

# The Association of Electoral Administrators



## Response to the Senedd and Elections (Wales) Bill

### Explanatory Memorandum: Incorporating the Regulatory Impact Assessment and Explanatory Notes - February 2019

**1. Organisation:** Association of Electoral Administrators (AEA). A joint response from the National AEA and the Wales Branch of the AEA.

**2. Summary of Organisation:** The AEA was founded in 1987 and is the professional body representing the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has 1,917 members, the majority of whom are employed by local authorities to provide electoral registration and election services. There are eleven regional branches of the Association covering the United Kingdom, one of which is Wales.

### 3. Contact Details:

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### 4. Comments:

We have noted that the consultation on the Senedd and Elections (Wales) Bill Explanatory Memorandum has no specific questions to respond to. As a result, we have linked our comments to themes and provided end notes as references throughout our response.

There are four specific areas outlined in the Bill that we have chosen not to comment on as they are not relevant to the objectives of the Association, namely:

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- Renaming of the Welsh Assembly to Senedd and associated other costs, for example signage, and members costs etc.;
- Disqualifications from being an Assembly member;
- Extension of the deadline for the first meeting of the Assembly after an election; and
- Assembly Commission powers to charge for goods and services.

## 4.1 Funding

### Local Authority Finance

The Association notes that throughout the document, reference is made to local authorities being expected to meet the costs of the proposed changes. As examples, the transitional costs quoted for local authorities being £1,582,500<sup>i</sup> with the website update costs being £20,000<sup>ii</sup>. We have highlighted other costs throughout our response.

The Association has significant concerns that local authorities are to be expected to meet the additional costs outlined in the Bill especially at a time when their budgets have been significantly reduced over recent years. We are concerned that funding may not be available to meet these additional costs.

Changes to the franchise are as a result of changes proposed by the Welsh Assembly and therefore, we believe the additional costs should be fully met by the Welsh Assembly by providing ring-fenced grant funding to each local authority.

By way of background, in Scotland all costs relating to changes to the franchise were fully funded with local authorities not being expected to bear the responsibility of the additional costs.

### Costs relating to changing the attainment age

The figures quoted in Table 25<sup>iii</sup> do not provide a breakdown of how the costs to introduce provisions to reduce the voting age for Assembly elections to 16 were calculated. It is assumed the costs are based on the additional costs to the Electoral Registration Officer (ERO) in registering 16 and 17-year-old electors including attainers. However, it is not just the costs of registering these electors that needs to be consider but others such as the issue and processing of absent vote applications for those eligible as requested.

Throughout the report, there is no mention of Canvass Reform, which is proposed to be introduced for the annual registration canvass taking place

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in 2020. The UK Government's funding for registration will be reduced in 2020 as a result of the savings arising from the introduction of Canvass Reform. However, if EROs in Wales cannot fully implement Canvass Reform and achieve the full savings because of the need to register 16 and 17-year olds, along with 14 and 15-year old attainers, the proposed savings will not be achieved in Wales. As a result, not only do the additional costs of registering 14 to 17-year olds need to be considered but also the financial impact of Canvass Reform not being implemented fully in Wales.

In addition, the Bill outlines that the cost of registering 16 and 17-year olds would increase annual registration costs for Wales by approximately £84,200<sup>iv</sup>. There would also be significant additional costs in registering attainers i.e. 14 and 15-year olds, which do not appear to have been factored in to any calculations.

## Cost assumptions

The Association also has significant concerns regarding the calculations provided in the Bill as the figures used relate to costs before the introduction of Individual Electoral Registration (IER). The Bill states that the costs used to calculate the average cost per voter as being taken from financial information surveys dated 2009-10 and 2010-11 plus inflation<sup>v</sup>. However, these costs are significantly underestimated and out of date due to the introduction of IER from 10 June 2014 through provisions in the Electoral Registration and Administration Act 2013.

IER introduced a two-stage registration process, with the completion of the Household Enquiry Form (HEF) by each household followed by the completion of an Invitation to Register (ITR) by each eligible applicant, plus reminders and follow up (including personal canvassing) as required for both processes.

