

Agenda – Y Pwyllgor ar Ddiwygio Etholiadol y Senedd

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|-----------------------------------|--|
| Lleoliad: | I gael rhagor o wybodaeth cysylltwch â: |
| Fideogynhadledd drwy Zoom | Helen Finlayson |
| Dyddiad: Dydd Mawrth, 19 Mai 2020 | Clerc y Pwyllgor |
| Amser: 13.30 | 0300 200 6565 |
| | SeneddDiwygio@senedd.cymru |

Yn unol â Rheol Sefydlog 34.19, mae'r Cadeirydd wedi penderfynu gwahardd y cyhoedd o gyfarfod y Pwyllgor er mwyn diogelu iechyd y cyhoedd.

Yn unol â Rheol Sefydlog 34.20, mae Comisiwn y Senedd wedi penderfynu ei bod yn anymarferol darlledu'r trafodion.

Rhag-gyfarfod preifat

(13.30-14.00)

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau

(14.00)

2 Cynnig o dan Reol Sefydlog 17.42(ix) i benderfynu gwahardd y cyhoedd o weddill y cyfarfod a chyfarfod nesaf y Pwyllgor

(14.00)

3 Blaenraglen waith

(14.00-14.40)

(Tudalennau 1 – 8)

Dogfennau atodol:

CSER(5)-8-20 Papur 1 – Blaenraglen waith [Saesneg yn unig]



4 Papurau i'w nodi

(14.40-14.45)

4.1 Ymatebion i ymgynghoriad y Pwyllgor ar y cofnod o faterion a drafodwyd yn ystod digwyddiad i randdeiliaid y Pwyllgor ar gapasiti'r Senedd

(Tudalennau 9 – 24)

Dogfennau atodol:

CAP_STK 01 Cymdeithas Diwygio Etholiadol Cymru [Saesneg yn unig]

CAP_STK 02 Rhwydwaith Cydraddoldeb Menywod Cymru [Saesneg yn unig]

CAP_STK 03 Unigolyn [Saesneg yn unig]

4.2 Llythyr gan Gadeirydd y Pwyllgor Cyllid ynghylch deddfwriaeth pwyllgor – 22 Ebrill 2020

(Tudalennau 25 – 32)

Dogfennau atodol:

CSER(5)–8–20 Papur i'w nodi 1

4.3 Cyflwyniad ysgrifenedig gan yr Athro Laura McAllister ynghylch mecanweithiau deddfwriaethol a Biliau drafft – Mai 2020

(Tudalen 33)

Dogfennau atodol:

CSER(5)–8–20 Papur i'w nodi 2 [Saesneg yn unig]

Mae cyfyngiadau ar y ddogfen hon



**Committee on Senedd Electoral Reform
Consultation on the Capacity of the Assembly
ERS Cymru response
27th March 2020**

1) Does the Assembly have the capacity it needs to carry out its representative, scrutiny and legislative functions now and in the future?

We have long been convinced that the Senedd does not have the capacity it needs to deliver its functions. That has been reaffirmed not only by multiple reports examining the Senedd's capacity but also its own Members, who last year voted in favour of a motion which supported an increase in the size of the Senedd.

We remain very concerned that, over 15 years after arguments to increase its capacity were first recommended by the [Richard Commission](#), nothing has been done to rectify this.

The arguments demonstrating capacity in the Senedd is insufficient, are clear.

At just 60 Members for a population of 3.1 million, the Senedd is dwarfed by the Northern Irish Assembly at Stormont with 90 Members of the Legislative Assembly (MLAs) for around 1.8 million people. Therefore, one MLA represents 20,000 people in Northern Ireland, with a Member of the Senedd representing around 52,000 people.

Scotland has more than double the number of Members of the Senedd with 129 MSPs.

These inequalities look far more stark when you consider the changing role of the Senedd in the last twenty years. What was an Assembly in 1999 has now become a fully fledged law-making, tax-varying Parliament. Yet, we still remain far smaller than these comparative institutions.

What this means in practice is that, after you exclude Government, party leaders and speakers, the Senedd is left with just 41 Members to scrutinise the government, examine legislation and fulfil the vital committee functions of a parliament.

Furthermore, it creates extensive pressure on backbench members and members of the opposition to fill committee spaces.

Y Pwyllgor ar Ddiwygio Etholiadol y Senedd
Ymgynghoriad: Nodyn o'r materion a drafodwyd yn ystod y digwyddiad i
randdeiliad ar gapasiti
CAP_STK 01 Cymdeithas Diwygio Etholiadol Cymru

Currently, 17 Members of the Senedd sit on three committees or more.

Figure 1. Number of MSs that sit on each number of committees¹

| Amount of committee memberships | Number of MSs |
|---------------------------------|---------------|
| 1 | 11 |
| 2 | 13 |
| 3 | 14 |
| 4 | 2 |
| 5 | 1 |

This has huge consequences in terms of the capacity of each member. While we have moved on from the early days of the Senedd, where diary clashes between multiple committees were not unheard of, leading to members having to leave bags in one and swap between them, we do still face members having to read stacks of paperwork and evidence for each committee in order to properly fulfil their scrutiny role.

As the [Expert Panel on Assembly Electoral Reform](#) concluded, while examining the committee structure of the Senedd:

“The size of the Assembly makes membership of two, sometimes three, demanding committees inevitable for most backbench Members. This is damaging to the effectiveness of the Assembly. It constrains the time available for Members to read, research and prepare and has a corresponding effect on the capacity of Members to undertake high quality scrutiny, develop alternative policy thinking, and engage effectively with stakeholders and the public.”²

We have also seen particular examples of this pressure being applied within the Senedd, with subcommittees of around 3-4 members having previously been used to scrutinise legislation.

Over the last decade and a half, many reports and commissions have recommended that the size of the Senedd be increased, including the Richard Commission, the Expert Panel on Assembly Electoral Reform, and our own work such as our [Size Matters](#) and [Reshaping the Senedd](#) reports.

Yet, the calls for reform have gone beyond these reports. In July last year, the Assembly voted in favour (by 35 to 15) of a motion calling for more members.³

¹ Figures correct as of 19th March 2020. The number of Members who are ruled out from committees also includes one Member currently on maternity leave.

² [A PARLIAMENT THAT WORKS FOR WALES](#)

³ <http://www.senedd.assembly.wales/ieListDocuments.aspx?CId=401&MID=5673>

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CAP_STK 01 Cymdeithas Diwygio Etholiadol Cymru

At the same time, a range of organisations from civil society raised their own concerns around the size of the Senedd, and signed up to a call for more members. These organisations included the WCVA, IWA, British Heart Foundation, Colleges Wales and the National Autistic Society.⁴

The reality is that the limited capacity of the Senedd is being felt not just by members, but by organisations across the third and private sector who feel that it is limiting the Senedd's potential to deliver for the people of Wales.

As Professor Laura McAllister wrote in February 2020:

“Our expert panel heard no compelling argument, backed up with real, hard evidence or suggestions for further innovations in working, as to why 60 members is sufficient to properly deliver for the people of Wales – and nor have I since.”⁵

We cannot have another 15 year of reports and calls for change. Political parties must commit to a larger Senedd as part of manifestos for the 2021 election, with urgent reform to take place immediately after the next election. This is not an issue of politicians voting for more politicians. It's an issue of politicians voting to deliver a stronger and more effective parliament which will benefit the people they represent.

2) Would things be different if the Assembly had more Members? If so, how?

A larger Senedd would be a much more effective Senedd in terms of discourse, debate and proper scrutiny. An increase to 90 Members would see around 70 Members available to undertake the parliamentary functions currently undertaken by around 40.

