

The Association of Electoral Administrators



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Date: 27 September 2021

Dear Mr Antoniw,

UK Elections Bill

Thank you for offering us the opportunity to comment on the UK Elections Bill in relation to Welsh devolved elections and the Senedd's subsequent Legislative Consent Memorandum (LCM).

We note that the LCM makes clear that Welsh Government does not support the introduction of voter ID, constraints on postal and proxy voting, or the extension of the overseas franchise. As a result, we have not looked to comment on the merits of the Elections Bill in these areas, but rather focus on the impact divergence between Wales and UK-wide arrangements will have on the administration of elections and electoral registration.

The LCM states that in relation to other proposals in the Bill, there may be merit for implementing them for devolved elections, if they align with Welsh Government policies. However, where this is the case rather than making provision via the Elections Bill, Welsh Government would look to bring forward their own legislation in the Senedd in due course. As a result, we have looked at the merits of such proposals as outlined in the Elections Bill in relation to devolved elections and the impact of working to different timescales on implementing aspects of the Bill via two different legislatures.

We have not provided comments on the role of the Electoral Commission, notional expenditure, political finance, or digital imprints given the conduct of campaigns and campaign expenditure are outside the remit of ROs, EROs and electoral administrators.

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Our overarching comments relate to the continued complexity different processes for different polls brings to the administration of elections. It would be preferable for processes to be aligned wherever an agreement between the UK and Welsh Governments can be reached. This will make the system easier for citizens and officials in Wales to understand and avoid anomalies between polls, depending upon the contest.

We have also drafted our response on the basis that existing core legislation does not appear to prevent UK Parliamentary General Elections (UKPGE), or By-Elections being combined with Welsh Local Government Elections, or for Police and Crime Commissioner (PCC) Elections (including By-Elections) being combined with either Senedd or Welsh Local Government Elections.

This is an area the Welsh Government will be aware of and may wish to consider in respect of the Elections Bill. We believe a combined poll run on two different systems would introduce significant risks to the delivery of safe elections.

Voter Identification

The Bill provides for applications to be made to Electoral Registration Officers (EROs) for an electoral identity document or an anonymous elector's document, the ERO must determine these applications. The precise requirements around this process and the format of the documents themselves are to be set out in secondary legislation. The Bill also sets out existing forms of identification that can be used to prove an elector's identity when voting in person at UKPGE and PCC elections.

The Welsh Government has already indicated that it has no intention of introducing this measure for devolved elections in Wales.

The introduction of voter identification for UKPGE and PCC elections means that, without changes to the legislation governing Welsh national and local government polls, the requirements on the voter will vary year-to-year. This is likely to cause confusion to both electors and polling station staff.

It would cause further burden to polling station staff at a combined poll where a ballot paper should be issued for one election but could not be provided for the other if the elector has not brought appropriate identification. In such an occurrence, clear publicity of this fact to avoid elector confusion would need to be undertaken well in advance of the combined poll.

Postal Vote Refresh

The Bill proposes that electors in Wales who are currently registered for a postal vote for a UKPGE and PCC election for an indefinite period or a particular period will need to reapply for their postal vote every three years by the third 31st January after the date of their latest application. Transitional arrangements are proposed that will require all existing postal votes for UKPGE and PCC elections to be moved to the new system by the third 31st January after a date to be specified in secondary legislation. At the present time the requirement is that electors with a postal vote refresh their postal vote signature every five years. There are no corresponding provisions in the Bill relating to devolved elections in Wales.

For those electors who are only enfranchised for UKPGE i.e., overseas electors they will only be affected by one process i.e., re-applying every three years. For those electors who are only enfranchised for devolved elections in Wales e.g., European Union Citizens, relevant foreign nationals they too will only be affected by one process i.e., a signature refresh every five years. For those electors enfranchised for both UKPGE and PCC elections and devolved elections i.e., British, Irish and Commonwealth citizens they will be affected by both processes.

Unless addressed, this difference would see someone who does not renew their postal vote in line with UKPGE and PCC requirements still having a valid absent vote for Welsh polls for another two years. Anomalies like this are likely to cause voter confusion, challenges for electoral management systems (EMS) and potentially disenfranchised electors.

Furthermore, if left unaddressed it would require at times electors to refresh their postal vote in consecutive years for different election types as highlighted in the table below.

Year	Postal Vote Refresh Required	Election Refresh Required For
2023	YES	UKPGE & PCC
2024		
2025	YES	Senedd & Welsh LG
2026	YES	UKPGE & PCC
2027		

Year	Postal Vote Refresh Required	Election Refresh Required For
2028		
2029	YES	UKPGE & PCC
2030	YES	Senedd & Welsh LG

A re-application every three years will require more ERO resource than a signature refresh every five years and running two processes will be more complex than running a single refresh. Therefore, it is important that EROs receive the additional funding needed to meet the changes brought about by this legislation. An online postal vote application service that is fully integrated with EROs' Electoral Management Systems would assist with the processing of large-scale renewals.

Handling of Postal Votes

The new restrictions relating to the handling of postal votes could bring difficulties where a UKPGE or PCC election is combined with a Senedd or Welsh Local Government Election. If a combined postal pack were to be issued, by default there would be restrictions on the number of ballot packs that could be returned for the Senedd and Local Government Elections as a result of the restrictions introduced for the UKPGE and PCC elections. If separate packs were issued the cost and resource required from Returning Officers (ROs) would automatically be doubled and significant and unnecessary complexity added to the issuing and opening processes.

