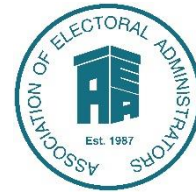


The Association of Electoral Administrators



Response to the Elections and Elected Bodies (Wales) Bill consultation

Evidence submitted on behalf of an Organisation: The Association of Electoral Administrators (AEA).

Summary of Organisation: Founded in 1987, the AEA is the professional body representing the interests of UK electoral administrators. We are a non-governmental and non-partisan body with over 2,000 members, the majority employed by local authorities to provide electoral registration and election services. Eleven branches of the Association cover the United Kingdom.

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Consultation

Our response focuses solely on areas that fall within our area of expertise. It concentrates on matters where we have concerns of the potential impact on electoral administrators, Returning Officers (ROs) and Electoral Registration Officers (EROs) and the services they provide to the electorate and other key stakeholders such as candidates and political parties.

Electoral Management Board of Democracy and Boundary Commission Cymru

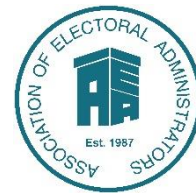
In our 'Blueprint for a Modern Electoral Landscape', we made the following recommendation:

“Consider establishing an Electoral Management Board for Wales - utilising the Electoral Management Board in Scotland as a proven model - to provide support and development for the high number of recently appointed ROs in Wales. The Board should look to utilise the expertise of electoral administrators more extensively to inform the decision-making process”

We continue to support this recommendation and believe Wales would benefit from the establishment of an Electoral Management Board (EMB).

However, what the Bill proposes creates serious concerns. We are not convinced the proposed EMB structure would include the much-needed expertise and elections and registration knowledge the electoral community in Wales requires.

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While the Democracy and Boundary Commission Cymru (DBCC) may offer a structure to support the secretariat service, it has little or no experience or expertise in electoral law amongst its members. It is essential the DBCC receives adequate funding, resource, and training to help them address current gaps in knowledge. This will be crucial to adequately understand the challenges ROs, EROs and electoral administrators in Wales face, and to provide the extensive support they require.

We appreciate provision has been made for the DBCC Commissioner who will act as EMB chair to have previously acted as an RO or ERO. However, we are aware of a significant variance in RO/ERO engagement and feel the chair and ROs/EROs (both current and past) appointed to the board needs to be people who has been heavily involved in electoral delivery.

The proposed membership of four current or former ROs/EROs plus a Chair is a reduction compared with the current membership of the Wales Electoral Co-ordination Board (WECB). The WECB includes a Chair, five current regional ROs and four representatives from the Association of Electoral Administrators (AEA). Given the increasing scope of the current WECB's role and important work carried out by its sub-groups, reducing the size and breadth of membership could impact its effectiveness.

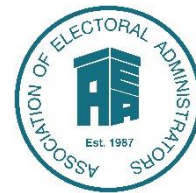
We also believe at least initially, and possibly indefinitely, a stronger electoral administrator voice should be part of the EMB. The WECB currently has two electoral administrators as members – the Chair and Vice Chair of the AEA Wales Branch. Most ROs/EROs in Wales are relatively new and face challenges understanding many delivery implications due to time pressures in their substantive roles. We therefore believe it would be beneficial to include a number of experienced electoral administrators on the EMB. This would allow their expertise and practical knowledge of elections and electoral registration to be at the forefront of decision making. It would also help development of the ROs/EROs on the Board.

While we believe an EMB should have powers to issue directions for devolved electoral events, Welsh Government should be satisfied they are suitably qualified to do so. Any directions should not be made lightly or in isolation. Directions should be subject to further consultation with the wider electoral community, not just the Electoral Commission, before being issued. In addition, any directions should not impinge on the statutory and independent role both ROs and EROs have.

Electoral registration without application

This is a matter for the Welsh Government to decide. We appreciate the Bill has addressed some of the points we previously raised in our consultation response to the white paper. This includes:

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- Introducing a period of 45 days to allow electors to opt out of appearing on the local government register if they are vulnerable or would need to register anonymously
- Removing the open electoral register in Wales for devolved elections
- Providing a prescribed notice to be sent to electors making clear their registration is for devolved polls only and are required to complete an invitation to register (ITR) to be registered for reserved polls
- Clarification that an elector added to the register automatically will appear on the monthly alteration notice once the 45-day period has passed.