At a practical level, more Members would mean more capacity to sit on committees and reduce the number of members sitting on multiple committees. This would mean that Members would have the proper time to deal with the many concurrent inquiries and consultations a committee undertakes, being able to read and study the evidence, and be much more across legislation. This would result in a much higher level of specialisation, as we see in other parliaments.

The Expert Panel also found this, arguing that such specialisation would in particular develop at around 90 Members:

“A figure close to 80 would undoubtedly strengthen the institution and make it better able to fulfil its responsibilities effectively. However, at the upper end of our range, the benefits

⁴ <https://action.electoral-reform.org.uk/page/45132/action/1>

⁵ <https://www.walesonline.co.uk/news/news-opinion/backing-away-addressing-national-assembly-17667591>

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*would be greater, providing a more meaningful difference in the ability of many Members to specialise, with consequent benefits for scrutiny and representation.*⁶

Any government needs proper scrutiny and a larger Senedd will deliver that much more effectively. What that means in practice is better delivery of services, more accountability in terms of how money is spent and stronger legislation.

As Professor McAllister wrote recently, *“And not doing it [increasing the size of the Senedd] might pose an even bigger existential risk.... We need to find a counter-narrative and quick, one that is, in itself, populist and positive. How about starting with an explanation of the difference between the Senedd and the Welsh Government? Then showing how a more muscular parliament can save money and deliver more by consistently asking the tougher questions about schools and NHS performance?”*⁷

3) If the Assembly continues to have 60 Members, what could it, its committees, its Members, political parties or others do differently to increase the Assembly's capacity?

As the Expert Panel concluded, after weighing up many different options for amending the Senedd's working week or involving non-AMs into decision making, there are no options that can address the fundamental issue of the Senedd's capacity being too small.

In the *A Parliament that Works for Wales* report,⁸ the Panel concluded:

“None of these approaches can address the underlying limiting factor: the severely limited time available for the 60 elected Members to carry out the full range of their responsibilities. This is, necessarily, a limiting factor on the capacity of the Assembly to truly be a parliament that works for the people of Wales.”

We are frustrated that three years after this report, these options are still being considered. Political parties must commit to an increase in the size of the Senedd at the upcoming election. There is no alternative if we want to effectively represent the people of Wales.

6

<https://www.assembly.wales/NAfW%20Documents/About%20the%20Assembly%20section%20documents/Expert%20Panel%20on%20Assembly%20Electoral%20Reform/A%20Parliament%20that%20Works%20for%20Wales.pdf>

⁷ <https://www.walesonline.co.uk/news/news-opinion/backing-away-addressing-national-assembly-17667591>

8

<https://www.assembly.wales/NAfW%20Documents/About%20the%20Assembly%20section%20documents/Expert%20Panel%20on%20Assembly%20Electoral%20Reform/A%20Parliament%20that%20Works%20for%20Wales.pdf>

Capacity of the Assembly

WEN Wales welcomes the opportunity to support the National Assembly for Wales Committee on the Assembly Electoral Reform's inquiry in the Capacity of the Assembly. Like many stakeholders, WEN Wales supports the call for an increase to the size of the Assembly in order to increase scrutiny and efficiency.

We particularly support the incorporation of quotas as outlined by the Expert Panel on Electoral Reform regarding the use of gender quotas and quotas for diversity and have included a briefing paper laying out the case of quotas in Appendix 1. We support the proposal from the Expert Panel of the use of the Single Transferable Vote with integrated equalities quotas, as laid out in the official response from the panel.¹

There is strong evidence that quotas work:

- Research shows that quotas are the **“single most effective tool for ‘fast tracking’ women’s representation in elected bodies for government.”**²
- Among the twenty Organization for Security and Co-operation in Europe (OSCE) countries registering the sharpest growth in the proportion of women in parliament during the last decade...**half had introduced legal quotas. By contrast, among the twenty OSCE countries lagging behind in growth...none had implemented legal quotas.**³
- **Ireland** has successfully used quotas requiring that at least 30 per cent of the candidates each party stands nationally are female (rising to 40 per cent after seven years). **The percentage of women candidates increased 90 per cent at the 2016 election** compared to the 2011 election, with a corresponding **40 per cent increase in the number of women elected**—35 in 2016 compared with 25 in 2011.⁴
- **100 Countries** world-wide now have some form of gender quotas in place and 40 also use them for intersectional groups such as BAME women.

Regardless of whether the Assembly size increases, it is essential that parental leave for Members is supported using locum Members and proxy voting. Creche provisions would also help safeguard the ‘family friendly’ policies that currently exist within the Assembly. We call for a creche provision at the National Assembly, as there is in Westminster, to better support caring responsibilities held by Members, particularly considering the limited provisions for parental leave. Enhancing the ‘family friendly’ ethos of the Assembly is paramount to achieving and maintaining diversity amongst Members. If this ethos was diluted, WEN Wales would expect to see additional barriers and possible decrease to the numbers of women seeking elected office at the Assembly or fulfilling the role of a Member, particularly with issues around caring responsibilities, which disproportionately fall on women.

¹ A Parliament that works for Wales, Report of the Expert Panel on Assembly Electoral Reform, November 2017

² Drude Dahlerup et al., Atlas of Electoral Gender Quotas, International Institute for Democracy and Electoral Assistance [IDEA], IPU and Stockholm University, 2013.

³ Norris, P. and Krook, M. for OSCE, Gender equality in elected office: a six-step action plan, 2011

⁴ Brennan, M. and Buckley, F. ‘The Irish legislative gender quota: the first election’, Administration, vol 65(2), May 2017

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We believe that a healthy Assembly must be more diverse. As you will be aware, the Assembly has never had a Black, Asian or minority ethnic (BAME) woman Member, which is unhealthy for democracy as it does not reflect Wales' national demographic figures. It further entrenches lack of diversity if young political women cannot see anyone who looks like them in the Senedd.

We endorse Bethan Sayed AM's call for 'locum' Members of the Assembly⁵, to support Members for up to 12 months of parental leave. Currently, the provisions mean that Members would have to decide whether to come to the Chamber to vote, as there is no alternative voting system for those on parental leave. As there is no creche on site, there is not a joined-up approach in relation to the caring responsibilities of members on leave and voting responsibilities.

Alternatively, we would also press for the Senedd Commission to implement virtual plenary meetings and remote voting as well as fully rolling out the use of digital Committee sessions and evidence gathering. ERS Cymru have pressed for these changes now to ensure proper scrutiny during the Covid-19 pandemic, however we believe they would work extremely well for example during parental leave.⁶

More Members in the Assembly may mean an increase in diversity, but there are significant barriers to elected office in Wales that need to be addressed – we therefore call on the Committee to lobby Welsh Government to ensure that an Assess to Elected Office Fund is available to candidates seeking elected office, such as election to the 6th Assembly, and that such a fund is available for disabled candidates, in addition to a similar scheme for others who experience additional barriers, such as low-income or childcare constraints and BAME women. Welsh Government has stated that funding for disabled candidates will be in place in time for the local government elections in 2022 however we are extremely disappointed it is not available for the next Welsh Parliament elections in 2021 as this will lead to a less diverse assembly.

The case for increased Members in Wales is marred by the very low understanding of the general population about the role of the Assembly and its Members, and how this relates to the roles of local councillors and Members of UK Parliament. Therefore, we support the Electoral Reform Society Cymru's call for impartial compulsory political education in educational institutions, alongside a wider national awareness-raising campaign. We believe that without this, the necessity of increasing the number of Members in the Senedd will be ill-understood and widely unpopular.

