assembly Commission announced in June 2017 it wished to legislate before 2021 to change the name of the institution to Welsh Parliament/Senedd Cymru—a name which reflects the weight of responsibility

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<sup>1</sup> National Assembly for Wales Commission, ***‘Commission agrees its ambitions for the future’***, 14 November 2016

held by the legislature and its Members, and which will be recognised and understood by those it serves.<sup>2</sup>

This change aims to achieve better understanding among the public of the work of the Assembly, as well as encourage greater engagement between the institution and the people and communities it serves. However, the *Wales Act 2017* also provides opportunities to consider:

- the capacity that the Assembly needs to serve the people and communities it represents;
- potential opportunities to invigorate democracy in Wales, and enthuse and engage young people; and
- whether the balance between the robustness and flexibility of the Assembly's internal and electoral arrangements is appropriate for a mature legislature.

## Expert Panel on Assembly Electoral Reform

On 1 February 2017 the Llywydd announced that the Assembly Commission had established an Expert Panel on Electoral Reform ('the Panel') to provide politically impartial advice on the number of Members the Assembly needs, the most suitable electoral system, and the minimum voting age for Assembly elections.<sup>3</sup>

The Panel's work was led by its chair, Professor Laura McAllister CBE, Professor of Public Policy and the Governance of Wales at Cardiff University's Wales Governance Centre. Other Panel members were selected on the basis of their expertise in the fields of electoral systems, parliamentary work and capacity, the constitutional position of the Assembly, and wider issues of governance, including equalities, diversity and engagement.<sup>4</sup>

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<sup>2</sup> National Assembly for Wales Commission, **'Written statement: Assembly reform programme'**, 13 June 2017

<sup>3</sup> National Assembly for Wales Commission, **'Written statement on the Expert Panel on Assembly Electoral Reform'**, 1 February 2017

<sup>4</sup> For more information about the Expert Panel on Assembly Electoral Reform, including its membership, full terms of reference, the evidence it considered and its report, see **[www.assembly.wales/electoralreform](http://www.assembly.wales/electoralreform)**.

The Panel published its report, ***A Parliament that Works for Wales***, in December 2017. The report makes 16 recommendations for change, which the Panel believes should be implemented before the 2021 Assembly election:

“Our challenge to the Assembly is, therefore, to take this opportunity to reform the institution, to invigorate Welsh democracy, and to enthuse and energise voters by extending the franchise and establishing an electoral system founded on the principles we have identified, so that the 2021 election delivers a legislature with the capacity to represent the people and communities it serves. Our report is a call to action to the Assembly to ensure that it becomes a Welsh Parliament that truly works for the people of Wales.”<sup>5</sup>

Many of the proposals outlined in this document are based on the Expert Panel’s recommendations. We want to hear your views on the recommendations and how they could be taken forward in a way that ensures the Assembly is able to carry out its current and future responsibilities as effectively as possible.

## Proposals for reform

This document sets out proposals for the reform of the National Assembly for Wales’s electoral and internal arrangements, and the questions we would like you to answer in relation to the proposals. When answering these questions, it would be particularly helpful if you could set out any benefits, costs or risks which could arise from the proposals. Such benefits, costs or risks might apply to you personally, to the organisation you work for, or to other individuals or organisations.

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<sup>5</sup> Expert Panel on Assembly Electoral Reform, ***A Parliament that Works for Wales***, December 2017, p.218

# 1. How many Members does the Assembly need?

## Background

In 2003, the Richard Commission on the Powers and Arrangements of the National Assembly for Wales recommended that the Assembly would need 80 Members to carry out its functions effectively if it gained primary law-making powers.<sup>6</sup> While the Richard Commission's other recommendations were implemented, and the Assembly gained primary law-making powers following a referendum in 2011, there has been no change to the number of Members.

In 2014, the Silk Commission, in its reports on the fiscal and legislative powers of the Assembly, also stated that an Assembly of only 60 Members was too small.<sup>7</sup> The majority of the Silk Commission's recommendations have been implemented through the 2014 and 2017 Wales Acts, but the issue of the size of the institution has not been addressed. In January 2015, the cross-party Fourth Assembly Commission unanimously concluded that "With only 60 Members, the National Assembly is underpowered and overstretched"<sup>8</sup>

Previously, the power to change the size of the Assembly rested with the UK Parliament. With effect from 1 April 2018, the *Wales Act 2017* will give the Assembly legislative powers to determine its own size and electoral arrangements.

To inform the Assembly Commission's consideration of whether, and if so, how, these powers should be exercised, the Expert Panel on Assembly Electoral Reform was asked to look at the evidence, and make recommendations on the number of Members the Assembly needs to fulfil its role. The Panel considered:<sup>9</sup>

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<sup>6</sup> Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, ***Report of the Richard Commission***, 2004

<sup>7</sup> Commission on Devolution in Wales, ***Empowerment and responsibility: legislative powers to strengthen Wales***, 2014

<sup>8</sup> National Assembly for Wales Commission, ***The future of the Assembly and its capacity to deliver for Wales***, January 2015

<sup>9</sup> For more detail on the Panel's consideration of these issues, see Part 2 of ***A Parliament that Works for Wales***.



**What Assembly Members do:** the Panel concluded that Members have complex and varied roles as: representatives; legislators; scrutineers of policy and finance; employers with responsibilities for staff, property and contracts; and elected politicians with important responsibilities to their constituents and their political parties. Members, for example, represent their constituents by undertaking casework, leading or participating in local or national campaigns, and attending or arranging local events.

Members also scrutinise and oversee the policy, legislative and spending decisions made by the Welsh Government and other public bodies in Wales. The Panel highlighted the positive impact that this work can have on the lives of people in Wales, by improving policy, legislation and spending decisions.

The Panel noted that the Assembly's committee system provides a key vehicle for its scrutiny and oversight work. It considered the current committee structure, the Assembly's capacity to populate it, and the time Members need for preparation, research, informal engagement activity and formal meeting time. The Panel concluded that if scrutiny work is to be effective, there needs to be enough Members who are not in the Welsh Government to hold it to account. Once office holders, such as government ministers, are excluded, the small number of Members available to carry out committee work in a 60 Member Assembly means that a significant proportion of Members have to sit on two or more committees. This limits Members' ability to focus effectively on each committee's work.



**What the Assembly does:** the Panel noted that the Assembly's role and powers have increased significantly since 1999. It concluded that the pressures on the Assembly would continue to increase as a result of Brexit, the move to a reserved powers model of devolution, and the devolution of taxation and borrowing powers.



**Alternative ways to increase the Assembly's capacity:** the Panel explored the range of approaches taken by Members, the Assembly Commission and the Assembly's independent Remuneration Board<sup>10</sup> to enhance and maximise the capacity of a 60 Member Assembly. Such approaches have included changes to: working practices and procedures; the structure of the Assembly's working week; the number of sitting weeks per year; induction, training and professional development; involvement of experts, the public and stakeholders in scrutiny; resources available to committees; the configuration of the committee system; the support and resources available to Members.

The Panel concluded that individually and collectively these approaches may have increased the capacity of the institution, but ultimately they have not and cannot address the underlying limiting factor: the severely limited time available to 60 elected Members to carry out their responsibilities.

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**UK and international comparators:** comparisons are not straightforward as devolution settlements vary significantly, but the Panel concluded that it is clear that the Assembly is very small compared to most similar legislatures, and compared to local authorities in Wales.

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The Expert Panel concluded that if the Assembly is to be able to respond effectively over time, and become the parliamentary body that Wales needs as it establishes its place in the constitutional landscape of a post-Brexit UK, then the capacity issues it outlines in its report should be addressed without delay.

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<sup>10</sup> The **Remuneration Board** is an independent body established by the **National Assembly for Wales (Remuneration) Measure 2010** which is responsible for determining pay, allowances and other financial support for Assembly Members and their staff.

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## Potential reform

The Expert Panel on Assembly Electoral Reform concluded that the Assembly was undersized and overstretched. It recommended that an appropriate size for the Assembly would be **between 80 and 90 Members**, on the basis that a size within this range would deliver meaningful benefits for the capacity of the institution and corresponding dividends for the people of Wales.