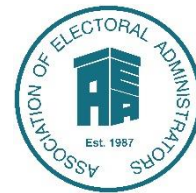
However, we remain concerned electors will be unclear and/or unhappy that despite being automatically registered for devolved polls, the ERO is still legally required to send an ITR for reserved polls. This will include two subsequent reminders including a personal visit if they fail to respond. This has the potential to lead to elector confusion where both during and immediately after being registered for devolved polls, they receive a series of correspondence asking them to register for reserved polls.

This issue may lead to electors failing to register for reserved polls and being subsequently disenfranchised. Equally, it does not remove the administrative burden on the ERO to provide ITRs during the same period for reserved polls. It potentially makes their task of getting an elector to register for reserved polls more challenging. Furthermore, if a potential elector does not want to be registered automatically for devolved polls, the ERO is still required to send them an ITR to register for both the local government and parliamentary register – leading to more correspondence and annoyance.

The Bill does not appear to address whether a five-day objection period and subsequent reviews apply to electors who are registered automatically. Regulation 29 of the Representation of the People (England and Wales) Regulations 2001 (RPR 2001) which provides for the five-day objection period is limited to registration based on application. Therefore, there appears to be no grounds to object to someone being automatically added to the register. We believe this should be focused to allow people to object to a person's registration prior to them being added to the register. While we assume Regulation 27 of the RPR 2001 still applies to allow someone to object to a person's entry on the register, this only applies once they have been added to the register.

The Bill and the explanatory memorandum is also unclear on what grounds the ERO can decide a person is not entitled to register based on information provided by the person or otherwise. It would be helpful for consistency if examples could be provided. For example, can undeliverable mail be considered information that the person is not entitled to be registered.

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While we are supportive of the open register being abolished, we must acknowledge the limitations if UK Government do not take the same approach. You intend for electors who only appear on the local government register (used for devolved polls) and not the parliamentary register to be exempt from the open register. As a result, only a small number of electors would benefit - qualifying foreign citizens, 16/17-year-olds and electors who have been automatically registered for devolved polls and failed to register for reserved polls. All other electors would still be required to opt-out of the parliamentary register to prevent their details appearing on the open register. Consideration would be needed around communication messages to prevent elector confusion when completing registration forms. In addition, practical implications of how this will be identified and recorded in election management systems.

It should be noted EROs have a legal duty to prepare two separate registers; one for UK parliamentary electors, and one for local government electors. Although the registers are created separately, they are stored on the same software system. We question if this presents challenges when the open register is abolished but only for certain categories of electors. It would be important to address such issues in any feasibility study.

We have previously called for the electoral register to be defined as one document in law rather than the current two versions, with the franchise defining which election an elector can vote in.

Welsh elections piloting and reform

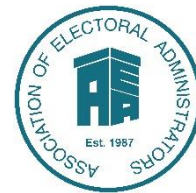
We have reservations about Welsh Ministers having the power to compel a local authority to pilot electoral innovations.

As previously referenced in past consultation responses, in recent years there have been several new ROs/EROs in Wales. This has resulted in most councils having a RO/ERO with limited understanding of the electoral process.

In addition to ROs/EROs, there is starting to be significant churn in the number of new Electoral Services Managers (ESMs) in Wales. While some new ESM appointments are the result of succession planning, many are not. Several recent ESM appointments have been a person with no prior knowledge or experience of electoral services. There has been a consequent loss of expertise in key areas of electoral law and practical implementation of elections and electoral registration.

If a local authority with limited knowledge and capacity were compelled to run an electoral pilot, it could seriously jeopardise the smooth running of the election, leading to a loss of confidence in the electoral process. It could also leave the RO personally liable for any failings and may result in an election petition.

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If this was to be implemented, checks and balances should be in place to ensure the local authority being compelled is adequately experienced (at both RO and ESM level) and resourced to deliver the pilot.