We believe that increase opportunities for cross-party working, through mechanisms such as Cross Party Groups, are very welcome and would increase the efficiency of the Assembly. WEN Wales holds the secretariat for the Cross Party Group on Women and while many Members are supportive of the work of the group, they often do not have the capacity to attend meetings and thus hear from the expertise in the room, and miss an opportunity for cross-party working on areas of shared interest.

COVID-19 is dramatically changing how the Assembly and all places of work are operating. We hope that any good practices that have been adopted during this pandemic will become permanent policies within the Assembly, rather than a resumption of 'business as normal' following this global crisis.

⁵ <https://www.bbc.co.uk/news/uk-wales-50159517> (BBC News, 24th October 2019).

⁶ <https://nation.cymru/news/campaigners-call-for-remote-voting-at-senedd-amid-concerns-over-collapse-in-scrutiny/>

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Recommendations:

- Establish a creche at the Welsh Parliament for Members, their staff and constituents on Parliament business
- Enable a system of 'locum' Members for Members on Parental leave
- Enable a system of proxy voting
- The Committee should raise concerns about the lack of Assess to Elected Office Fund with Welsh Government.
- Good work practices adopted during the COVID-19 pandemic should be made permanent, where appropriate.

About WEN Wales:

WEN Wales is a representative women's network⁷ and human rights organisation. Our Vision is a transformed Wales, free from gender discrimination. We call for a Wales where all women and men have equal authority & opportunity to shape society and their own lives.

⁷ Over 1300 individual members and organisational members, including women's rights and allied organisations from across the third sector, academia, international and national NGOs.

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Appendix 1:

BRIEFING PAPER

The case for quotas to deliver equal and diverse representation

WEN Wales favours an electoral system that results in gender balance or 'Equal Power and Equal Voice' in the Senedd and in Local Government in Wales. The system must also ensure that the voices of those with protected characteristics are represented. **We therefore support the use of legally binding prescriptive gender quotas with sanctions or incentives.**

- WEN Wales supports the findings of the Expert Panel on Assembly Electoral Reform, who support the Single Transferable Vote with **the integration of gender quotas into the system.**
- WEN Wales believes that women's participation and the success of women as candidates in elections are vital indicators of the health of a representative democracy, and an integral part of achieving a more equal Wales, in line with the ambitions of the Wellbeing of Future Generations (Wales) Act 2015.
- Gender quotas should be enforced through legislation, and not just through voluntary measures as we believe we need to 'bake in' gender equality into our electoral system or we will continue to see reductions in numbers of woman AMs, low number of women as Councillors and a lack of diversity of political representatives too.

Evidence supporting quotas

- Research shows that quotas are the **"single most effective tool for 'fast tracking' women's representation in elected bodies for government."** ⁸
- Among the twenty Organization for Security and Co-operation in Europe (OSCE) countries registering the sharpest growth in the proportion of women in parliament during the last decade...**half had introduced legal quotas. By contrast, among the twenty OSCE countries lagging behind in growth...none had implemented legal quotas.** ⁹
- There is international backing for gender quotas. Various international institutions, including the United Nations Committee on the Elimination of Discrimination (**CEDAW**), the Beijing Platform for Action, the EU and the Council of Europe support their use.
- **Ireland** has successfully used quotas requiring that at least 30 per cent of the candidates each party stands nationally are female (rising to 40 per cent after seven years). **The percentage of women candidates increased 90 per cent at the 2016 election** compared to the 2011 election, with a corresponding **40 per cent increase in the number of women elected**—35 in 2016 compared with 25 in 2011. ¹⁰
- **100 Countries** world-wide now have some form of gender quotas in place and 40 also use them for intersectional groups such as BAME women.

⁸ Drude Dahlerup et al., Atlas of Electoral Gender Quotas, International Institute for Democracy and Electoral Assistance [IDEA], IPU and Stockholm University, 2013.

⁹ Norris, P. and Krook, M. for OSCE, Gender equality in elected office: a six-step action plan, 2011

¹⁰ Brennan, M. and Buckley, F. 'The Irish legislative gender quota: the first election', Administration, vol 65(2), May 2017

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- A report published by the United Nations in 2012 found that **out of the 59 countries that held elections in 2011, 17 of them had quotas**. In those countries, women **gained 27% of parliamentary seats compared to 16% in those without**.¹¹

Types of Quota

Different types of gender quota have been used in different countries, depending on the electoral system and local circumstances. The Expert Panel on Electoral reform¹² describes the three main types as:

- **Candidate quotas which introduce a 'floor'** for the proportion of male or female candidates a party stands for election. These could be applied in the form of constituency twinning for First Past The Post (FPTP) seats. They could also be applied to multimember systems such as STV or Flexible List at a constituency or a national level. Parties in Scandinavia, Spain and Austria have voluntarily adopted similar quotas, ranging from 33 per cent to 50 per cent.
- Requirements for **the ordering of candidates on any list** element of the system. Voluntary quotas of this nature have been used by parties in Wales in Assembly elections, for example zipping of regional candidate lists. (I.e. listing candidates alternately according to their gender)
- **'Reserved seats'** to which only female candidates could be elected. This type of quota is widely used in South Asia, the Arab region and sub Saharan Africa.

Examples of Incentives used:

- **Croatia** has legally binding quotas and uses incentives - for each MP representing an underrepresented gender, political parties receive an **additional 10 per cent of the amount envisaged** per individual MP;
- **Bosnia and Herzegovina**: where 10 per cent of the funding provided to political parties is distributed to parties in proportion to the number of seats held by MPs of the gender which is less represented in the legislature.
- **Two for the price of one deposits** for two candidates of different genders could be used in Wales —this would appear to us to be proportionate in the context of seeking to ensure that the gender balance in the Assembly reflects the gender balance in the communities it serves.¹³

What needs to happen next

After decades of campaigning by NGOs to make change, women – who make up 52% of the population in Wales - still do not have equality in terms of representation in politics. In Welsh local government just 28% of local councillors, four of the 22 council leaders (18%) and 27% of Council Cabinet members are women. One

¹¹ <https://www.theguardian.com/politics/2013/aug/20/quotas-women-parliament-authors-edinburgh-book-festival>

¹² A Parliament that works for Wales, Report of the Expert Panel on Assembly Electoral Reform, November 2017

¹³ A Parliament that works for Wales, Report of the Expert Panel on Assembly Electoral Reform, November 2017

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local authority cabinet is 100% male. At the rate of change to date, gender balance in Welsh councils is unlikely before 2073.

We have a unique window of opportunity to progress the diversity and equality of representation agenda and push for legislative and party political change to enshrine diversity into our political system for years to come. Wales is at a tipping point and, with legislative quotas, Wales could lead the way and be a trail blazer in terms of showing the rest of the UK how quotas can be used.

Political Context:

In 2017 the Wales Act devolved power to Wales to have control over its own electoral system. An expert panel on Assembly reform, Chaired by Prof. Laura McAllister and appointed by the Llywydd (Presiding Officer) recommended introducing gender quotas for the 2021 Assembly elections as part of a new electoral system with STV or Flexible List PR, lowering the age of voting to 16 and changing the name of the Welsh Assembly to Senedd Cymru.

This resulted recently in 'Phase 1' of the Electoral Reform legislation - The Senedd and Elections (Wales) Bill however it was not bold enough in tackling equality and diversity partly as the Presiding officer felt there was not sufficient public support, though it extended the franchise to 16 year olds. The Liberal Democrats said it is an "important step" that will "ensure the voices of young people are heard within Welsh politics and help us create a better Welsh democracy."