The Expert Panel stated that the benefits in terms of strengthening the institution and making it better able to fulfil its responsibilities would be greater if the size of the Assembly was closer to 90. These benefits would include a meaningful difference in the ability of many Members to specialise, with consequent benefits for the quality and quantity of scrutiny and representation. A size at the upper end of the range would also reduce the risk that the Assembly's capacity would need to be revisited in future if the responsibilities of the Assembly were to increase further.

The Expert Panel concluded that, if carried out effectively, the Assembly's scrutiny and oversight work has a positive effect on the lives of the people of Wales by improving the quality of Welsh legislation and influencing Welsh Government policy and decision-making. It suggested that even marginal improvements in the scrutiny of the Welsh Government's spending and policy-making would bring significant benefits to the taxpayer. As the Silk Commission stated: "Good scrutiny means good legislation, and good legislation pays for itself".<sup>11</sup>

However, the Panel also recommended that the Assembly must exercise restraint in how it uses any increase in the size of the institution. For example it should carefully consider the number and size of committees, the appointment of office holders, and the maximum size of the Welsh Government. This is to ensure that the potential benefits for the quality and quantity of scrutiny are realised and additional costs are kept to an absolute minimum.

Nevertheless, increasing the size of the Assembly would give rise to additional costs. Initial estimates prepared by the Assembly Commission to inform the Panel's work are set out in Table 1. The bulk of the recurrent costs identified stem from costs which are determined by the independent Remuneration Board. These costs are driven directly by the number of Members, for example the salaries of

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<sup>11</sup> Commission on Devolution in Wales, ***Empowerment and responsibility: legislative powers to strengthen Wales***, 2014

Members and their support staff, allowances available to Members, and the cost of running constituency and regional offices.

**Table 1 Estimated recurrent annual costs of an additional 20 or 30 Members<sup>12</sup>**

£000		
	20 additional Members	30 additional Members
Core recurrent annual costs	5,970	8,860
Variable recurrent annual costs	650	780
<b>Total recurrent annual costs</b>	<b>6,620</b>	<b>9,640</b>

The initial estimate of the additional recurrent annual costs associated with the Panel’s proposals for the number of Members the Assembly needs ranges, therefore, from some £6.6 million to £9.6 million per year. In 2017-18, the Commission’s annual budget was £53.7 million. The additional recurrent annual costs in the table represent 12 and 18 per cent of that budget respectively. In addition, there would also be some one-off costs associated, for example, with adjustment of the Siambr and Members’ office accommodation. Initial estimates suggest these would be approximately £2.4 million for 20 additional Members and £3.3 million for 30 additional Members. To put these costs in perspective, the estimated additional costs in the first year (including both the one-off costs and the recurrent annual costs) for 30 additional Members—£12.9 million—represents 0.08 per cent of the total Welsh block grant.<sup>13</sup>

<sup>12</sup> Core recurrent annual costs include those which can reasonably firmly be identified for different numbers of Members, and which in the main, are not directly dependent on formal Assembly business requirements. For example, salaries, pension contributions and National Insurance contributions for Members and their support staff, financial support and allowances provided to Members, and ICT equipment. Variable recurrent annual costs include more discretionary costs, the extent of which will depend largely upon decisions to be taken by a future Assembly, Business Committee and Assembly Commission about working practices, priorities and the organisation of formal Assembly business. For example, the cost of parliamentary support services provided to Members by the Assembly Commission. For a full breakdown of the costs and the underlying assumptions, see Annex F of ***A Parliament that Works for Wales***.

<sup>13</sup> The Welsh block grant is the sum of money allocated by the UK Parliament to Wales. It includes the Welsh Government’s budget (around £15 billion per year), as well as the National Assembly for Wales Commission’s budget (around £54 million per year). The National Assembly for Wales

The estimates of the costs of additional Members are, necessarily, based on the services and system of financial support currently in place for Assembly Members. The Expert Panel recommended that the Remuneration Board and the Assembly Commission consider how the current total levels of staffing, service provision and financial resources provided to support Members should be altered in the case of a larger Assembly so that the costs of implementing the Panel's recommendation are kept to an absolute minimum.

The Llywydd and Assembly Commission accept this recommendation. If the size of the Assembly increases, they are committed to ensuring that the associated costs are kept to an absolute minimum.

## QUESTIONS

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**Question 1.** The Expert Panel has concluded that the Assembly needs to have between 80 and 90 Members to carry out its role effectively.

Do you agree?

Please give reasons for your answer.

**Question 2.** Would changes to the number of Assembly Members result in i) costs, or ii) benefits, for you or your organisation? If so, what would the costs or benefits be?

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scrutinises and approves both the Welsh Government and Assembly Commission budgets each year.

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## 2. How should Assembly Members be elected?

### Background

Since the Assembly was established in 1999, the 60 Assembly Members have been elected by a Mixed Member Proportional (MMP) electoral system, also known as an Additional Member System (AMS). MMP is a form of proportional representation. Under MMP Members can be elected to the Assembly in two different ways:

- 40 constituency Assembly Members are elected by winning the most votes cast for individual candidates (known as First Past the Post) to represent constituencies.
- 20 regional Assembly Members are elected on the basis of Closed List Proportional Representation to represent five regions. Closed List PR means that voters cast a vote for their preferred party, but have no influence over the order in which candidates' names appear on the lists put forward by political parties.<sup>14</sup>

Voters each have two votes—they can cast one constituency vote for their preferred candidate and another regional vote for their preferred political party. Voters can cast both votes for the same political party, or can vote for different political parties on their constituency and regional ballots as they choose.

The constituency votes are counted first. The winner of each constituency seat is the candidate who receives the most votes in that constituency. Then the regional votes are counted. An electoral formula is used to allocate the four regional seats in each Assembly region to political parties. There are different electoral formulae—the one used in Wales for Assembly elections is the D'Hondt formula. This formula takes into account the number of votes and seats won by each party in the region at each stage in the counting process.<sup>15</sup>

If the size of the Assembly changed, then there would have to be changes to how Members are elected. This is because the current electoral system is specifically

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<sup>14</sup> Independent candidates can stand for regional seats. They are essentially treated as lists comprising one candidate.

<sup>15</sup> For further details on how Assembly Members are currently elected, see chapter 11 of ***A Parliament that Works for Wales***.

designed to elect 60 Members. Starting from its conclusion that the Assembly needs between 80 and 90 Members, the Expert Panel identified three electoral systems which could operate effectively in Wales with effect from the 2021 election to elect an Assembly of that size.

Each electoral system has its own strengths and weaknesses. The Panel identified key principles, which, taken together, provide a robust framework against which to evaluate electoral systems impartially, and in a politically neutral way. Which principles are considered to be the most important depends on the outcomes that you value most from an electoral system.

The Expert Panel's principles are:

- **Government accountability and effectiveness:** the system should encourage the return of effective, accountable and stable governments, whether majorities or coalitions.
- **Proportionality:** the system should be no less proportional than the Assembly's current electoral arrangements, and preferably be more proportional.
- **Member accountability:** the system should ensure that all Members are clearly accountable to voters and able to represent them effectively and appropriately in the national interest.
- **Equivalent status:** as far as possible, the system should ensure that all Members are elected with broadly equivalent mandates which afford them equal status.
- **Diversity:** the system should encourage and support the election of a body of representatives which broadly reflects the population.
- **Voter choice:** where appropriate within its design, the system should allow voters to select or indicate a preference for individual candidates.
- **Equivalent mandates:** the system should reflect the general principle of electoral system design that votes should have approximately the same value, with seats apportioned taking electorate numbers and geography into account.
- **Boundaries:** the system should be based on clearly defined geographic areas which are meaningful to people and take into account existing communities of interest, and existing electoral and administrative boundaries.

- **Simplicity:** the system should be designed with simplicity and intelligibility for voters in mind.
- **Sustainability and adaptability:** the system should be able to be implemented in 2021, and subsequently respond and adapt to changing political, demographic and legislative trends, needs and circumstances without requiring further fundamental change in the near future.