In addition, online registration, which was introduced at the same time as IER, makes registration easier and more accessible but has other implications such as increased volume of registrations, often immediately before election registration deadlines ahead of elections, and applications from existing electors, i.e. duplicates. The current true costs of registration therefore need to be identified. The UK Government's Cabinet Office should be able to assist in providing the average cost per elector under IER.

## Engagement

The Bill also highlights that the forthcoming Local Government and Elections (Wales) Bill includes provisions to place a duty on local

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authorities to promote awareness among relevant young people of the arrangements for electoral registration that apply to them and to assist them to register. The Welsh Government are exploring whether any additional funding could be made available for this purpose and it has been estimated that each local authority would deploy one half time officer for this purpose and allocate a modest working budget of £10,000<sup>vi</sup>.

Subject to the support received from local authority education departments, it is likely that a full-time officer would be required as they will not only be required to register students but also undertake a programme of education with 13-year olds on the importance of registering, how to register and how to vote. This is in addition to working with other sections of the community, including students over the age of 18, nursing homes and, if Local Government Reform proposals are implemented, nationalities who have previously not been able to register. Consideration must also be made for those students who are 'home tutored' and outside the scope of formal education.

Engagement for the under 16-year olds is even more vital due to the proposal outlined in the Bill for the removal of the ERO requirement to carry out house to house enquiries in relation to under 16-year olds<sup>vii</sup>, which could lead to further difficulties in registering young people.

## Electoral Management Software

The Bill refers to the 22 local authorities using three different Electoral Management Systems (EMS) to maintain the electoral register. It should be remembered that changes to Returning Officer (RO) functionality will also be required, for example in order to produce poll card data and polling station registers.

The Bill states that the necessary one-off cost<sup>viii</sup> of changes to the EMS would need to be funded by local authorities. We believe the Welsh Assembly should scope, commission, oversee, monitor and pay each EMS supplier directly for the software changes, much in the same way the UK Government did for IER.

In light of the onus being placed on local authorities throughout the Bill, the Association has concerns as to whether the Welsh Assembly has contacted the EMS suppliers to discuss the extent of the software changes required and timescales for development, testing and software release to ensure there is sufficient time to implement the changes especially as we are aware their workload already involves significant work to prepare for Canvass Reform over the same timeframe.

## Election Costs

The Bill outlines that the additional costs for the 2021 Assembly elections is estimated at <sup>ix</sup>£153,900. However, it is imperative that these estimated costs consider the likely increase in postal votes, poll cards and other election costs as a result of 16 and 17-year olds being included in the process.

## 4.2 Votes for 16 and 17-year olds

Whilst the Bill outlines that the registration drive may be easier for this age group because local authorities have data on the potential electors<sup>x</sup>, it is essential that the Bill makes statutory provision that relevant data is supplied to the relevant ERO on a regular basis and in a suitable format.

Upon the ERO receiving data of anyone who they believe should be registered, an ITR can be issued. However, legislation does not allow for the name of any potential electors to be included on registration communications to a property. At the start of the initial Welsh Assembly proposals, there was mention that the education lists could be used to register on block from the education records, including consideration of automatic registration in Wales – we would ask whether this has been given any further consideration? Also, as these registrations would not apply to UK Parliamentary elections, we remain concerned regarding the confusion for both voters and electoral administrators.

The Association notes that the Bill refers to the Welsh Government indicating its intention to make legislative changes such that 16 and 17-year olds can vote only in Welsh Assembly and local government elections. We welcome the Welsh Government considering the Assembly franchise by extending it to 16 and 17-year olds because divergences between the local government and Assembly franchises would create the potential for confusion, both amongst the electorate and those responsible for administering elections, which in turn could impact on voter engagement<sup>xi</sup>. The Association supports this approach as it provides consistency for the citizen and the electoral community.

The Bill highlights the intention that information about the changes to the voting age will be provided in enough time to ensure that 16 and 17-year olds are informed of which elections they have the right to vote in<sup>xii</sup>. It is imperative that this campaign is conducted to ensure that 16 and 17-year olds are fully aware.