Phase 2 of the reforms are likely to take place after the May 2021 elections and will include looking at the electoral system and the enlarging of the Assembly. **We see the legislation on quotas as being a perfect fit with this reform Bill as it goes hand in hand with STV and an enlarged Senedd.**

Conclusion

WEN Wales believes that legally binding quotas, with sanctions or incentives, are essential to ensure we do not continue to see a reduction in the numbers of women AMs elected to the Senedd and the continuation of low numbers of women elected in Local councils.

We are calling for:

- **All Political Parties to include a commitment to legally binding quotas in their Manifestos for the 2021 elections**
- **The Local Government and Elections (Wales) Bill and forthcoming legislation on Reform of the Assembly should include provisions on legally binding quotas.**

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Consultation on the note of issues raised at the Committee on Senedd Reform's stakeholder event on the capacity of the Senedd: Response from an individual via online questionnaire – February 2020

Issue 1: Size of the Assembly

Extract from note: There was general consensus that the Assembly does not have the capacity it needs, and that this presents challenges for scrutiny and democratic accountability. Some participants noted that the Assembly has responsibility for many of the issues which affect people most in their daily lives, but that once members of the Welsh Government and the Presiding Officers had been taken into account, only around 45 Members are available to undertake the Assembly's scrutiny functions. While there was consensus that scrutiny is generally of a good quality, some participants felt it was inevitable that without increased capacity, the Assembly would miss significant issues which should be subject to scrutiny. There was general support for an increase in the size of the Assembly. Some participants suggested that an increase should be towards the upper end of the Panel's proposed bracket of 80-90 Members to future-proof the institution and avoid further adjustments being required in the foreseeable future.

Response: agree with the assessment above. The National Assembly has done tremendously well to absorb and adapt to a great deal of constitutional change that involved both significant structural changes but also a broadening and deepening of its powers and competencies. It has done so by strengthening the provision supporting the work of the Assembly Members and the work of committees. However, at the core of the representative Welsh democracy should sit the quality of deliberation done by its elected representatives. This deliberation should be driven and enriched by politicians and only supported by officials, experts and civil servants. Evidence has pointed out that by any measure (see the regional authority index for instance), the Assembly's size is under what international benchmarks show as standard floor capacity. And even though the Assembly has a track record of versatility and fast institutional learning, the challenges it faces in the

next few years are inseparably more complex and problematic than ever before (Brexit, nationalist populism in and from England, devolution of justice, etc). The Expert Panel's compelling evidence and arguments for a 90 Member Assembly should be taken into real consideration.

Issue 2: Role and responsibilities of the Assembly

Extract from note: The role of the Assembly has changed significantly since it was established in 1999; in particular it now has law-making and taxation responsibilities. Brexit and the recommendations of the Commission on Justice in Wales that justice and policing should be devolved may result in further changes. Participants noted that the establishment of the Assembly, and subsequent changes to the devolution settlement, had been controversial, but that support for devolution had increased. There was general consensus that it was important to help the public to understand that the Welsh Government and Assembly take decisions which directly affect people's lives, and that such decisions must therefore be properly and effectively scrutinised by Members who have the skills, time, capacity and expertise to do so. The lack of media focus on the Assembly was regarded by some participants as a major concern. It was felt that good work sometimes went unnoticed, and that Members may be aware that they work in a parliamentary environment which is subject to less scrutiny than other UK legislatures. Some participants suggested that the media, both at Welsh and national levels, could do more to explain the work of the Assembly and why more Members are needed.

Response: The above is a fair statement. The Assembly is essentially a very institution to that established in 1999. All main functions of the Assembly (scrutiny, law making, tax raising and representation) are likely to be tested in the next few years by Brexit, devolution of justice and the changing nature of the Union. However, I would like to raise another point here. This is linked with the representational role of the Assembly. One of the main challenges in the Assembly deploying this role is tackling the endemic information deficit, political disaffection and disenchantment. This makes Welsh devolved democracy vulnerable. Sentiments around the Assembly operating in a 'Cardiff Bubble' are counter to the devolution aspirations of inclusivity and shaping a new kind of politics in Wales, essentially different from Westminster. Antidevolutionist sentiments capitalising on the media and information deficit in Wales may prove real challenges in the future.

Issue 3: Assembly Committees

Extract from note: Participants felt there were severe limitations on the time available to Members to prepare for formal Assembly business, to engage with the evidence and available expertise, and to reflect on the matters they are scrutinising. Participants suggested that smaller parties struggle to take up places on all Assembly committees and that larger parties find it difficult to fill all of the committee places allocated to them. It was noted that the recent reduction in committee size had partially alleviated the pressure of the number of places, but that it would now be harder for Members to specialise in different aspects of committee portfolios. This was felt to be exacerbated by the breadth of committees' remits. Participants suggested that the breadth of remits was itself partly driven by the constraint the Assembly's size puts on the number of committees which can be established. A further consequence of the breadth of remits combined with a lack of capacity was felt to be an increase in the number of short inquiries in place of longer, more detailed pieces of work. Opportunities for postlegislative scrutiny and horizon-scanning to anticipate areas of interest and importance were also thought to be limited. Some participants were concerned that scrutiny of Government decision-making tended to be retrospective, limiting the opportunities for Members and committees to influence and shape Government policy. The constraint on strategic and creative thinking was felt to lead to missed opportunities to set the agenda and influence policy, spending and legislation, as the time required to prepare for and attend committee and Plenary meetings limited the time available for creative political thinking or the development or consideration of alternative options. There was also some concern about whether the range of organisations and individuals from whom committees take evidence is sufficiently broad. Some participants observed varying levels of expertise among committee members in relation to the more technical aspects of scrutiny, and were concerned that committee activity was being led by the skills and knowledge of the supporting officials. Participants recognised the technicality and complexity of some of the issues Members consider, including primary and secondary legislation and detailed Government policy proposals. This contributed to concerns about the level of turnover of committee memberships, which participants felt could hinder Members' ability to build up expertise upon which detailed and probing scrutiny could be based, especially in technical areas such as taxation. Some participants noted that constraints on the time or capacity available

for scrutiny could have a detrimental impact on the Assembly's capacity; for example, inadequate scrutiny of legislation could lead to defective or ineffective legislation requiring resolution by further policy or legislative action and giving rise to additional scrutiny requirements

Response: Some fair observations here. This is a typical case of structure vs. strategy. The small size of the Assembly has constrained the strategic choices available to the Assembly in what regards its operation (of its committees for instance), and its focus (legislative burden may take time away from committees that want to engage in more 'out of the box' type of inquiries). It is generally accepted that successful organisations let strategy determine their structure - that is they can adapt and fine tune their structure and operation according to their overall strategic intent. Organisations that are constrained by their own limited capacity (structures of resources) may be resilient, may be great at streamlining and adapting, but ultimately their ability to set their aspirations and goals at strategic level are hindered and limited by size, for instance.

Issue 4: Engagement with the public and stakeholders

Extract from note: Participants felt that the majority of Members' time while on the Assembly estate was taken up with formal Assembly business, with limited opportunities to undertake formal Assembly business away from Cardiff Bay, or for Members to engage informally or meet with stakeholders, constituents, service users or others. Some participants noted that the current capacity constraints are particularly acute for Members representing the constituencies which are furthest from Cardiff Bay, as a greater proportion of these Members' time is spent travelling. Concerns were expressed that access to Members might sometimes be on the basis of personal relationships, rather than the importance of specific issues or strength of argument. Participants felt that if an increase in capacity reduced the time pressures within the working week, or allowed Members to specialise in particular policy issues, it could improve and increase the quality and diversity of engagement. Participants also suggested that constraints on Members' time can limit the scope for them to engage with each other on a cross-party basis. This was felt to encourage a tribal culture within the institution and limit the scope for working across party lines to build consensus and think creatively about the issues facing Wales.