Proxy Voting

For Welsh national and local government elections, an elector can act as proxy for an unlimited number of close family members as well as two unrelated voters.

Under provisions in the Elections Bill, this will no longer be the case for UKPGEs and PCC elections with a limit of two domestic electors, potentially rising to four if acting for non-domestic electors too.

Again, this slight difference would make it very difficult for voters to understand which system governs which polls. It would need EMS development and could disenfranchise people, potentially even seeing someone unintentionally voting illegally. Thought will need to be given to how this would be administered at a combined UKPGE or PCC and Welsh local government poll and a combined PCC and Senedd poll.

Clarification of “undue influence”

It is already an offence to unduly influence an elector, but the Bill clarifies and updates the offence so that it encompasses a wide range of harms; deceiving an elector about the conduct or administration of an election or referendum can also amount to undue influence; and the intimidation of electors is explicitly listed as a form of undue influence.

While we welcome a more clear and simple definition of the offence of undue influence, practically it is for police and prosecutors to take action around this and other electoral offences.

It is vital and appropriate for there to be measures against the intimidation of voters but there is also scope to consider what may be done to prevent the intimidation of polling staff who can be subject to threat and abuse in some circumstances. They have an important role in the delivery of electoral events and must be protected and supported.

Accessibility of polls

The Bill would place a new requirement on ROs to consider a wider range of support for voters with disabilities in polling stations. The Bill also proposes removal of restrictions on who can act as a ‘companion’ to support voters with disabilities to cast their vote in the polling station.

Giving voters more choice when selecting someone to accompany them in the polling station is welcomed and should increase the accessibility of the voting process to voters with disabilities. It is assumed that the companion would still need to complete a declaration and therefore this form will need to be updated to reflect the removal of restrictions on who can act as a companion.

ROs are responsible for running elections in their area and are currently required to provide specific forms of support to voters with disabilities at polling stations, such as a sample large print ballot paper for people with sight loss. The support they must provide is set out in law. These proposals would replace this list, instead requiring Returning Officers to take “all reasonable steps” to provide support to people with disabilities at polling stations. Assessing what “all reasonable steps” would include will need some expert guidance for ROs to ensure that voters are adequately supported and that ROs understand what they must do. Any new equipment or facilities would need to be adequately funded.

Intimidation

The Bill introduces a new electoral sanction to protect candidates, future candidates, campaigners and elected officeholders from intimidation and abuse, both online and in person. Under this new electoral sanction,

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someone convicted of intimidating a candidate, future candidate, campaigner or elected officeholder will face a five-year disqualification from standing for, being elected to and holding elective office.

If such an additional sanction is deemed necessary then there is a strong argument for extending the list of those intimidated to include ROs, EROs and their staff as they may also be subject to intimidation and efforts to undermine the electoral process.

Timing of Senedd Legislation

We note in the LCM it states that:

'The Bill's provisions will not be in force in time to apply for Welsh Local Government elections in May 2022, and there is time to bring forward our own legislation ahead of the next Senedd election in 2026. This is not, therefore, one of those occasions where it would be helpful to take advantage of a UK Bill to make urgent provision.'

We question whether this has taken into account the possibility for both Senedd and local government by-elections occurring in the period between UK Government implementing their measures via the Elections Bill (currently scheduled for 2023) and the next scheduled devolved election in May 2026. If Welsh Government are not intending to make legislation on the measures it anticipates will apply to devolved elections at the same time UK Government are via the Elections Bill, it will leave a period of up to three years where there will be divergence on such matters as undue influence, intimidation and digital imprints.

This is already the case in relation to candidate home addresses. England legislated for candidates to suppress their home address for local government elections and by-elections that took place from 31 December 2018 (this provision was already in place for UKPGE and PCC elections). Wales are still in the process of legislating for such a change ahead of local government elections in May 2022. This has resulted in divergence and in turn confusion for candidates and administrators for local government by-elections that have taken place in Wales since 2019.

We would urge Welsh Government to consider legislating for all matters it intends to implement for devolved elections at the same time UK Government are via the Elections Bill to provide a consistent approach for all elections (including likely Senedd and local government by-elections). This will make the system easier for citizens and officials in Wales to understand and avoid anomalies between polls. This is particularly important where devolved by-elections are combined with UKPGE or PCC elections.

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We would also ask Welsh Government to reconsider the merits of giving legislative consent to UK Government to make provision via the Elections Bill for those matters it wishes to implement when taking into account the strong possibility of by-elections occurring in the three years prior to Senedd elections in 2026.

As a general comment on all proposed measures in the Bill, we strongly support the application of the "Gould Principle". There must be legislative clarity about the rules under which elections are delivered at least six months in advance of the polls. Elections are complex operations with a range of concurrent workstreams and fixed deadlines all to be delivered with limited resource. Clarity about the rules well in advance of the event is an absolute requirement for sound elections.

We trust that these comments are of assistance and will always be happy to meet Welsh Government officials or Ministers to discuss any of these comments more fully and to engage in broader conversations around the practical delivery of all electoral activity in Wales.

Yours sincerely,



Peter Stanyon
Chief Executive

The Association of Electoral Administrators (AEA) was founded in 1987 and is the professional and qualifications body representing the interests of electoral administrators in the United Kingdom. It is non-governmental and non-partisan and has just under 2,000 members, the majority of whom are employed by local authorities and valuation joint boards to provide electoral registration and election services. There are eleven regional branches of the Association covering the United Kingdom, including the Wales Branch.