## Potential reforms

In evaluating different electoral systems, the Expert Panel rejected systems which it did not consider would adequately deliver against its principles. It narrowed its focus to three potential electoral systems which it believes could operate effectively to elect an Assembly of at least 80 Members in 2021.<sup>16</sup>

### Single Transferable Vote (STV):

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This is the Panel's preferred option. STV would provide the flexibility to elect an Assembly of between 80 and 90 Members on the basis of multimember constituencies. Voters would be asked to rank individual candidates in order of preference. As candidates are either elected or eliminated, the second preference votes of the people who voted for them are transferred according to voters' wishes. This means that voters can express nuanced preferences for who they want to represent them. For example, their first and second preference candidates might represent different political parties.

*Assessment against the Expert Panel's principles:* STV would maximise voter choice, and if the Welsh Government proceeds with its proposals to allow local authorities in Wales to adopt STV, could provide greater simplicity for voters. The level of direct accountability to voters could lead to a disproportionate focus on Members' representative roles. The Panel's modelling indicates that outcomes would be broadly proportional, although this would be affected by the constituency model used. All Members would have the same mandate, meaning that votes would have approximately the same value. Some measures to encourage diversity could be built in to the system, although these would not be

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<sup>16</sup> For details of the design and operation of each electoral system, please see chapter 13 of [\*\*\*Parliament that Works for Wales\*\*\*](#). Details of the modelling of different electoral systems undertaken by Cardiff University's Wales Governance Centre on behalf of the Expert Panel are available in Annex H of that report.

as strong as those which could be incorporated into a Flexible List PR system (see below).

STV is used in Ireland, Northern Ireland, Australia and for local elections in Scotland. It has been proposed by the Welsh Government for use by local authorities in Wales.

#### Flexible List Proportional Representation:

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This was identified as a viable alternative by the Panel. Flexible List PR would provide the flexibility to elect an Assembly of between 80 and 90 Members on the basis of multimember constituencies. Voters would be asked to select either a political party or an individual candidate of their choice. Seats would be allocated to parties based on the total votes received by the party or candidates representing the party. Which candidates took up the seats won by a party would be influenced by the party's preferred candidate order, and by the number of individual votes received by candidates.

*Assessment against the Expert Panel's principles:* Flexible List PR would provide a greater balance between voter choice and political party influence over who was elected than the current electoral system. The degree of voter choice would depend on the level at which the candidate threshold was set (i.e. the proportion of personal votes each candidate needed to be moved up the party's list). The Panel's modelling indicates that outcomes would be broadly proportional, although this would be affected by the constituency model used. All Members would have the same mandate, and measures to encourage diversity could be built in to the system. The system is unfamiliar in relation to Assembly elections, but similar to that used to elect Welsh MEPs.

Variants of the Flexible List PR system are used widely across Europe in Belgium, Sweden, Denmark, the Czech Republic and many other countries.

#### Mixed Member Proportional system (MMP) (also known as Additional Member system):

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The Panel identified this as a 'status quo' or 'least change' option, which adapts the Assembly's current electoral system in a minimal way, but indicated that it would not be its preferred option. Voters would be asked to vote for an individual candidate elected by First Past the Post to represent their constituency, and for a political party elected by Closed List Proportional Representation to represent their region. Allocation of regional seats to political parties would be based on the application of an electoral formula on the basis of vote totals and number of seats

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won. Candidates would take up the seats won by a party in the order in which the party listed the candidates on the ballot paper.

*Assessment against the Expert Panel's principles:* MMP is familiar to voters in Wales. The First Past the Post element may be perceived to deliver Member accountability and voter choice, but the Closed List Proportional Representation element may be perceived to be weak in these areas. It offers parties the potential to use the list element to prioritise candidates; this could encourage diversity of representation. The principle that regional seats should not outnumber constituency seats would limit the Assembly to a maximum size of 80 in 2021. The two routes to election offered by this system may not provide equivalent status for all Members.

The MMP system is used in Scotland, Germany and New Zealand.

## QUESTIONS

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**Question 3.** The Expert Panel has outlined three possible electoral systems which could operate effectively in Wales to elect an Assembly of at least 80 Members:

- Single Transferable Vote
- Flexible List Proportional Representation
- Mixed Member Proportional (also known as Additional Member System)

Which of these systems would be most appropriate for electing Assembly Members and why?

Please give reasons for your answer.

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## Equality and diversity

The Expert Panel believes that a more diverse Assembly would enhance the operation of the Assembly and the way it represents the people of Wales. It highlights in particular the Assembly's reputation in relation to balanced gender representation, and considers mechanisms which could be used to safeguard progress made by political parties in Wales to date. The Panel recommended legislative interventions such as gender quotas, requiring the publication of anonymised candidate diversity information and enabling candidates to stand for election on the basis of job sharing arrangements.<sup>17</sup>

The Expert Panel recommended that whichever electoral system is introduced, it should include requirements that parties stand an equal number of male and female candidates in each region or multimember constituency. Where parties put forward lists of candidates, the Panel recommended that women and men should be alternated on the list (sometimes known as 'zipping'). While not recommending formal quotas in relation to other diversity characteristics, for example age, ethnicity and disability, the Panel called on political parties to have regard to these broader aspects of diversity when selecting their candidates in order to help support and encourage the election of an Assembly which truly reflects the communities it serves.

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<sup>17</sup> For more detail on the Panel's recommendations in relation to diversity and equality, see chapter 12 of ***A Parliament that Works for Wales***.

**QUESTIONS**

**Question 4.** Do you agree with the Expert Panel's recommendation that a change to the electoral system should be used to encourage the election of an Assembly that more accurately reflects the diverse nature of society in Wales?

- Yes
- No
- Don't know

**Question 5.** If you answered yes to question 4, do you believe that this should be achieved through legislation such as formal gender quotas, or by less formal means such as voluntary measures put in place by political parties?

Please give reasons for your answer.

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While the ethos of family-friendly working is part of the Assembly's culture and the way it works, in common with other legislatures the formal business elements of Members' roles offer limited flexibility. This could be a disproportionate barrier for some people who might otherwise want to stand for election. The Expert Panel recommended that one way to address these barriers could be to allow people to stand for election on the basis of job sharing arrangements.

The Expert Panel argued that allowing job sharing could make it easier for people with disabilities or caring responsibilities to stand for election, or allow prospective Members to maintain their professional skills and commitments by working part-time within a job share arrangement. Candidates wishing to stand in this way would need to explain clearly to voters how the job sharing arrangement would work. Therefore the final decision as to whether any job sharing Members were elected would rest with voters.

To allow candidates to stand as job sharing partners, changes to the law on elections would be needed. There would also need to be changes to the Assembly's procedures and the Remuneration Board's *Determination on*

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*Members' Pay and Allowances.*<sup>18</sup> The Panel suggests that the guiding principle for such changes should be that job sharing partners are treated as a single person, and give rise to no additional costs beyond those of a single Assembly Member.

## QUESTIONS

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**Question 6.** Should people be able to stand for election to the Assembly on the basis of job sharing?

- Yes
- No
- Don't know

**Question 7.** What, if any, benefits or risks do you see resulting from allowing people to stand for election on the basis of job sharing arrangements?

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<sup>18</sup> The independent Remuneration Board's ***Determination on Members' Pay and Allowances*** sets out the remuneration and other financial support available to Assembly Members.

## Electoral constituencies and regions

Assembly Members are elected to represent electoral constituencies or regions. The existing Assembly constituency and regional boundaries could continue to be used for a Mixed Member Proportional system.

If either STV or Flexible List Proportional Representation were introduced, then new multimember constituencies would need to be created. Either the number of Members elected by each multimember constituency would be calculated based on the number of electors in each constituency, or a weighting could be applied based on, for example, distance from Cardiff Bay.

The Expert Panel ruled out a full boundary review from their considerations due to insufficient time being available before the Assembly elections due in 2021. It also ruled out the 29 proposed Westminster constituencies set out in the Boundary Commission for Wales's review,<sup>19</sup> on the basis that the Assembly's boundaries should not be determined by factors of limited relevance to Wales. The Panel therefore considered which existing electoral or administrative areas could be used as building blocks for Assembly constituencies with effect from 2021. It identified two alternative sets of multimember constituencies (which could be used to elect Members on the basis of either STV or Flexible List Proportional Representation):

- **20 constituencies based on pairing the existing 40 Assembly constituencies:** the Panel's preferred option for the election of an Assembly towards the upper end of its recommended size bracket, giving the advantage of similar numbers of voters in each new constituency and similar numbers of Members elected to represent each electoral area, but with the limitation that separate boundary review arrangements would be required.
- **17 constituencies based on the existing 22 local authority areas:** the Panel's viable alternative, which could be appropriate for an Assembly nearer the middle of the Panel's recommended size bracket. The advantages would be no requirement for separate boundary review arrangements beyond that already in place for local authority areas and

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<sup>19</sup> Boundary Commission for Wales, **2018 Review of Parliamentary Constituencies: Revised Proposals Report**, 17 October 2017

familiarity for voters. The limitation is that varying population size would lead to variance in the number of Members returned for each area.