Welsh Government should also be mindful of the volume of pilots it intends to implement and their timing over the coming years. Electoral administrators have very little capacity to deliver additional projects beyond the running of electoral events and electoral registration. The volume of change introduced by UK Government via the Elections Act has placed a huge administrative burden on teams and will take time to embed. The impact of the change has been more keenly felt by Welsh administrators due a multitude of divergence issues. To expect administrators to also undertake pilots is potentially placing them at risk, limiting their ability to meet ERO and RO statutory duties.

Consideration should also be given to potential confusion if a series of different pilots were run on the same day in different areas. A comprehensive national communications plan from both Welsh Government and the Electoral Commission needs to be in place for pilot areas to mitigate potential for elector confusion and support pilot authorities to successfully delivery.

We would welcome the use of by-elections to pilot different models and systems rather than scheduled authority wide polls. This should help make delivery more manageable for local authorities when concentrated on smaller electorates. However, several pilots in different types of local authorities should be conducted before attempting to draw any conclusions. We also believe that following by-election piloting, there should be subsequent pilots at scheduled polls before any measures are rolled out. This would identify any unintended consequences and reduce the potential for failure when introduced to a larger electorate.

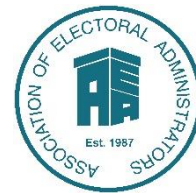
Accessibility and diversity: Welsh elections

We are supportive of the intent for a consistency of approach towards equipment provision for disabled electors across reserved and devolved polls, and guidance issued by the Electoral Commission.

We note the intention for more flexibility in the format and wording in the candidate survey and increasing diversity amongst candidates. As these are not electoral administration issues, it is not appropriate for us to comment further.

We acknowledge there are benefits to allowing local candidates to publish a personal statement or provide online voter information, with the public citing lack of information available on each candidate or political party presented as a reason for voter apathy.

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However, we do not believe it is the RO's role to address the lack of publicly available information on candidates or political parties. This sits firmly with candidates and parties themselves. This can be achieved through effective campaigning and the utilisation of third-party independent community resources. These include those already available and provided by community interest companies such as Democracy Club.

As previously stated, we consider the arrangements currently in place with UK Government for Police and Crime Commissioner Elections should be replicated, with any website/platform directly managed and maintained by Welsh Government. There is potential scope for a statutory EMB to fulfil this function too.

We believe the information provided should follow the format already established by <https://whocanivotefor.co.uk/>. It provides candidates the option to supply their name, photograph, statement to voters, contact details and links to any social media accounts.

We welcome the EMB being responsible for the delivery of the central information platform rather than a local authority or RO. However, as we have previously stressed, the means of collecting candidate information statements should not fall to the RO as part of the nomination process.

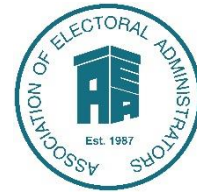
As stated in our 2017 response to the consultation on electoral reform, the then intended requirement for ROs to take responsibility for reviewing and publishing what could be several hundred personal statements (in both Welsh and English) would be a significant extra burden. This would fall on electoral service staff during the candidate nomination processing period, where huge pressures are already evident. We strongly believe any provision related to online voter information supplied by candidates should be completely distinct from the nomination process.

We believe candidates and political parties should be providing online voter information directly to the designated host of the platform. The process should be prescribed in legislation in terms of timeframe, content rules, photo requirements, online/paper submission requirements and language requirements. It would be for the platform host to then determine whether the information meets the requirements before making it available.

Guidance on the submission process should be provided by the platform host in various accessible formats and languages to support candidates and political parties. The Electoral Commission could provide additional support by including information on the platform in their guidance for candidates and agents. They could also include related slides in their template briefing for candidates and agents used by ROs.

Before provision is made to implement an online voter information platform, it would be useful to evaluate the impact of personal statements for PCC and Mayoral elections in England. This would help inform what information should be included and how well

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it is received by voters. We also believe the idea should be piloted before being rolled out further.

Clare Sim

Head of Member Support on behalf of the AEA

8 November 2023