Response: The above is a fair assessment as well. Pressure on Assembly members' time and on committees may impede more meaningful engagement with a wider and diverse range of stakeholders. With the franchise being extended to 16 and 17 year olds, more effort will need to be paid to make a success of this and really galvanise young people to engage in the democratic process. This is not only a matter for the individual members but also an important matter for the Assembly collectively and in fact for the entire Welsh political class and associated political institutions (including at local level).

Issue 5: Assembly Commission staff support

Extract from note: Participants highlighted the role of Assembly Commission staff in supporting scrutiny, especially through the Assembly's committees. They noted that while staff support has been increased and is generally of a high standard, it cannot substitute for Members having the time to engage directly with the evidence and the issues, or for the political perspective that only Members can bring. Some participants noted that on occasion they had observed a lack of experience or specific technical knowledge in the advice provided to Members, which had been reflected in the approach to questioning taken by Members in committee.

Response: A fair comment and assessment. Official support cannot replace deliberation of political elected representatives and they cannot over rely on advice and support. A better integration of and access to experts is something that can help, but again, ultimately, the democratic deliberation will be influenced both by how big the pool of talent among members is (i.e. size) and by the calibre of those members.

Issue 6: Comparisons with other legislatures and intra-party scrutiny

Extract from note: Participants reflected on the size of other UK and international legislatures, noting that the Assembly appears undersized in comparison. Some participants suggested that in a smaller legislature Members may be less likely to be critical of their own party than members of larger legislatures, and argued that a larger membership might allow for more scrutiny within parties, as well as of the Welsh Government. There also were some concerns that the regional list element of the current electoral system might deter Members from criticising their own party if they felt they had been elected in the name of the party rather than as individuals.

Response: small number do affect the nature and quality of relationships within an organisation.

The respondent did not respond to the remaining extracts from the note.

Dawn Bowden AC

Cadeirydd y Pwyllgor ar Ddiwygio Etholiadol y Cynulliad

22 Ebrill 2020

Annwyl Dawn,

Deddfwriaeth Pwyllgor

Diolch am eich llythyr dyddiedig 6 Mawrth 2020, pan wnaethoch ofyn i mi am sylwadau ynghylch profiadau'r Pwyllgor Cyllid mewn perthynas â datblygu Bil Pwyllgor a'i lywio drwy'r broses ddeddfwriaethol.

Fel y gwnaethoch sôn yn eich llythyr, y Pwyllgor Cyllid yw'r unig Bwyllgor hyd yma sydd wedi defnyddio'r ddarpariaeth yn y Rheolau Sefydlog (Rheol 26.81) sy'n galluogi unrhyw un o bwyllgorau'r Cynulliad i gyflwyno Bil sy'n ymwneud â'i gylch gwaith. Defnyddiodd y Pwyllgor y ddarpariaeth honno i gyflwyno **Bil Ombwdsmon Gwasanaethau Cyhoeddus (Cymru)** (y Bil).

Daeth y broses o gyflwyno'r Bil hwn yn sgil trafodaethau helaeth ynghylch yr angen am ddeddfwriaeth–trafodaethau a gynhaliwyd dros ddau Gynulliad. Yn 2015, cynhaliodd Pwyllgor Cyllid y Pedwerydd Cynulliad ymchwiliad cychwynnol i drafod pwerau'r Ombwdsmon. Yna, cynhaliwyd ymgynghoriad ar Fil drafft, cyn i'r Bil terfynol a'r Memorandwm Esboniadol cysylltiedig gael eu gosod yn ystod y Pumed Cynulliad, ym mis Hydref 2017. Aeth y Bil ar ei daith drwy'r pedwar cyfnod ym mhroses graffu'r Cynulliad, a chafodd Gydsyniad Brenhinol ar 15 Mai 2019.

Mae'r Bil hwn yn ffrwyth llawer o waith caled a wnaed dros nifer o flynyddoedd a phroses graffu drwyadl, gan gynnwys gwaith gan sawl un o bwyllgorau'r Cynulliad. Roedd yn fraind cael bod yn Gadeirydd y Pwyllgor a oedd yn llywio'r ddeddfwriaeth bwysig hon drwy'r Cynulliad. Er bod ystod eang o adnoddau clericio, cyfreithiol ac ymchwil wedi'u defnyddio yn ystod hynt y Bil, roedd hwn hefyd yn gyfle gwych i feithrin profiad drafftio ac adeiladu capasiti o fewn Comisiwn y Cynulliad.



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Yn fwy diweddar, mae'r Pwyllgor wedi bod yn datblygu'r Bil Archwilio Cyhoeddus (Diwygio) (Cymru) drafft a'r Memorandwm Esboniadol cysylltiedig, sy'n cynnig diwygiadau i Ddeddf Archwilio Cyhoeddus (Cymru) 2013.

Yn ogystal, o ran y broses o ystyried deddfwriaeth anllywodraethol, hoffwn dynnu eich sylw at y **Bil Awtistiaeth (Cymru)**. Cyflwynwyd y Bil hwn gan Paul Davies AC ym mis Gorffennaf 2018, a bu goblygiadau ariannol y Bil yn destun gwaith craffu gan y Pwyllgor Cyllid. Nododd adroddiad y Pwyllgor nad oedd modd i'r Aelodau wneud penderfyniad ynghylch a oedd yr Aseiad Effaith Rheoleiddio yn ddilys ai peidio, a hynny yn sgil diffyg gwybodaeth gan Lywodraeth Cymru. Yn sgil y datblygiad hwn, ysgrifennais at **Brif Weinidog Cymru** yn nodi pryderon y Pwyllgor ynghylch diffyg ymgysylltu Llywodraeth Cymru â Biliau anllywodraethol. Cafwyd **ymateb gan y Prif Weinidog**.

Rwyf wedi darparu ymateb mwy manwl i'ch cwestiynau arfaethedig yn yr Atodiad sydd ynghlwm, ac rwy'n gobeithio y bydd yr ymateb hwn yn ddefnyddiol i chi yn y broses o ystyried y gwahanol fecanweithiau ar gyfer cyflwyno Biliau.

Yn gywir,



Llyr Gruffydd AC
Cadeirydd y Pwyllgor Cyllid



Atodiad – Profiadau'r Pwyllgor Cyllid mewn perthynas â datblygu Bil Ombwdsmon Gwasanaethau Cyhoeddus (Cymru)

- Datblygu cynigion a darpariaethau deddfwriaethol, ynghyd â dogfennaeth ategol, asesiadau effaith ac amcangyfrifon ariannol cysylltiedig.

Cefndir y ddeddfwriaeth

Cafodd rôl Ombwdsmon Gwasanaethau Cyhoeddus Cymru (yr Ombwdsmon) ei sefydlu gan **Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005** (Deddf 2005). Ers 2013, cafwyd galwadau am ymestyn pwerau rôl yr Ombwdsmon mewn pum prif faes gan yr Ombwdsmon blaenorol, Peter Tyndall, a'r Ombwdsmon cyfredol, Nick Bennett. Yn y Pedwerydd Cynulliad, bu'r Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol a'r Pwyllgor Cyllid yn craffu ar waith yr Ombwdsmon ac ystyriaethau ariannol swyddfa'r Ombwdsmon. Fel rhan o waith craffu'r Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol ar adroddiad blynyddol yr Ombwdsmon, clywodd y Pwyllgor gan Peter Tyndall, yr Ombwdsmon ar oedd ar fin ymadael, fod angen diweddarau Deddf 2005.