Maps showing the proposed constituency boundaries for each of these models are shown in Annex 3 of this document. Further details about the models are set out in chapter 14 of the Panel's report.<sup>20</sup>

## QUESTIONS

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**Question 8.** If the Assembly adopted either the Single Transferable Vote or Flexible List Proportional Representation for the election of Assembly Members, should Assembly Members be elected on the basis of:

- 20 constituencies based on pairing the existing 40 Assembly constituencies
- 17 constituencies based on the existing 22 local authority areas?
- Don't know

**Question 9.** Would changes to the Assembly's electoral system result in i) costs, or ii) benefits, for you or your organisation? If so, what would the costs or benefits be?

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<sup>20</sup> For more details on the constituency models proposed by the Expert Panel, see chapter 14 of ***A Parliament that Works for Wales***.

## 3. Who should be allowed to vote in Assembly elections?

### Background

The right to vote in Assembly elections is known as the Assembly franchise. The law currently allows the same people to vote in Assembly elections as are allowed to vote in local government elections. Any changes to the law on who can vote in local government elections would also apply to the Assembly franchise.

Following a period of consultation with the public, the Welsh Government has announced that it plans to change the law on who is allowed to vote in local government elections. Acknowledging that the franchise for local elections and Assembly elections is currently the same, the Cabinet Secretary for Local Government and Public Services said:

“I hope that we will be able to move forward to have a common franchise [...] for our national elections to our Parliament and also our elections to local government in the future.”<sup>21</sup>

The Expert Panel suggests that, as a matter of principle, the Assembly should determine its own franchise in legislation.

The question therefore arises: who should be allowed to vote in Assembly elections? The Assembly Commission’s starting point is that those who are currently entitled to vote in Assembly elections should continue to be able to do so. The Commission is also mindful of the administrative benefits and greater simplicity from a voter’s point of view if the franchise for Assembly elections and local government elections are the same, noting that the franchise for UK Parliamentary elections and the Police and Crime Commissioners elections are both different.

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<sup>21</sup> Cabinet Secretary for Local Government and Public Services, [Oral statement](#), 30 January 2018

## QUESTIONS

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**Question 10.** To what extent do you agree or disagree with the following statement:

The same people should be allowed to vote in National Assembly for Wales elections and in local government elections in Wales.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

**Question 11.** What implications would there be if there were differences between who could vote in Assembly elections and who could vote in local government elections in Wales?

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## What should be the minimum voting age for Assembly elections?

The Fourth Assembly's Presiding Officer, Dame Rosemary Butler, led a consultation on whether 16- and 17-year-olds should be entitled to vote. Although not designed as a methodologically robust statistical exercise, over 10,000 young people from across Wales took part in the consultation. Of these, 53 per cent said yes to lowering the voting age, 29 per cent said no, and 18 per cent were unsure. The consultation also asked young people whether they would vote if they were eligible (58 per cent said they would and 23 per cent said they would not).<sup>22</sup>

The Expert Panel was asked to make recommendations on what the minimum voting age should be for Assembly elections.<sup>23</sup> It considered:

- **Welsh, UK and international contexts:** in Wales, the Welsh Government has said that it will legislate to allow 16- and 17-year-olds to vote in local government elections with effect from 2022. The minimum voting age in Scotland for Scottish Parliament and local government elections was reduced to 16 with effect from 2016 and 2017 respectively, and pressure for a reduction in the voting age across the UK continues to increase.
- **Current age thresholds:** the Panel recognised that much of the public discussion focuses on whether a lower voting age would fit better or worse with the ages at which other rights and responsibilities take effect. It concluded that there is a lack of coherence and consistency in the age thresholds which apply in the UK and internationally, and that, therefore, comparisons between the ages at which young people acquire rights and responsibilities are not compelling either way.
- **Political participation:** the Panel concluded that there are good theoretical reasons for expecting that establishing the habit of voting at a young age can lead to increased turnout in the longer term, for example if young people are more likely to be living at home or within stable networks when they are first able to vote. There is also evidence that, when supported by appropriate and effective citizenship education, and in relation to higher salience elections, a reduction in the

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<sup>22</sup> National Assembly for Wales, ***Should the voting age be lowered to 16? Summary of responses to the Presiding Officer's 'Votes@16?' consultation for 11-25-year-olds in Wales***, July 2015

<sup>23</sup> For more detail of the issues considered by the Panel, see chapter 15 of ***A Parliament that Works for Wales***.

voting age can, in the short term, result in higher turnout among 16- and 17-year-olds than 18- to 21-year-olds.

- **Political knowledge, maturity and independence of thought:** evidence varies, but the Panel concluded that studies carried out in places where 16- and 17-year-olds can vote found little difference in voter understanding between 16- and 17-year-old voters and those who were slightly older. Research by the Electoral Commission found that in the 2017 local elections in Scotland, 16- and 17-year-olds found it easier than 18- to 21-year-olds to access information on how to cast their votes, and were less likely to find it difficult to complete their ballot paper.
- **Public opinion:** the Panel concluded that polls and surveys of UK public opinion consistently show limited support for a reduction in the voting age. It noted that the profile of the issue in Wales would be raised by the Welsh Government's proposals and by this consultation, and suggested that to date the issue has been of low salience to many people. While not representative of all young people, the Panel heard views from organisations which work with young people which suggest that there is support among young people for a reduction in the voting age.

The Expert Panel concluded that a reduction in the minimum voting age to 16 would be a powerful way to raise political awareness and participation among young people. It also recommended that any reduction in the voting age should be accompanied by appropriate, effective and non-partisan political and citizenship education, which ensures that young people are encouraged and supported to exercise their right to vote.

## QUESTIONS

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**Question 12.** What should be the minimum voting age for Assembly elections?

- 16
  - 18
  - Don't know
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The Electoral Commission told the Expert Panel about some of the issues which would need to be taken into account if the minimum voting age were to be lowered, for example costs, public awareness-raising, administration of the electoral register and training. Its conclusion was that the key consideration was that changes should be introduced in good time before the relevant election. In addition, the Expert Panel noted that if the Welsh Government legislates to reduce the minimum voting age for local elections to 16 with effect from 2022, it would be anomalous and create additional administrative issues if the voting age for Assembly elections from 2021 were not also reduced.

## QUESTIONS

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**Question 13.** Would reducing the minimum voting age for Assembly elections result in: i) costs, or ii) benefits, for you or your organisation? If so, what would the costs or benefits be?

**Question 14.** Are there any other issues, benefits or risks you would like us to consider in relation to changing the minimum voting age for Assembly elections?

Please give reasons for your answer.

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## Should legal residents in Wales who are not UK nationals be allowed to vote in Assembly elections?

At present, UK citizens, Commonwealth citizens, and citizens of non-UK EU member states are entitled to vote in local and Assembly elections in Wales.

It is not yet clear whether the terms on which the UK leaves the EU will include an automatic continuation of the voting rights for citizens of non-UK EU member states. This issue will form part of the ongoing negotiations between the UK and the EU. The UK Government and EU member states have expressed a strong willingness to reach agreement which protects in full the existing rights of EU citizens who are already resident in the UK. This is also the Welsh Government's position.

In autumn 2017, the Welsh Government consulted on whether the right to vote in local elections in Wales should be extended, either to EU citizens who arrive in the UK after the UK has withdrawn from the EU, or to all legal residents in Wales.<sup>24</sup> Following this consultation, the Welsh Government's Cabinet Secretary for Local Government and Public Services announced his intention to allow anyone legally resident in Wales from any nationality to be able to register and vote in local government elections.<sup>25</sup>

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<sup>24</sup> Welsh Government, *Electoral reform in local government in Wales*, July 2017

<sup>25</sup> Cabinet Secretary for Local Government and Public Services, *Oral statement*, 30 January 2018

## QUESTIONS

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**Question 15.** To what extent do you agree or disagree with the following statement:

All legal residents in Wales should be allowed to vote in Assembly elections, irrespective of their nationality or citizenship.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

**Question 16.** Are there any other issues, risks or benefits you would like us to consider in relation to changing the rights of non-UK nationals legally resident in Wales to vote in Assembly elections?