## 4.3 Timing

The Bill highlights that all the provisions in the Bill relating to the franchise for Assembly elections will commence on Royal Assent of the Bill. However, the Bill specifies that they will have effect for the purposes of an election for membership of the Senedd at which the poll is held on or after 5 April 2021. Is there a reason for the date of 5 April 2021<sup>xiii</sup> and not the date of the elections in May 2021 as is usually the case with other legislative changes relating to elections?

## 4.4 Canvass Reform

It is assumed that the Welsh Government will enact the Canvass Reform legislative changes proposed by the UK Government. It is also worth noting that the Welsh electoral administrators are keen that Canvass Reform changes are implemented in Wales at the same time as the rest of the UK during the canvass of 2020. However, throughout the Bill<sup>xiv</sup> Canvass Reform is not mentioned, and neither are the costing calculations taking Canvass Reform into account when calculating the costs of registering the 16 and 17-year olds and attainers during the same canvass of 2020.

The proposal outlined in the Bill is to extend the franchise for the Assembly elections in May 2021<sup>xv</sup>. 16 and 17-year olds including attainers (14 and 15-year olds) will generally have to be included on the revised register that is published on 1 December 2020 following the 2020 canvass<sup>xvi</sup>. Canvass Reform will include a national data match and any households where the ERO believes all occupiers are still resident will follow a light touch canvass with households receiving a communication which does not require a response. At present all households are required to respond to a canvass communication. Under Canvass Reform legislation the ERO will have discretion on which route to send each property and all households could be directed to conduct a full canvass as normal whilst still complying with the new requirements of Canvass Reform. The light touch canvass approach may reduce the number of 16 and 17-year olds and attainers registering and Welsh EROs would need to be mindful of this. Additional funding may as a result be required as the UK Government's funding will be reduced.

The Bill refers to concerns being raised that one group who may not be captured as part of a local registration campaign would be young people from the Gypsy, Roma and Traveller communities<sup>xvii</sup> which is supported. However, it is also worth noting that serious consideration needs to be given in relation to Canvass Reform by all EROs to avoid any group being adversely affected.

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The Bill outlines that EROs have a duty to compile the electoral register and ensure that it is as up to date as possible. Currently, a HEF is issued annually<sup>xviii</sup> to every property to collect information to ensure anyone living at the property who is eligible to be registered is on the register. There is a legal requirement to respond, and ITRs will be sent to anyone responding to the canvass who is not registered. However, the Association has significant concerns as there is no reference made in the Bill to the introduction of Canvass Reform which is being introduced for the canvass conducted in 2020. Households sent via the light touch canvass after the national data matching exercise will not receive a HEF as outlined in the Bill and will not have a legal requirement to respond.

## 4.5 Other Registration Issues

### Publication of personal details

The Bill outlines the changes that will be introduced in preparation for the franchise changes at the 2020 annual canvass<sup>xix</sup>. It is imperative that the provisions outlined in the Bill mirror the provisions in Scotland regarding attainers (14 and 15-year olds) and 16 and 17-year olds including in relation to supplying information from the register. Our understanding is that they do regarding 14 and 15-year olds being on the Local Government register as attainers, but their details are not published or supplied except in very strict circumstances. However, it is unclear from the Bill what the situation is in relation to the monthly updates and the polling station register. In Scotland attainers do not appear on the monthly updates. In relation to the polling station copy of the register for Local Government and Scottish Parliamentary Elections, there are no attainment ages shown and the only 15-year olds who appear are those who will be 16 on polling day.

The Bill makes provision preventing EROs from providing the date of birth of any person aged under 16 on pre-printed canvass forms. However, there is no provision made on other communications, for example canvass communications and the ITR<sup>xx</sup>. We believe this provision should be consistent across all ERO and RO communications.