Dywedodd Llywodraeth Cymru y byddai'n fwy priodol i'r Cynulliad arwain ar unrhyw newid deddfwriaethol gan fod y Llywodraeth yn gorff cyhoeddus sy'n destun gwaith craffu gan yr Ombwdsmon.

Yn dilyn hynny, ysgrifennodd y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol at y Pwyllgor Cyllid i ddweud bod gwerth mewn adolygu'r Ddeddf, ond nid oedd modd iddo neilltuo'r amser yr oedd ei angen i wneud hynny. Felly, awgrymodd y gallai'r Pwyllgor Cyllid wneud y gwaith hwn pe dymunai.

Dechreuodd y Pwyllgor Cyllid ei waith ar y Bil yn 2015. Cynhaliodd y Pwyllgor ymgynghoriad cyhoeddus at ddibenion llywio ei **ymchwiliad i'r cynigion i ymestyn pwerau'r Ombwdsmon**. Cafodd y Pwyllgor ei argyhoeddi gan y dystiolaeth a glywodd, a chytunodd fod angen newidiadau i'r ddeddfwriaeth. Yn gynnar ym mis Hydref 2015, cynhaliwyd ymgynghoriad ar y **Bil drafft**. O ystyried yr amser cyfyngedig a oedd ar gael yn y Pedwerydd Cynulliad i Fil gwblhau ei thaith ddeddfwriaethol, argymhellodd y Pwyllgor y dylai Pwyllgor yn y dyfodol gyflwyno'r Bil, a hynny cyn gynted â phosibl. Argymhellodd y Pwyllgor Cyllid hefyd y dylai'r Ombwdsmon gyfrannu at Aseiad Effaith Rheoleiddiol wedi'i gostio'n llawn i gyd-fynd â'r Bil, y byddai modd olrhain ei hynt drwy'r cyllidebau a fyddai'n cael eu cyflwyno gan yr Ombwdsmon i'r Cynulliad yn y dyfodol.

Ystyriaeth gan Bwyllgor Cyllid y Pumed Cynulliad

Ym mis Medi 2016, bu'r Pwyllgor Cyllid yn ystyried yr argymhellion a wnaed gan Bwyllgor Cyllid y Pedwerydd Cynulliad. Yn dilyn hynny, ysgrifennodd y Pwyllgor at yr Ombwdsmon, gan nodi y byddai angen iddo weld gwybodaeth ariannol gadarn i gefnogi'r ymyrraeth ddeddfwriaethol arfaethedig hon cyn y gallai'r Aelodau ystyried a ddylid cyflwyno'r Bil.



Comisiynodd yr Ombwdsmon gwmni ymchwil allanol, sef OB3, i gynnal yr asesiad angenrheidiol. Ym mis Rhagfyr 2016, cyflwynodd yr Ombwdsmon wybodaeth am gostau a buddion y Bil i Gadeirydd y Pwyllgor Cyllid.

Rhoddodd yr Ombwdsmon dystiolaeth ynghylch goblygiadau ariannol y Bil i'r Pwyllgor Cyllid yn ei gyfarfod ar **9 Mawrth 2017**. Yn dilyn y cyfarfod, ysgrifennodd Cadeirydd y Pwyllgor Cyllid at yr Ombwdsmon i ofyn am wybodaeth bellach. Yn benodol, roedd y Pwyllgor Cyllid am weld amcangyfrif o'r costau tebygol i'r cyrff cyhoeddus eraill y byddai'r darpariaethau yn y Bil yn effeithio arnynt (neu'r costau 'anuniongyrchol'), sef y costau nad oeddent wedi'u meintioli gan yr Ombwdsmon. Roedd y Pwyllgor Cyllid yn cydnabod yr heriau a'r cyfyngiadau a oedd ynghlwm wrth geisio meintioli'r costau hyn, yn sgil y diffyg tystiolaeth a data a oedd ar gael. Fodd bynnag, roedd o'r farn ei bod yn hanfodol sicrhau bod unrhyw Fil a oedd yn cael ei gyflwyno yn cynnwys costau manwl a oedd wedi'u mesur. Ymatebodd yr Ombwdsmon i gais y Pwyllgor ar **28 Ebrill 2017**.

Paratôdd swyddogion y Cynulliad ddrafft cynnar o'r Memorandwm Esboniadol a'r Asesiad Effaith Rheoleiddiol, gan ymgorffori'r costau a'r buddion a ddarparwyd gan yr Ombwdsmon, wrth i'r Pwyllgor Cyllid barhau â'r broses o drafod y Bil. Wrth baratoi drafft cynnar o'r Memorandwm Esboniadol, gwnaeth swyddogion y Cynulliad rai rhagdybiaethau ynghylch yr amcangyfrifon cost, gan nodi'r angen am eglurhad neu wybodaeth ychwanegol. Ysgrifennodd y Pwyllgor at yr Ombwdsmon i ofyn am y wybodaeth hon, gan ofyn hefyd am wybodaeth i lywio ei drafodaethau ar agweddau eraill ar y Bil. Yn ogystal ag ymateb i geisiadau'r Pwyllgor yn ysgrifenedig, cynhaliodd staff yr Ombwdsmon gyfarfodydd â swyddogion y Cynulliad i drafod goblygiadau ariannol y Bil a'r Memorandwm Esboniadol drafft.

Parhaodd y Pwyllgor â'i drafodaethau ar y Bil a'r Memorandwm Esboniadol drafft yn ystod tymor y gwanwyn 2017. Ym mis Gorffennaf 2017, cytunodd y Pwyllgor y dylid cyflwyno Bil a oedd yn cynnwys nifer o newidiadau i'r hyn a ddrafftwyd gan Bwyllgor Cyllid y Pedwerydd Cynulliad.

• Ymgynghori a gweithio â rhanddeiliaid polisi a rhanddeiliaid gwleidyddol, gan gynnwys ar Filiau drafft.

Fel y nodir uchod, cynhaliwyd dau ymgynghoriad er mwyn rhoi cyfle i rhanddeiliaid polisi a rhanddeiliaid gwleidyddol lywio'r ddeddfwriaeth cyn i'r Bil gael ei gyflwyno.

Ymatebodd Llywodraeth Cymru i ymgynghoriad Pwyllgor Cyllid y Pedwerydd Cynulliad ar y **Bil drafft**, ond nid i'r **ymchwiliad cychwynnol**.

Ar ôl cyflwyno'r Bil, cynhaliodd y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau (ELGC)—sef y Pwyllgor cyfrifol (mater yr ymdrinnir ag ef yn fwy manwl mewn pwynt bwled isod)—waith craffu llawn ar y Bil yng Nghyfnod 1. Roedd hyn yn cynnwys ymgynghoriad pellach ar egwyddorion cyffredinol y Bil.

• Cyflwyno deddfwriaeth a'i llywio drwy'r broses graffu ddeddfwriaethol.

Awdurdododd y Pwyllgor Cyllid Gadeirydd y Pwyllgor fel yr Aelod a oedd yn gyfrifol am y Bil (Rheol Sefydlog 24.7). Gosododd y Cadeirydd y Bil a'r Memorandwm Esboniadol ar 2 Hydref 2017, a



gwnaeth ddatganiad llafar yn y Cyfarfod Llawn ar 4 Hydref 2017, gan efelychu'r dull a fabwysiadwyd gan Lywodraeth Cymru (er nad yw hynny'n ofynnol o dan y Rheolau Sefydlog).