Please give reasons for your answer.

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## Should prisoners be allowed to vote in Assembly elections?

At present, most prisoners in the UK are prohibited from voting in all elections. This includes Assembly elections. This is despite a series of rulings by the European Court of Human Rights that a blanket ban against prisoner voting contravenes Article 3 or Protocol 1 of the European Convention on Human Rights.

Referring to these rulings, in November 2017 the UK Government announced its intention to change guidance to provide those prisoners released on temporary licence or on home detention curfew with the right to vote in elections in the UK.<sup>26</sup> In 2010, the UK Coalition Government had outlined proposals to legislate to replace the blanket ban with a more limited ban. That ban would have applied to prisoners with a custodial sentence of four years or more. Judges would also have had discretion to remove the right to vote from prisoners sentenced to shorter periods, if they considered it appropriate to do so.<sup>27</sup>

In autumn 2017, the Welsh Government consulted on whether the right to vote in local elections in Wales should be extended to prisoners.<sup>28</sup> This consultation was published before the UK Government announced its policy intentions late last year. The Welsh Government set out the following proposals:

- Extending voting rights for local elections to the approximately 3,200 prisoners resident in Wales.
- Residency for the purpose of electoral registration could be on the basis of their address outside prison, or on the basis of a local connection to an address at which they had family attachments, for example. The right to vote would only be extended to those whose relevant address was within Wales. The Welsh Government suggested this would be preferable to the prison address being the address of registration, which could lead to prisoners having an excessive influence on elections in the ward in which the prison is located.
- Registration could be on the basis of a special convicted prisoners form attested by a designated prison official. Alternatively, eligible convicted prisoners could be permitted to maintain their entry on the relevant electoral register at the time of their conviction, on the basis that they

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<sup>26</sup> Ministry of Justice, **Secretary of State's oral statement on sentencing**, 2 November 2017

<sup>27</sup> Cabinet Office, **Written Statement on Voting Entitlement**, 20 December 2010

<sup>28</sup> Welsh Government, **Electoral reform in local government in Wales**, July 2017

would receive a postal vote at the institution at which they were resident, or a proxy vote which could be cast on their behalf.

On 30 January 2018, the Welsh Government's Cabinet Secretary for Local Government and Public Services noted his intention to make changes to the rights of prisoners to vote in local government elections in Wales. The proposal is to extend the right to vote to prisoners whose due release date falls before the end of the term of office of the council for which they are voting. Prisoners would not be allowed to leave prison to vote. Rather they would vote by post or by proxy in an election in a local authority area on the basis of a "connected address" in Wales, usually their last address.<sup>29</sup>

## QUESTIONS

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**Question 17.** To what extent do you agree or disagree with the following statements:

17(i) Prisoners released on temporary licence or on home detention curfew should be allowed to vote in Assembly elections, in line with the UK Government's intention for UK elections.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

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<sup>29</sup> Cabinet Secretary for Local Government and Public Services, [Oral statement](#), 30 January 2018

17(ii) Prisoners whose due release date falls before the end of the term of the Assembly for which they are voting should be allowed to vote in Assembly elections, in line with the Welsh Government's intention for local government elections in Wales.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

**Question 18.** Are there any other issues, risks or benefits you would like us to consider in relation to changing the rights of prisoners to vote in Assembly elections?

Please give reasons for your answer.

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## 4. Who should be able to be an Assembly Member?

### Background

Not everyone is eligible to be an Assembly Member. A list of some of the criteria which disqualify someone from being an Assembly Member is included in sections 16 to 19 of the *Government of Wales Act 2006* (“the 2006 Act”). For example, MPs are not allowed to be Assembly Members at the same time, nor are judges, civil servants, Assembly officials, or public officials, such as the Public Service Ombudsman for Wales. Other criteria which disqualify someone from being an Assembly Member are set out in other pieces of legislation, for example Disqualification Orders.

A person is disqualified from being an Assembly Member if they hold one of these disqualifying offices at the point at which they are nominated to stand for election as an Assembly Member. At the point at which they are nominated, candidates must make formal declarations that they are not disqualified from being Assembly Members. If they are aware that they hold any of the disqualifying roles, they must not accept nomination as candidates to be Assembly Members until they have resigned from the disqualifying roles.

## Potential reforms

In 2014 the Fourth Assembly's Constitutional and Legislative Affairs Committee held an inquiry into how the disqualification arrangements worked. It published a report which made recommendations on how the legal arrangements should be changed so that they worked more effectively:<sup>30</sup>

1. The 2006 Act should be amended so that for most of the disqualifying offices, a person is only ineligible to be an Assembly Member if they hold the relevant role at the point at which they take the oath or affirmation of allegiance after they are elected. This means that people would not have to resign disqualifying offices in order to stand for election as a Member, therefore removing a significant barrier to standing for election. Some disqualifying offices where even being a candidate would give rise to a conflict of interest, for example Electoral Returning Officers, or members of the Electoral Commission, would continue to take effect at the point of nomination.
2. As a consequence, the requirement for people to declare that they do not hold a disqualifying office before accepting nomination as a candidate should be removed from the National Assembly for Wales (Representation of the People Order) 2007. The requirement would be unnecessary as most disqualifications would take effect at the point of taking the oath or affirmation of allegiance.
3. The list of disqualifying offices should be made clearer, with the relevant offices being fully described in Welsh legislation, rather than by way of reference to other legislation.
4. Section 16(1) of the 2006 Act should be amended to remove reference to the Auditor General for Wales and the Public Service Ombudsman for Wales, which should, instead be listed with other, similar offices in the relevant Disqualification Orders.

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<sup>30</sup> National Assembly for Wales Constitutional and Legislative Affairs Committee, ***Inquiry into disqualification from membership of the National Assembly for Wales***, July 2014

5. Section 16(4) of the 2006 Act should be amended to clarify that anyone holding office as a lord lieutenant, lieutenant or high sheriff is disqualified from being an Assembly Member anywhere in Wales, rather than only in the constituencies or regions in which they hold their office.
6. On the basis of there being a conflict of interest in serving in two legislatures which scrutinise legislation, members of the House of Lords should be disqualified from being Assembly Members. The Committee recommended that the prohibition should not apply to members of the House of Lords serving as Assembly Members at the point at which legislation was introduced to prohibit this practice.

## QUESTIONS

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**Question 19.** Should legislation to reform the Assembly's electoral arrangements include provision to implement the recommendations of the Fourth Assembly's Constitutional and Legislative Affairs Committee in relation to disqualification from being an Assembly Member?

Are there any other changes which should be made to the disqualification arrangements?

Please give reasons for your answer.

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## 5. Should the law relating to electoral administration be rationalised?

### Background

The conduct and administration of elections in Wales and across the UK is periodically reviewed by relevant statutory independent bodies. Such bodies make recommendations as to how electoral law could be rationalised and improved. Legislation which reformed the Assembly's electoral, organisational and internal arrangements could therefore be an opportunity to implement relevant recommendations in respect of Assembly elections.

### Potential reforms

The Electoral Commission, in its report on the 2016 Assembly election, noted that the rules for the treatment of spending by non-party campaigners, as set out in the *Political Parties, Elections and Referendums Act 2000*, had been updated to exempt costs arising in relation to translation between Welsh and English, and reasonable costs which could be attributed to an individual's disability. The Electoral Commission recommended that similar exemptions should be introduced in relation to such spending by political parties and candidates.<sup>31</sup>

Introducing such exemptions in relation to translation costs could encourage greater use of the Welsh language during election campaigns, and, in relation to disability, could reduce barriers which could prevent people with disabilities from standing for election or participating in political campaigns.