The Bill has removed the requirement on EROs to provide applicants with an explanation of the edited register where the applicant is under the age of 16, as no details of 14 or 15-year-olds will be included in the edited register<sup>xxi</sup>. However, communications sent as part of Canvass Reform will need to include a note to this effect, as well as a note in relation to which elections 16 and 17-year olds can vote in. Consideration will also need to be given as to the content of all communications required in Wales in order to cover all the additional information required whilst still ensuring clarity for electors.

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Consideration will also need to be given to the collation of RPF statistics (for the Office for National Statistics) in Wales in relation to 14 and 15-year olds and 16 and 17-year olds.

## 4.6 Electoral Commission

The Bill outlines that it may be appropriate for the Electoral Commission to be funded by the Assembly for its work on Welsh devolved elections and become accountable to the Assembly for such work. However, the Bill does not explain how this arrangement would work in practice to ensure the ongoing impartiality and independence of the role of the Electoral Commission. If the Electoral Commission were to report to the Welsh Assembly, the Bill does not explain how this arrangement would work in relation to funding arrangements towards their role in respect of UK Parliamentary elections and national referendums not related to the Welsh Assembly<sup>xxii</sup>. This position should be clarified.

The Bill highlights that a separate campaign will be necessary to raise awareness of the increase in the franchise, much like the campaign in Scotland<sup>xxiii</sup>. Consideration may also be required for a separate campaign in relation to Canvass Reform for Wales.

The Bill highlights that the Electoral Commission spent in the region of £120,000 in awareness raising to accommodate the changes to the franchise arising from the Scottish Elections (Reduction of Voting Age) Act 2015). Considering inflation this is now estimated to be £127,300<sup>xxiv</sup>. In relation to Wales, the Electoral Commission costs will not only need to be for a registration campaign relating to the new franchise but also a separate election campaign specifically for Wales, replacing the usual joint campaign for both England and Wales. This will result in additional costs, which appear not to have been considered in the Bill.

Whilst the design of new registration forms has been considered in the Bill, the redesign of postal vote and proxy voting application forms will also be needed to make it clear the different voting franchise for each type of election.

In addition, revised Electoral Commission guidance for the various polls will need to be considered, for example polling station handbooks and candidate and agent guidance, which will need to be specifically written for Wales. Previously these materials would have covered local government elections for both England and Wales and these additional costs need to be considered.

## 4.7 Other Comments

### Voting rights for prisoners and qualifying foreign nationals

It is noted that the Bill does not address the issue of voting rights for prisoners or qualifying foreign nationals as outlined in the draft Local Government and Elections (Wales) Bill (Part 1 – Elections). However, the AEA believes there needs to be a consistent approach in Wales for both Assembly and local government elections to avoid both voter and electoral administrator confusion.

### Law Commission

The Bill enables the Welsh Ministers to make orders to ensure that elections in Wales are administered in a way that is compliant with the recommendations for electoral administration made by the Law Commission<sup>xxv</sup>. The AEA supports the Law Commission recommendations.

### Legislation concerns

Following on from our comments regarding the Law Commission recommendations, which are in themselves designed to simplify electoral matters, it should be recognised that the proposals outlined will actually introduce further complexity into already complex electoral legislation which has the potential to create both voter and administrator confusion and increase risk.

### Timing

We ask that the Welsh Assembly ensure that any changes in legislation relating to elections are made well in advance of the polls in which the changes will take effect. In our 2016 report: ["Pushed to the absolute limit: 2016 – the electoral year never to forget"](#), we made the following recommendation:

*"Except in cases of unforeseen emergencies and proportionate to the need, changes to election law should not be applicable to any elections within a six-month period from the date the legislation comes into effect."*

In relation to any proposals to changes relating to electoral registration, we would ask that a minimum of 12 months is given prior to the new provisions coming into force.

We therefore ask for the details of the proposed timings for the legislation and EMS software development be shared with us.

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Chief Executive of the AEA

**Rhys George**  
Chair of Wales AEA Branch

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**15 April 2019**

<sup>i</sup> Page 96 – Paragraph 345 - The Bill is also expected to result in transitional costs for the following organisations:

- Local authorities: £1,582,500; ...

