

The Association of Electoral Administrators



Response to the Welsh Government consultation on the draft Senedd Cymru (Representation of the People) (Amendment) Order 2020

Consultation response form

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Organisation (if applicable): Association of Electoral Administrators (AEA) – joint response from the national AEA and AEA Wales Branch.

Summary of Organisation: Founded in 1987, the AEA is the professional and qualifications body of electoral administrators in the United Kingdom. It is non-governmental and non-partisan with just under 2,000 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, including the Wales Branch.

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Consultation Questions

Question 1: We would like to know your views on the proposed amendments to the Conduct Order. Are the amendments workable? Do they have the effect intended by the changes to the primary legislation which gives rise to them? Are they clear and understandable?

We strongly support the decision to completely review the Order after the 2021 Senedd elections. We welcome the intention to consolidate previous legislation into a single updated Conduct Order, in a timely and reasonable manner, before the 2026 Senedd elections. We would also advise that both the Amendment Order and future Consolidated Order will require sufficient lead-in time from when legislation is passed. As a priority, the Amendment Order will need to be passed quickly for the 2021 Senedd elections. The [Gould](#) principle suggests at least six months before polling day as a minimum to reduce risks to the electoral process. However, considering the proposed changes, we believe there should be

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a significantly longer lead-in time, especially for the proposed consolidated legislation in time for the 2026 Senedd elections.

Proposed amendments to the Conduct Order

Senedd change of name

We support the changes being made to the Order.

Extension of Senedd franchise to 16 and 17 year olds and associated provisions

We support the changes being made to the Order.

Extension of Senedd franchise to qualifying foreign citizens

We support the changes being made to the Order.

Disqualification

We support the changes being made to the Order.

Publication of candidates' addresses

We support the proposed amendments to ensure candidates can withhold their home address from publication. This would protect the safety and security of candidates and provide consistency across UK elections. We also welcome and support the amendments to ensure that, where a candidate is acting as their own agent and withholds their home address, it is not published anywhere else (publication of claims, notices, and imprints of campaign material). This issue has been missed in legislation for other UK elections.

Payments to returning officers

We welcome the recognition of electoral administration teams and fully support the principle of proper recompense for the work they undertake above contracted responsibilities.

We are concerned that a lump sum payment may not necessarily provide sufficient recompense, as there are often council by council variances that cannot be reflected in modelling.

We believe that any payments made should be clear and transparent and reflect the individual's responsibilities and work carried out on conducting the election.

We **do not** support the proposal that the personal fee payable to returning officers (ROs) is removed. In our previous consultation response, we raised our concerns, which have been set out and updated below:

The RO is a unique position set out in legislation, deliberately designed to ensure independence of the role so that it can be delivered without fear or favour. This independence is set out by Section 27(1) of the Representation of the People Act 1983. The duties of the RO are defined in the appropriate legislation for each election type, but include the following:

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- Publication of all relevant statutory notices relating to the election, such as the Notice of Election and the Statement of Persons Nominated/Notice of Poll (if a poll is needed).
- The nomination process.
- Production, dispatch, and verification of postal votes.
- Identification, booking and equipping of polling places.
- Recruitment, appointment, training and remuneration of Presiding Officers, Poll Clerks, and other polling staff.
- Secure transfer of ballot boxes from polling places to the count venue.
- Verification and counting of votes.
- The declaration of results.
- Holding relevant documentation around the election process for public inspection, including candidates' election expenses.

These duties are the personal responsibility of the RO who is answerable directly to the courts for any question or failure in these duties. The RO is not responsible to the local authority, its elected members or the Senedd. Personal responsibility ensures independence, which we believe is essential in the provision of effective and trusted elections.

As an independent role, the liabilities are that of the individual, not the local authority. This is demonstrated by the RO being subject to election petitions within Part III of the Representation of the People Act 1983. Every RO has to ensure they have personal insurance for this very reason. If they are found guilty of any act or omission in breach of their official duty, they are liable on summary conviction to a fine not exceeding £5,000. The fee can also be withheld for 'poor performance' at the poll on the recommendation of the Electoral Commission, itself an independent body.

It would be inappropriate for any salary for a job which has been evaluated without these roles and responsibilities to be considered as appropriate remuneration for being a RO.

The RO role is a complex and high profile position. We believe it would be completely wrong for that person to not be appropriately remunerated for taking on the role, with its associated personal liabilities and additional workload.

It would not provide the independence or the transparency the public would expect if the RO were accountable to the very people they were ensuring were freely voted in by the electorate.

Any remuneration for any position should be regularly reviewed and evaluated, which should also be the case for ROs. The fees paid must be reasonable and truly reflect the responsibilities, not either undervalued or enhanced.

We note that this proposal remains under review. However, we also note that the draft Order is written based on RO fees being revoked. We therefore hope full consideration will be given to our comments before the Order is finalised.

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There is a great deal of misunderstanding about the role of ROs and the reason they receive a separate payment, which is unhelpful at best.

Codes of Practice

We support the changes being made to the Order.

Other matters not included in the draft Order which are intended to be included in the final Order

We support the changes being made to the Order.

Presentation of Political Parties on Nomination and Ballot Papers

We support the changes being made to the Order.

Exemptions from election expenses for disability and translation related costs – for inclusion in a separate Order in due course

We support the changes being made to the Order.

Miscellaneous issues

No comments.

While we have taken the opportunity to review the draft Order, please note that we have not been able to make a comparison with previous legislation to ensure amendments, additions or removals are technically correct. Our comments are based on the details outlined in the consultation document.

Question 2: We would like to know whether there are any other aspects of the Order you think may require updating or amending? Have there been any developments since the Order was last amended which necessitate changes to the Order?

The Welsh Government have set up an election project working group for the May 2021 elections. In view of Covid-19 and the possibility of conducting socially distanced elections in May 2021 we support any pragmatic recommendations made by the working group to facilitate the conduct of these elections via additional amendments to the current Senedd Order or by any other legislative means available and working in close collaboration with UK Government due to the combined nature of the forthcoming polls.

We are not aware of any other aspects of the Order that require updating or amending.

Question 3: We would like to know your views on the effects that the Order would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

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

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This question does not fall within the AEA's professional scope. We therefore feel it inappropriate to comment as other consultees with greater experience in this area will be better placed to do so.

Question 4: Please also explain how you believe the Order could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

This question does not fall within the AEA's professional scope. We therefore feel it inappropriate to comment as other consultees with greater experience in this area will be better placed to do so.

Question 5: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

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Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

We are happy for our response to be made public.

Angela Holden
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Rhys George
Chair of Wales AEA branch

2 September 2020