As part of its Eleventh Programme of Law Reform, the Law Commissions of England and Wales, Scotland and Northern Ireland conducted a joint electoral law reform project. Its interim report, published in February 2016, made recommendations to rationalise the current laws relating to elections into a single, consistent legislative framework, which provided consistency across different elections (subject to differentiation due to the voting system or other justifiable principle or policy).<sup>32</sup> Its recommendations covered issues including the manner of

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<sup>31</sup> Electoral Commission, ***The National Assembly for Wales General Election: report on the administration of the 2016 elections to the National Assembly for Wales***, September 2016

<sup>32</sup> Law Commissions, ***Electoral Law: an interim report***, 4 February 2016

voting, electoral offences, and the regulation of campaign expenditure. To date, the UK Government has not responded to the Law Commission's interim report.

Legislation to reform the Assembly's electoral arrangements could provide an opportunity to include an enabling provision for the Welsh Government to implement such recommendations made by the Law Commission as would be relevant and desirable in relation to Assembly elections.

## QUESTIONS

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**Question 20.** Should legislation to reform the Assembly's electoral arrangements include provision to implement:

- the Electoral Commission's recommendations that costs relating to **translation between Welsh and English** should not count towards expenditure limits for political parties and candidates in relation to Assembly elections as they already are for non-party campaigners?
- the Electoral Commission's recommendations that costs relating to **an individual's disability** should not count towards expenditure limits for political parties and candidates in relation to Assembly elections as they already are for non-party campaigners?
- the Law Commissions' recommendations in relation to the conduct and administration of elections?

Please give reasons for your answers.

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## 6. Should the Assembly have flexibility to decide on its internal arrangements?

In common with the other devolved UK legislatures, the way in which the Assembly operates—its procedures and practices—are determined by a combination of legislative provisions, the Assembly’s own Standing Orders, and practice and precedent.<sup>33</sup>

The requirements that are set out in legislation, are mostly found in the 2006 Act. This law was passed by the UK Parliament, and previously the Assembly has had no power to change any of the arrangements. This will change on 1 April 2018, when the *Wales Act 2017* will give the Assembly power over some of the arrangements.

While it is appropriate that some safeguards should be set out in legislation—for example arrangements relating to standards, legal proceedings, or the Assembly’s power to call witnesses to appear before its committees—enshrining other ways of working in primary legislation can result in a lack of flexibility which hinders the effective operation of the institution. For example, the *Wales Act 2017* has already removed some provisions which had required the participation of UK Ministers in Assembly proceedings, or which dictated how the committee system must operate.

After 1 April 2018, the Assembly will have the power to change other provisions in the 2006 Act that govern its internal ways of working, in order to ensure that the right balance is struck between legislative safeguards and institutional flexibility.

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<sup>33</sup> Standing Orders are the formal rules which set out the Assembly’s procedures. They are agreed, and can be amended, by a resolution of the Assembly on the basis of a two-thirds majority. Any changes must be proposed to the Assembly by the Assembly’s Business Committee, which includes representatives of all parties represented in the Assembly.

## Potential reforms

The reforms proposed by the Commission would provide greater flexibility for the Assembly to determine its own ways of working, and to respond effectively to the potential pressures of a larger Assembly:

1. Introduce flexibility over the number of Deputy Presiding Officers the Assembly elects, and the number of Assembly Commissioners it appoints. The reforms proposed by the Commission would provide greater flexibility for the Assembly to determine its own ways of working, and to respond effectively to the potential pressures of a larger Assembly.
2. In line with reforms made by the Scottish Parliament in 2012, increase the time limit on when the first meeting after an Assembly election must be held from seven days to fourteen days, thus extending the opportunities for discussions and negotiations between political parties after an election. This can be particularly important with proportional electoral systems such as that in use in the Assembly, which may be considered less likely to produce majority one-party governments.
3. Increase the time limit within which the Assembly must elect a Deputy Presiding Officer from the current requirement of the first meeting after an election to 28 days, in line with the time limit for the election of the First Minister. This would extend the opportunities available for discussions and negotiations between political parties, and for newly-elected Members to decide whether to stand for election as Deputy Presiding Officer, or to get to know the strengths and weaknesses of potential candidates.

## QUESTIONS

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**Question 21.** Should the *Government of Wales Act 2006* be amended as set out in this consultation document, in order to give the Assembly greater flexibility to determine its own working practices and arrangements through its internal procedures rather than in legislation?

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## 7. What impact might these proposals have?

The responses to this consultation will inform official languages, equalities and justice impact assessments of each of the proposals. These impact assessments will form part of the Explanatory Memorandum and Regulatory Impact Assessment which will accompany any Bill introduced to implement the reforms.

English and Welsh are the official languages of the Assembly, and the Assembly Commission gives strong and ambitious leadership through its delivery of bilingual services. The Assembly aims to be a truly bilingual institution where Assembly Members, the public and staff can choose to work or communicate naturally in either or both of our official languages.

The Commission is also fully committed to promoting equality, valuing diversity and respecting human rights in our capacity as an employer and as an organisation that provides support for Assembly Members and interacts with the public. We believe that equality of opportunity for all is a basic human right and actively oppose all forms of unlawful and unfair discrimination. We strive to create an accessible and effective parliamentary body, which engages with and respects all of the people of Wales.

## QUESTIONS

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**Question 22.** Are there any issues, benefits or risks which could result from the proposals in this document in relation to the following, that are not considered in this consultation, or that you would like to comment on:

- the Assembly's official languages (Welsh and English)?
- equality, diversity and inclusion?
- the justice system in England and Wales?

Could any of the proposals be reformulated so as to increase the positive effects or reduce the possible adverse effects?

Please give reasons for your answer.

**Question 23.** Would any of the proposals in this paper result in i) costs or ii) benefits for you or your organisation which you have not already outlined in your response to this consultation? If so, what would the costs or benefits be?

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## Annex 1: List of consultation questions

For background information and details of the proposals to which the questions relate, please refer to the relevant page in the consultation document

**Question 1.** The Expert Panel has concluded that the Assembly needs to have between 80 and 90 Members to carry out its role effectively.

Do you agree?

Please give reasons for your answer.

**Question 2.** Would changes to the number of Assembly Members result in: i) costs, or ii) benefits, for you or your organisation? If so, what would the costs or benefits be?

**Question 3.** The Expert Panel has outlined three possible electoral systems which could operate effectively in Wales to elect an Assembly of at least 80 Members:

- Single Transferable Vote
- Flexible List Proportional Representation
- Mixed Member Proportional (also known as Additional Member System)

Which of these systems would be most appropriate for electing Assembly Members and why?

Please give reasons for your answer.

**Question 4.** Do you agree with the Expert Panel's recommendation that a change to the electoral system should be used to encourage the election of an Assembly that more accurately reflects the diverse nature of society in Wales?

- Yes
- No
- Don't know

**Question 5.** If you answered yes to question 4, do you believe that this should be achieved through legislation such as formal gender quotas, or by less formal means such as voluntary measures put in place by political parties?

Please give reasons for your answer.

**Question 6.** Should people be able to stand for election to the Assembly on the basis of job sharing?

- Yes
- No
- Don't know

**Question 7.** What, if any, benefits or risks do you see resulting from allowing people to stand for election on the basis of job sharing arrangements?

**Question 8.** If the Assembly adopted either the Single Transferable Vote or Flexible List Proportional Representation for the election of Assembly Members, should Assembly Members be elected on the basis of:

- 20 constituencies based on pairing the existing 40 Assembly constituencies
- 17 constituencies based on the existing 22 local authority areas?
- Don't know

**Question 9.** Would changes to the Assembly's electoral system result in i) costs, or ii) benefits, for you or your organisation? If so, what would the costs or benefits be?

**Question 10.** To what extent do you agree or disagree with the following statement:

The same people should be allowed to vote in National Assembly for Wales elections and in local government elections in Wales.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

**Question 11.** What implications would there be if there were differences between who could vote in Assembly elections and who could vote in local government elections in Wales?

**Question 12.** What should be the minimum voting age for Assembly elections?

- 16
- 18
- Don't know

**Question 13.** Would reducing the minimum voting age for Assembly elections result in i) costs, or ii) benefits, for you or your organisation? If so, what would the costs or benefits be?

**Question 14.** Are there any other issues, benefits or risks you would like us to consider in relation to changing the minimum voting age for Assembly elections?

Please give reasons for your answer.