<sup>ii</sup> Page 120 – Table 14 - Option 3 (legislate to change the name of the Assembly) Total Costs

Website update – all local authorities £20,000

<sup>iii</sup> Page 143 – Table 25 Option 2 – Introduce provisions to reduce the voting age for Assembly elections to 16 Total costs:

Costs to local authorities – Registering 16 and 17-year-old electors

<sup>iv</sup> Page 146 – Paragraph 537 - According to the Office of National Statistics Population Estimates (2017) there were 69,029 16- and 17-year olds in Wales in mid-year 2017.<sup>145</sup> For the purpose of this RIA, it is assumed that there would be a similar number of 16- and 17-year olds in Wales when the provisions of this Bill take effect. Registration of this newly enfranchised group would therefore increase annual registration costs for Wales by approximately £84,200.<sup>146</sup> Over five years, this would be a total additional cost of £421,000.

<sup>v</sup> Page 146 – Paragraph 536 - Registration costs are ongoing, year on year costs. The cost of electoral administration in Great Britain: Financial information surveys 2009–10 and 2010–11 indicates that registration spend per elector, split during canvass and outside of canvass for 2010-11 was £1.17 and £0.96 per voter respectively. This figure includes a wide range of costs such as the core registration team, design and printing, mail costs, canvassing and compilation of the register. More up to date figures are not available, therefore after accounting for inflation the average cost of £1.07 is uprated to £1.22.

<sup>vi</sup> Page 147 – Paragraph 532 and 544

543. The forthcoming Local Government and Elections (Wales) Bill includes provisions to place a duty on local authorities to promote awareness among relevant young people of the arrangements for electoral registration that apply to them and to assist them to register.

544. It is understood that the Welsh Government is exploring whether any additional funding could be made available for this purpose. However, for the purposes of this RIA, it has been estimated that each local authority would deploy one half time officer for this purpose and allocate a modest working budget of £10,000 (see Table 26).

<sup>vii</sup> Page 44 – Paragraph 159 – Further changes are introduced in preparation for the annual canvass that will take place in 2020 so that young people may be included in that process, including:

- removing a requirement for a registration officer to carry out house to house enquiries in relation to the registration of a person under the age of 16;

<sup>ix</sup> Page 147 – Paragraph 539 - Each local authority contracts a software company to provide the software for the Electoral Register. This is referred to as the Electoral Management System (EMS). The 22 local authorities work with three software companies, all of which would need to introduce changes to their software necessary for registration officers to meet the new responsibilities introduced by this Bill. The updating of the EMS systems would incur a one-off cost to local authorities which would be accommodated by local authorities.

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<sup>ix</sup> Page 149 – Paragraph 551 - The total additional cost for the 2021 Assembly election is therefore estimated to be £153,900.

<sup>x</sup> Page 21 – paragraph 55 - The lowering of the voting age would require a drive for maximum rates of registration. This might be easier for this age group than for those a couple of years older because most of them are still at home and attending school. Every local authority will have a list of those who are home schooled and will be able to incorporate those who are attainders or 16- and 17-years old into the annual canvass considerations.

<sup>xi</sup> Page 234 – Paragraph 9.51 - It may also be noted that such persons will be able to vote in elections to the Welsh Youth Parliament, and that the Welsh Government has indicated its intention to make legislative changes such that such persons can vote in local government elections. Different persons are currently enfranchised to vote in UK general elections compared to those enfranchised to vote in local government and Assembly elections. Nevertheless, it would be administratively more convenient for the same people to be able to vote in local government and Assembly elections. Divergences between the local government and Assembly franchises create the potential for confusion, both amongst the electorate and those responsible for administering elections, which in turn could impact on voter engagement.

<sup>xii</sup> Page 251 – Paragraph 1047 - However, this risk is believed to be mitigated by the intention that information about the changes to the voting age will be provided in sufficient time to ensure that 16- and 17-year olds are informed of which elections they have the right to vote in.