Bryd hynny, roedd y Rheolau Sefydlog yn caniatáu i Fil Pwyllgor osgoi'r broses o gael ei gyfeirio'n awtomatig i Bwyllgor cyfrifol, er mwyn i'r Pwyllgor hwnnw gael ystyried ac adrodd ar yr egwyddorion cyffredinol. Fodd bynnag, er mwyn hyrwyddo arfer gorau a thryloywder, ac yn sgil y ffaith bod y gwaith o ddrafftio'r Bil wedi digwydd dros ddau Gynulliad gwahanol, cynigiodd yr Aelod a oedd yn gyfrifol y dylai Aelodau gael cyfle i ystyried ac adrodd ar yr egwyddorion cyffredinol. O ganlyniad, cafodd Rheol Sefydlog 26.82 ei dileu¹. Cafodd y Bil ei gyfeirio at y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau, a bu'n destun gwaith craffu llawn yng Nghyfnod 1. Roedd y gwaith hwn yn cynnwys craffu ar egwyddorion cyffredinol y Bil a'i oblygiadau ariannol. O gofio bod yr olaf o'r rhain fel arfer yn cael ei wneud gan y Pwyllgor Cyllid, penododd y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau gynghorwr arbenigol i helpu gyda'i waith craffu ar oblygiadau ariannol y Bil.

Yn ogystal â darparu tystiolaeth lafar yn ystod Cyfnod 1, fel sy'n arferol, cafodd yr Aelod a oedd yn gyfrifol ohebiaeth gan y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau ym mis Rhagfyr 2017 a mis Ionawr 2018 yn gofyn iddo ymateb i gwestiynau a materion a godwyd gan y Cynghorwr Arbenigol.

Yn ystod Cyfnod 1, bu'r Bil hefyd yn destun gwaith craffu gan y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol, a fu'n ystyried y darpariaethau ar gyfer is-ddeddfwriaeth yn y Bil. Clywodd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol dystiolaeth gan yr Aelod a oedd yn gyfrifol a chan Ysgrifennydd Cyllid y Cabinet. Yna, cyflwynodd y Pwyllgor adroddiad ar y Bil (fel sy'n arferol ar gyfer pob Bil).

Mae'r cam o ddileu gallu Bil Pwyllgor i osgoi cael ei gyfeirio'n awtomatig at Bwyllgor cyfrifol yn golygu mai'r Pwyllgor Busnes sydd bellach yn penderfynu a ddylid cyfeirio Bil Pwyllgor at Bwyllgor cyfrifol at ddibenion gwaith craffu yng Nghyfnod 1 (fel sy'n digwydd gyda Biliau'r Llywodraeth a Biliau anllywodraethol eraill). Fodd bynnag, pan wnaed yr awgrym i newid y Rheolau Sefydlog er mwyn caniatáu'r broses o gyfeirio Bil Pwyllgor ar gyfer gwaith craffu yng Nghyfnod 1, credaf mai'r bwriad oedd cadw'r darpariaethau a fyddai'n caniatáu i Fil Pwyllgor osgoi Cyfnod 1.

Mae'r broses o baratoi Bil drafft yn golygu defnyddio cryn dipyn o amser y Cynulliad a rhanddeiliaid. Os yw'r Llywodraeth yn rhan o'r gwaith a wneir ar Fil cyn iddo gael ei gyflwyno, gallai'r broses o gyfeirio Bil yn awtomatig at Bwyllgor ar gyfer gwaith craffu yng Nghyfnod 1 fod yn ddefnydd aneffeithlon o amser Pwyllgor.

Amserlen y Bil

Ceisiodd y Pwyllgor Cyllid amseru'r broses o gyflwyno'r Bil i gyd-fynd â chyfnod cyfleus o ran llwyth gwaith y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau. Dilynodd arfer gorau drwy

¹ [Drwy benderfyniad y Cynulliad ar 27 Medi 2017](#)



hwyluso proses hirach yng Nghyfnod 1, a hynny er mwyn caniatáu i'r Pwyllgor a oedd yn craffu ar y Bil gynnal ymgynghoriad llawn, a chaniatáu iddo wneud gwaith Pwyllgor arall ar yr un pryd.

Wrth ystyried yr amserlen ar gyfer y Bil, cafodd yr Aelod a oedd yn gyfrifol drafodaeth gydag Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol ar y pryd, a hynny er mwyn lleihau'r pwysau ar Lywodraeth Cymru. Er bod y Cynulliad wedi cytuno ar egwyddorion cyffredinol y Bil o fewn yr amserlen y cytunwyd arni gan y Pwyllgor Busnes, ceisiodd yr Aelod a oedd yn gyfrifol gael estyniad i'r dyddiad cau ar gyfer Cyfnod 2, a hynny er mwyn sicrhau bod y Cynulliad yn cymeradwyo'r penderfyniad ariannol. Nod y dyddiad cau a gynigiwyd gan yr Aelod a oedd yn gyfrifol oedd osgoi unrhyw wrthdaro â llwyth gwaith sylweddol y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau a'r Pwyllgor Cyllid yn nhymer yr hydref.

• **Creu a chynnal consensws ymhlith aelodau'r Pwyllgor ar faterion fel amcanion polisi, cynigion deddfwriaethol a strategaethau diwygio.**

Cytunodd y Pwyllgor y byddai'r Aelod a oedd yn gyfrifol yn cyfathrebu â Llywodraeth Cymru ac yn cyflawni'r holl swyddogaethau perthnasol fel yr Aelod a oedd yn gyfrifol am y Bil. Rhoddodd yr Aelod a oedd yn gyfrifol wybodaeth reolaidd i'r Pwyllgor am y cynnydd a oedd yn cael ei wneud, a hynny drwy ddarparu diweddariadau ysgrifenedig a oedd yn destun trafodaethau preifat, yn unol â Rheol Sefydlog 17.42. Cyn y cyfnodau diwygio, trafododd y Pwyllgor y gwelliannau arfaethedig a fyddai'n cael eu cyflwyno gan yr Aelod a oedd yn gyfrifol, a chytunodd arnynt.

• **Creu a chynnal consensws o blaid eich cynigion ymhlith y pleidiau gwleidyddol ac ymhlith rhanddeiliaid.**

Fel y nodir uchod, bu'r cynigion yn y Bil yn destun ymgynghori cyhoeddus helaeth a chraffu manwl gan y Pwyllgor cyn i'r Bil gael ei gyflwyno—proses a roddodd gyfle i bleidiau gwleidyddol a rhanddeiliaid fynegi barn ar y Bil a dylanwadu ar y broses o'i ddatblygu.

• **Ymgysylltu â Llywodraeth Cymru**

Fel y soniwyd yn flaenorol, ymatebodd Llywodraeth Cymru i'r ymgynghoriad a gynhaliwyd ar y **Bil drafft** gan Bwyllgor Cyllid y Pedwerydd Cynulliad. Roedd cyfranogiad Llywodraeth Cymru yn gymharol gyfyngedig hyd nes bod trafodion Cyfnod 1 ar y Bil wedi'u cwblhau. Mae'r Bil yn ymwneud â meysydd pwnc amrywiol, gan gynnwys iechyd, gofal cymdeithasol a llywodraeth leol. Felly, cynhaliodd yr Aelod a oedd yn gyfrifol gyfarfodydd gyda'r Gweinidogion perthnasol yn gynnar yn y broses er mwyn symud y ddeddfwriaeth yn ei blaen.