**Question 15.** To what extent do you agree or disagree with the following statement:

All legal residents in Wales should be allowed to vote in Assembly elections, irrespective of their nationality or citizenship.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

**Question 16.** Are there any other issues, risks or benefits you would like us to consider in relation to changing the rights of non-UK nationals legally resident in Wales to vote in Assembly elections?

Please give reasons for your answer.

**Question 17.** To what extent do you agree or disagree with the following statements:

17(i) Prisoners released on temporary licence or on home detention curfew should be allowed to vote in Assembly elections, in line with the UK Government's intention for UK elections.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

17(ii) Prisoners whose due release date falls before the end of the term of the Assembly for which they are voting should be allowed to vote in Assembly elections, in line with the Welsh Government's intention for local government elections in Wales.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

**Question 18.** Are there any other issues, risks or benefits you would like us to consider in relation to changing the rights of prisoners to vote in Assembly elections?

Please give reasons for your answer.

**Question 19.** Should legislation to reform the Assembly's electoral arrangements include provision to implement the recommendations of the Fourth Assembly's Constitutional and Legislative Affairs Committee in relation to disqualification from being an Assembly Member?

Are there any other changes which should be made to the disqualification arrangements?

Please give reasons for your answer.

**Question 20.** Should legislation to reform the Assembly's electoral arrangements include provision to implement:

- the Electoral Commission's recommendations that costs relating to **translation between Welsh and English** should not count towards expenditure limits for political parties and candidates in relation to Assembly elections as they already are for non-party campaigners?
- the Electoral Commission's recommendations that costs relating to **an individual's disability** should not count towards expenditure limits for political parties and candidates in relation to Assembly elections as they already are for non-party campaigners?
- the Law Commissions' recommendations in relation to the conduct and administration of elections?

Please give reasons for your answers.

**Question 21.** Should the *Government of Wales Act 2006* be amended as set out in this consultation document, in order to give the Assembly greater flexibility to determine its own working practices and arrangements through its internal procedures rather than in legislation?

**Question 22.** Are there any issues, benefits or risks which could result from the proposals in this document in relation to the following, that are not considered in this consultation, or that you would like to comment on:

- the Assembly's official languages (Welsh and English)?
- equality, diversity and inclusion?
- the justice system in England and Wales?

Could any of the proposals be reformulated so as to increase the positive effects or reduce the possible adverse effects?

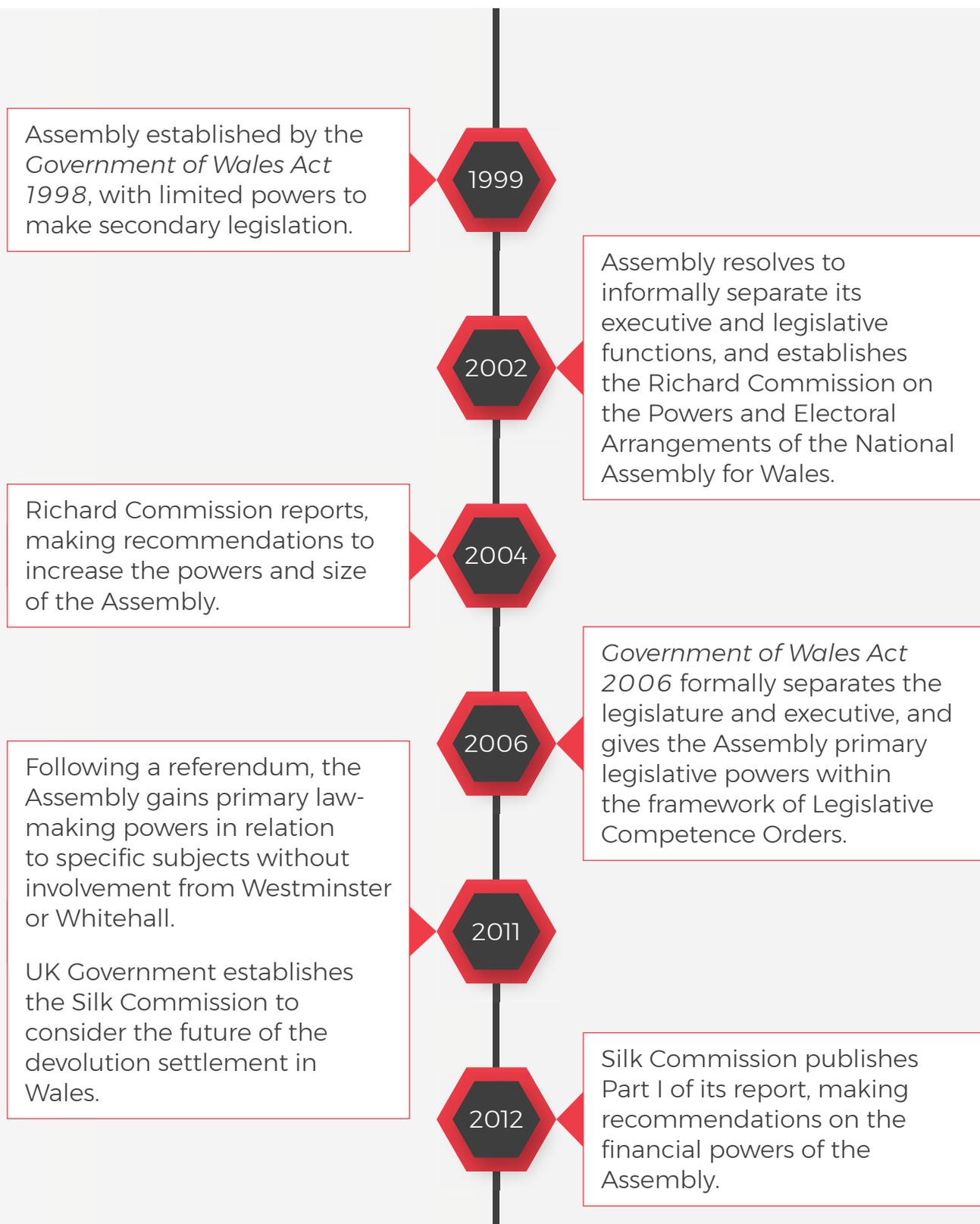
Please give reasons for your answer.

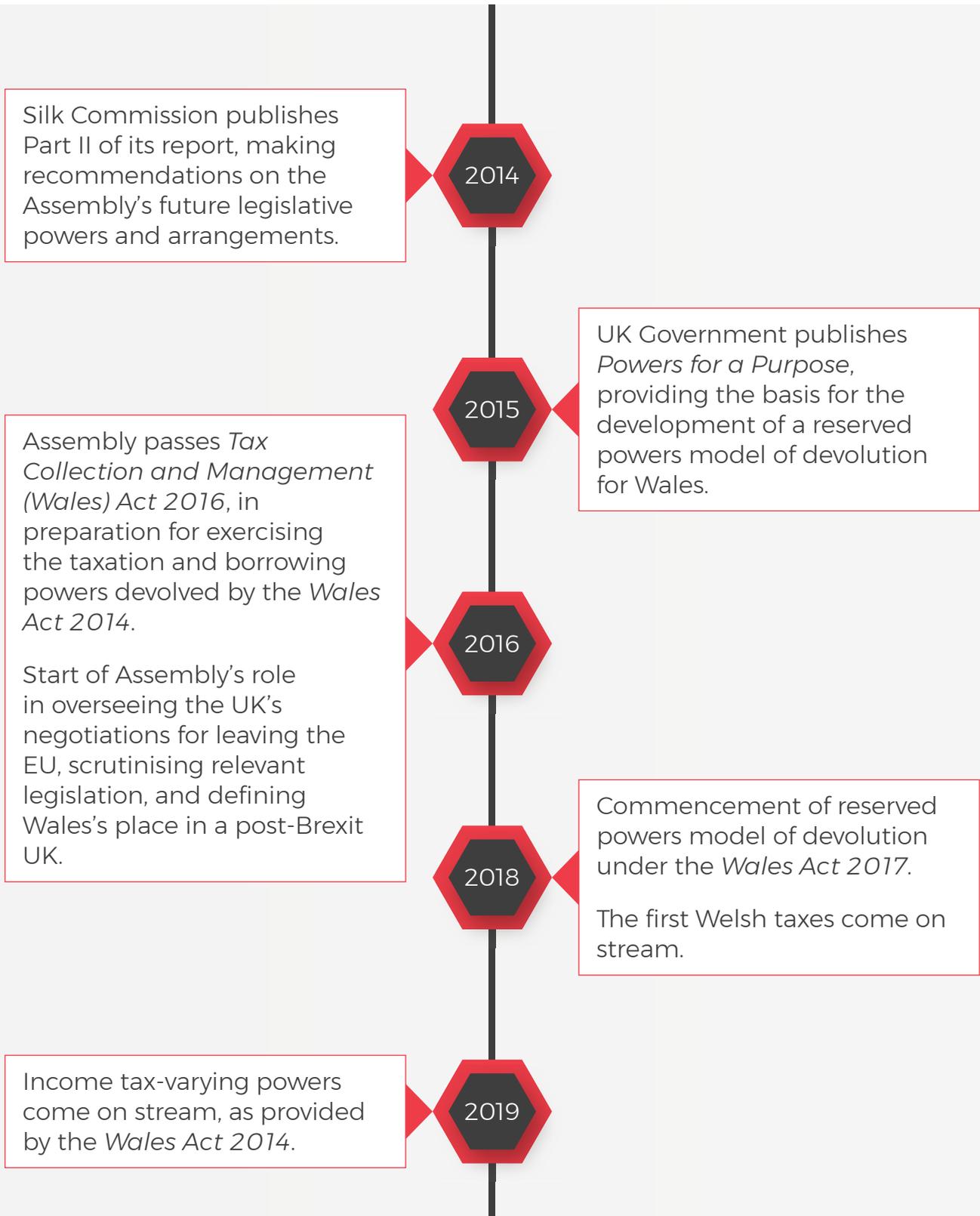
**Question 23.** Would any of the proposals in this paper result in: i) costs or ii) benefits for you or your organisation which you have not already outlined in your response to this consultation? If so, what would the costs or benefits be?