<sup>xiii</sup> Page 47 – Paragraph 176, Page 54 - 207, 208 – 176. All of provisions in the Bill relating to the franchise for Assembly elections will commence on Royal Assent of the Bill. However, the Bill specifies that they will have effect for the purposes of an election for membership of the Senedd at which the poll is held on or after 5 April 2021.

207... the Bill specifies that its provisions on disqualification will only have effect for the purposes of an Assembly election at which the poll is held on or after 5 April 2021 (i.e. the earliest date of the next ordinary Assembly general election and onwards).

208 ... All provisions on disqualification will commence on Royal Assent of the Bill but will have effect specifically for the purposes of an Assembly election at which the poll is held on or after 5 April 2021 (i.e. the earliest date of the next ordinary Assembly general election and onwards).

<sup>xiv</sup> Page 274 – Section 12 – Annual Canvass

<sup>xv</sup> Page 19 – paragraph 46 - .....Expert Panel concluded that extending the franchise to 16- and 17-year olds with effect from 2021 ....

<sup>xvi</sup> Page 20 – paragraph 50 - Extending the franchise to 16- and 17-year olds necessitates other changes in relation to: the legislation around the electoral register, the annual canvass and the protection of young people’s information.

<sup>xvii</sup> Page 21 – paragraph 56 - Concerns may be raised that one group who may not be captured as part of a local registration campaign would be young people from the Gypsy, Roma and Traveller communities.

<sup>xviii</sup> Page 42 – paragraph 147 - EROs have a duty to compile the electoral register and ensure that it is as up to date as possible. EROs will send an Invitation to Register (ITR) to any individual they become aware of who is not registered to vote. Currently, a **Household Enquiry Form is issued annually** to every property to collect information to ensure anyone living at the property who is eligible to be registered is on the register. **There is a legal requirement to respond**, and ITRs will be sent to anyone responding to the canvass who is not registered.

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<sup>xix</sup> Page 42 – Paragraph 159 and 160 – 159. Further changes are introduced in preparation for the annual canvass that will take place in 2020 so that young people may be included in that process, including:

- removing a requirement for a registration officer to carry out house to house enquiries in relation to the registration of a person under the age of 16;
- not printing the date of birth of a person under the age of 16; and
- ensuring explanation is given as to how young people’s information will be stored and used.

160. The Bill also provides that the civil penalty which could be applied in the case of an elector repeatedly not responding to an invitation to register does not apply to a person under the age of 16.

<sup>xx</sup> Page 275 – Paragraph 25 - Section 12(2)(b) prevents registration officers from providing the date of birth of any person aged under 16 on pre-printed canvass forms.

<sup>xxi</sup> Page 276 – Paragraph 37 - It also removes the requirement on registration officers to provide applicants with an explanation of the edited register where the applicant is under the age of 16 and the registration officer has authorised the applicant to provide the information required by telephone or in person. This is because no details of 14 or 15-year-old persons will be included in the edited register.

<sup>xxii</sup> Page 55 – Paragraph 213 - It may therefore be considered appropriate for the Electoral Commission, as the regulator of elections, to be funded by the Assembly for its work on Welsh devolved elections and become accountable to the Assembly for such work.

<sup>xxiii</sup> Page 150 – Paragraph 556 - The Electoral Commission has responsibilities around promoting awareness of elections. It is anticipated that a separate campaign like the one developed in Scotland will be necessary to raise awareness of the increase in the franchise. These would be costs incurred in 2021.

<sup>xxiv</sup> Page 150 – Paragraph 557 - The Electoral Commission indicated in their responses to the Expert Panel in 2017 that the Electoral Commission spent in the region of £120,000 in awareness raising to accommodate the changes to the franchise arising from the Scottish Elections (Reduction of Voting Age) Act 2015. Taking account of inflation, it is assumed that this cost would now be estimated to be £127,300.

<sup>xxv</sup> Page 25 – paragraph 70 - Reflecting this majority view, the Bill enables the Welsh Ministers to make orders to ensure that elections in Wales are administered in a way that is compliant with the recommendations for electoral administration made by the Law Commission.