Wrth i'r Cynulliad ystyried yr egwyddorion cyffredinol, nododd y Gweinidog, yn ogystal ag ailedrych ar y costau a oedd wedi'u cynnwys yn yr Asesiad Effaith Rheoleiddiol, y byddai angen mynd i'r afael â nifer o faterion polisi a materion drafftio cyn y gallai Llywodraeth Cymru gefnogi'r Bil.

Yn sgil y ffaith mai dim ond Gweinidog all gynnig Penderfyniad Ariannol, roedd ennill cefnogaeth Llywodraeth Cymru yn hanfodol i sicrhau bod y Bil yn pasio Cyfnod 1. Roedd y broses o sicrhau y byddai'r Gweinidog yn cytuno cynnig y Penderfyniad Ariannol yn cynnwys diwygio'r Asesiad Effaith



Rheoleiddiol cyn y ddatl dan sylw (cam nad yw fel arfer yn cael ei gymryd hyd nes bod trafodion Cyfnod 2 wedi'u cwblhau). Gan fod Rheol Sefydlog 26.74(i) yn ei gwneud yn ofynnol bod hysbysiad ynglŷn â chynnig ar gyfer penderfyniad ariannol yn cael ei gyflwyno o fewn chwe mis ar ôl cwblhau Cyfnod 1 (21 Mawrth 2018), roedd y Pwyllgor yn wynebu'r her o adolygu'r Asesiad Effaith Rheoleiddiol a sicrhau bod Llywodraeth Cymru a'r Cynulliad yn cymeradwyo'r Penderfyniad Ariannol cyn toriad yr haf 2018.

Gwnaeth yr Aelod a oedd yn gyfrifol ymrwymiad i weithio gyda'r Gweinidog er mwyn symud y Bil yn ei flaen mewn modd a oedd yn foddhaol i'r Pwyllgor Cyllid ac i Lywodraeth Cymru. Roedd y broses hon yn cynnwys cryn dipyn o ymgysylltu rhwng swyddogion y Cynulliad a swyddogion Llywodraeth Cymru yn dilyn Cyfnod 1. Yn ogystal â helpu'r broses o ateb cwestiynau ynghylch goblygiadau ariannol y Bil a sylwadau Llywodraeth Cymru amdano, gwnaeth hyn sicrhau bod y dull gweithredu yn un cydgysylltiedig, a bod dyddiadau targed yn cael eu cwrdd, a cherrig milltir yn cael eu cyrraedd.

Cyflwynwyd cyfanswm o 230 o welliannau yng Nghyfnod 2, a 49 o welliannau yng Nghyfnod 3. Er mwyn osgoi llwyth gwaith mor drwm i bawb sy'n ymwneud â'r broses, byddai'r Pwyllgor yn annog Llywodraeth Cymru i ymgysylltu'n gynt yn y broses o ddatblygu Biliau Pwyllgor drafft.

• Cael mynediad at sgiliau ac adnoddau perthnasol

Gweithio gyda Swyddfa'r Ombwdsmon

Sefydlodd swyddogion y Cynulliad berthynas waith ragorol â swyddogion yr Ombwdsmon. Gwnaeth hyn hwyluso'r broses o rannu gwybodaeth ac ateb cwestiynau mewn modd amserol, a oedd yn bwysig o gofio'r pwysau amser a oedd yn bodoli ar adegau gwahanol o'r broses ddeddfwriaethol. Cynhaliodd y swyddogion gyfarfodydd rheolaidd i drafod y cynnydd a oedd yn cael ei wneud ac i ddarparu'r wybodaeth ddiweddaraf i swyddfa'r Ombwdsmon.

Wedi'i hatodi isod, ceir amserlen o hynt y Bil.



Amserlen ar gyfer Bil Ombwdsmon Gwasanaethau Cyhoeddus (Cymru)

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|----------------|--|--------------------|---|
| 11 Mai 2015 | Pwyllgor Cyllid y Pedwerydd Cynulliad yn llunio adroddiad ar Ystyried Pwerau Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) | 22 Mawrth 2018 | Dechrau Cyfnod 2 Aelodau'r Cynulliad yn cyflwyno gwelliannau i'r Bil |
| 18 Mawrth 2016 | Pwyllgor Cyllid y Pedwerydd Cynulliad yn llunio adroddiad ar Trafod yr ymgynghoriad ar y Bil Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) drafft | 17 Gorffennaf 2018 | Cytuno ar y Penderfyniad Ariannol yn y Cyfarfod Llawn |
| 2 Hydref 2017 | Bil Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) yn cael ei gyflwyno gan Bwyllgor Cyllid y Pumed Cynulliad | 31 Ionawr 2019 | Cyfnod 2 Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau yn ystyried y gwelliannau |
| 9 Mawrth 2018 | Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau yn llunio adroddiad ar Cyfnod 1: egwyddorion cyffredinol Bil Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) | 1 Chwefror 2019 | Dechrau Cyfnod 3 Aelodau'r Cynulliad yn cyflwyno rhagor o welliannau i'r Bil |
| 9 Mawrth 2018 | Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaetholyn llunio adroddiad ar bwerau i wneud is-ddeddfwriaeth o fewn y Bil | 13 Mawrth 2019 | Cyfnod 3 Gwelliannau'n cael eu trafod yn y Cyfarfod Llawn |
| 21 Mawrth 2018 | Dadi Cyfnod 1 Yn y Cyfarfod Llawn - Cynnig yn cael ei gytuno | 20 Mawrth 2019 | Cyfnod 4 Cynnig i gymeradwyo'r Bil yn cael ei gytuno |

Committee on Senedd Electoral Reform**Response from Professor Laura McAllister, Wales Governance Centre, Cardiff University****Legislative mechanisms:**

Given the importance of this change to the future effective working of devolution, the Bill should proceed by the most practical and speediest means. The issue of cross-Senedd consensus is key for a recommended constitutional change of such significance clearly, whichever route is chosen. This means that the political arithmetic of the Senedd is a consideration (albeit a political one!).

In view of this, I would advocate whichever mechanism is the most likely to secure such support. Beginning with a position of some degree of cross-Senedd consensus is ideal and avoids amendments that might derail the Bill. This leads me to suppose either the Commission or a committee is best placed. I would assume the Senedd Reform Committee will be deemed to have completed its work by then and so would not still be in existence, meaning it would have to be another committee.

A government Bill would be feasible only if the government supported its contents. However, if there is no cross-Senedd consensus (or at least consensus between more than half of the 60 MSs), then a government Bill would be acceptable for this Bill - with the caveat above.

I think a Member's Bill is too inherently risky in terms of garnering support and therefore should be avoided.

Draft bills:

I have always supported the pre-legislative publication of draft Bills, especially Bills with constitutional import. The Rt Hon Stephen Crabb MP, whilst Secretary of State for Wales, was aware of the risks of not doing so and ensured that the 2017 Wales Bill was published in draft form. A far stronger and better Act was the outcome, in my opinion.

The only three downsides to draft Bills that I can think of are i. that it risks adding time to what has already been a lengthy process in this case, ii. the danger of recycling more arguments over the contents of the Bill after plenty of opportunities to raise these in earlier debates, and iii. therefore, possibly jeopardising whatever degree of consensus may have been achieved.

Therefore, I see no reason not to follow the sensible recommendation of the Legislation, Justice and Constitution Committee, following its scrutiny of the Senedd and Elections (Wales) Bill, to publish the Bill in draft form.

Laura McAllister