## Annex 2: Devolution in Wales since 1999

The role and responsibilities of the Assembly and its Members have changed significantly since 1999.

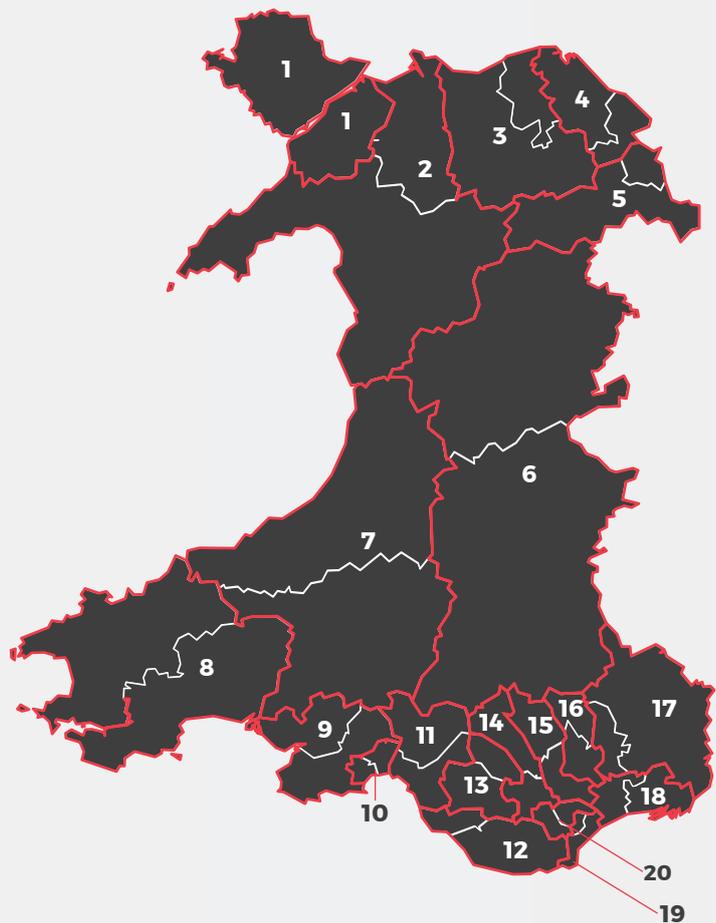




## Annex 3: proposed multimember constituency models

### Option 1: 20 constituencies based on current Assembly constituencies

1. Arfon and Ynys Môn
2. Dwyfor Meirionnydd and Aberconwy
3. Clwyd West and Vale of Clwyd
4. Delyn and Alyn and Deeside
5. Clwyd South and Wrexham
6. Brecon and Radnorshire and Montgomeryshire
7. Carmarthen East and Dinefwr and Ceredigion
8. Carmarthen West and South Pembrokeshire and Preseli Pembrokeshire
9. Gower and Llanelli
10. Swansea East and Swansea West
11. Aberavon and Neath
12. Bridgend and Vale of Glamorgan
13. Ogmore and Rhondda
14. Cynon Valley and Pontypridd
15. Caerphilly and Merthyr Tydfil and Rhymney
16. Blaenau Gwent and Islwyn
17. Monmouth and Torfaen
18. Newport East and Newport West
19. Cardiff Central and Cardiff South and Penarth
20. Cardiff North and Cardiff West



#### Key



Paired Constituency



Current Constituency

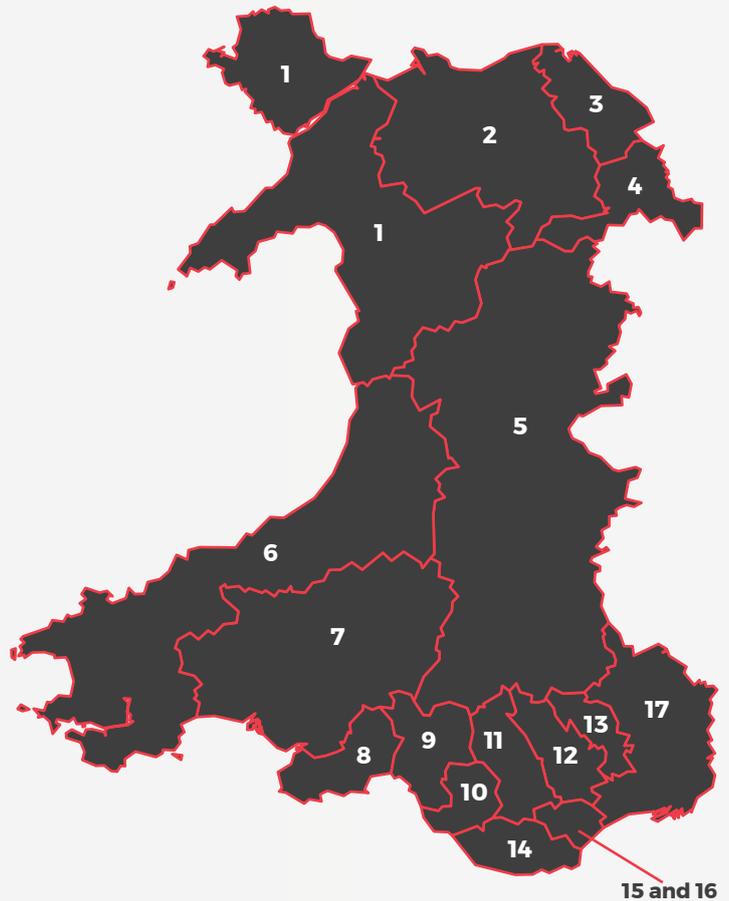
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**Option 2: 17 constituencies based on local authority areas**

- 1.** Isle of Anglesey and Gwynedd
- 2.** Denbighshire and Conwy
- 3.** Flintshire
- 4.** Wrexham
- 5.** Powys
- 6.** Ceredigion and Pembrokeshire
- 7.** Carmarthenshire
- 8.** Swansea
- 9.** Neath Port Talbot
- 10.** Bridgend
- 11.** Rhondda Cynon Taf
- 12.** Merthyr Tydfil and Caerphilly
- 13.** Blaenau Gwent and Torfaen
- 14.** The Vale of Glamorgan
- 15.** Cardiff North and West
- 16.** Cardiff South and Central
- 17.** Monmouthshire and Newport



Key



Local Authority Boundaries

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