Welsh Parliament
Member Accountability Bill Committee

Senedd Cymru (Member Accountability and Elections) Bill

Stage 1 Report

December 2025

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About the Committee

The Committee was established on 15 October 2025. Its remit can be found at: **www.senedd.wales/SeneddMAB**

Current Committee membership:

Committee Chair: David Rees MS
Welsh Labour

Lesley Griffiths MS
Welsh Labour

Sam Rowlands MS
Welsh Conservatives

Buffy Williams MS
Welsh Labour

Sioned Williams MS
Plaid Cymru

The following Member was also a member of the Committee during the scrutiny of the Bill.

Paul Davies MS
Welsh Conservatives

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Conclusion 9. In line with recommendation 8, based on the evidence we have heard, while we believe that:

- the Senedd should have an appeals process built into its standards system,
- lay members sitting on a standards of conduct committee should have voting rights (except in relation to Bill scrutiny),
- the total number of lay members sitting on a standards of conduct committee should not be more than the number of elected Members of the Senedd on that committee,
- lay members should be appointed for a maximum term of five years, and an appointment should be renewable only once,
- the Senedd, when initially appointing lay members, should consider differing lengths of terms so that not all appointments end at the same point in time,
- the Senedd, when appointing lay members, should consider the Welsh language skills of the potential appointees to ensure a minimal level of such skills amongst the lay membership, and
- the Chair of the Standards of Conduct Committee should not be selected from the same party as the party in government or the largest party represented in the Senedd,

these matters should be determined by the Senedd and provided for in its Standing Orders. ..... Page 103

Conclusion 10. We agree with the evidence we have heard that enabling the Standards Commissioner to initiate investigations has the potential to enhance the standards system, and we are therefore content with section 19..... Page 103

Conclusion 11. We acknowledge that section 20 of the Bill amends the National Assembly for Wales Commissioner for Standards Measure 2009 by adding two categories of persons not eligible to be appointed as the Senedd Commissioner for Standards and we are content, subject to our views set out in recommendation 9. ..... Page 104

Conclusion 12. The arguments put forward to us in evidence overwhelmingly suggest that such a significant change as provided for in section 22 should be

Recommendations

Recommendation 1. If the Senedd supports the general principles of the Bill and it advances to the next stage of the legislative process, we recommend that all Parts of the Bill be amended and improved before it is passed and enacted. In relation to Part 3, the Bill must be amended to meet our recommendation 11 . Page 42

Recommendation 2. Section 4 should be removed from the Bill. Page 75

Recommendation 3. Section 5 of the Bill should be amended so that the Standards of Conduct Committee, established in accordance with section 18, is required to issue guidance about the matters to be taken in to account by that committee when considering whether to recommend submitting a Member of the Senedd to a recall poll. Page 76

Recommendation 4. A majority of the Committee considers that the Bill should be amended so that the Standards of Conduct Committee is able to issue recall guidance so long as a simple majority of the total number of votes cast by the Senedd are in favour of the resolution. Page 77

Recommendation 5. Given the importance of the section 11 regulations to the recall process, the Bill should be amended so that the Welsh Ministers are required to make the regulations, rather than enabled to do so as section 11(1) is currently drafted. Page 77

Recommendation 6. The Welsh Government must consult with the Electoral Commission and other electoral stakeholders on the format of the ballot paper for recall polls and it should be subject to user testing at the earliest opportunity, if the Bill is passed and enacted. Page 78

Recommendation 7. The Bill should be amended to make it explicit that recall polls will fall within the statutory functions of the Electoral Management Board. Page 78

Recommendation 8. We agree that the Bill should make provision:

- for a mandatory Standards of Conduct Committee,
- enabling lay members to be appointed to Senedd committees considering matters relating to the standards of conduct of Members of the Senedd;

- that prohibits the following from being appointed lay members:
    - current and former elected members of all parliaments and legislatures of the UK,
    - members of the House of Lords,
    - current and former elected members of community, county and county borough councils in Wales,
    - current and former police and crime commissioners for a police area in Wales, as well as
    - persons holding the disqualifying offices in the second column of the table in Part 2 of Schedule 1A to the 2006 Act (except the judicial offices);

and consequently do not consider that any other provision currently in section 18 is required, and the Bill should be amended accordingly..... Page 102

Recommendation 9. The Bill should be amended so that the following persons are disqualified from being appointed as the Senedd Commissioner for Standards:

- current and former elected members of all parliaments and legislatures of the UK,
- members of the House of Lords,
- current and former elected members of community, county and county borough councils in Wales,
- current and former police and crime commissioners for a police area in Wales, as well as
- other persons holding the disqualifying offices in the second column of the table in Part 2 of Schedule 1A to the 2006 Act (except the judicial offices). .....Page 104

Recommendation 10. The Counsel General should amend the *Welsh Language (Wales) Measure 2011* to include the Senedd Commissioner for Standards within the list of public bodies listed in Schedule 6 to the Measure. We note that such an amendment to Schedule 6 could be achieved either by including a provision on the face of the Bill or by bringing forward an order under section 35 of the

Measure. Similarly, the Counsel General should also include the Senedd Commissioner for Standards in a relevant set of Welsh Language Standards regulations. We note that this could be achieved either by including provision on the face of the Bill or through regulations made using powers under the Measure. If these changes are not included on the face of the Bill, the appropriate statutory instruments should be brought forward at the earliest opportunity..... Page 105

Recommendation 11. The Welsh Government should:

- draft detailed provisions for the proposed offence, to be included on the face of the Bill, which prohibit the making or publishing of false or misleading statements of fact before or during an election for the purpose of affecting the return of any candidate;
- consult on those provisions, including comprehensive engagement with the police, the Crown Prosecution Service and the Ministry of Justice, and publish details of those consultation responses;
- conduct and publish justice and human rights impact assessments; and subsequently
- table the relevant amendments at Stage 2 that would place the full details of the offence on the face of the Bill.

If these changes cannot be done in time for Stage 2 proceedings, or the amendments tabled at Stage 2 are deemed insufficient and are therefore not supported, the majority of the Committee recommend that section 22 of the Bill should be removed to allow for further work on the issue to be taken forward in future primary legislation. Sioned Williams believes that section 22 can be further amended to further define the scope of the power. ..... Page 127

1. Introduction

On 3 November 2025, the Counsel General and Minister for Delivery, Julie James MS (the Counsel General), introduced the Welsh Government's Senedd Cymru (Member Accountability and Elections) Bill (the Bill) into the Senedd.[1]

1. Alongside the Bill, the Counsel General laid an accompanying Explanatory Memorandum (the EM)[2], incorporating the Regulatory Impact Assessment (RIA) and draft Explanatory Notes (ENs). Also on 3 November 2025, the Counsel General issued a Statement of Policy Intent on the powers to make subordinate legislation under the Bill[3]. In addition, a series of impact assessments related to the Bill's provisions were published by the Welsh Government.[4]

2. On 4 November 2025, the Counsel General made an oral statement in Plenary.[5]

3. In accordance with Standing Order 26.9, the Business Committee referred the Bill to the Member Accountability Bill Committee (the Committee) for Stage 1 scrutiny of the Bill's general principles, with a reporting deadline of 23 December 2025.[6]

Terms of reference and our approach to scrutiny

4. To guide its scrutiny of the Bill, the Committee agreed to consider:

- The general principles of the Senedd Cymru (Member Accountability and Elections) (Wales) Bill and whether there is a need for legislation to

[1] Senedd Cymru (Member Accountability and Elections) Bill, as introduced
[2] Senedd Cymru (Member Accountability and Elections) Bill, Explanatory Memorandum, November 2025
[3] Welsh Government, Senedd Cymru (Member Accountability and Elections) Bill, Statement of Policy Intent, November 2025
[4] Welsh Government, Senedd Cymru (Member Accountability and Elections) Bill: impact assessments
[5] Plenary, 4 November 2025
[6] Business Committee, Report on the Timetable for consideration: Senedd Cymru (Member Accountability and Elections) Bill, November 2025

deliver the Bill's stated policy objectives, which are to enhance the accountability of Members of the Senedd through:

- strengthening the systems that currently exist that regulate and sanction their behaviour and conduct;
- providing a mechanism to recall an elected member, removing them from office during their term on the basis of the expressed will of voters in the relevant constituency;
- strengthening the Senedd's standards process as considered by the Standards of Conduct Committee, including by requiring that each Senedd must establish a mandatory Standards of Conduct Committee and through the appointment of lay members;
- providing more flexibility to the Commissioner for Standards to proactively consider concerns regarding the conduct of Members of the Senedd;
- amending the Welsh Ministers' power in the Government of Wales Act 2006 to make provision about the conduct of Senedd elections, in particular by placing a duty upon the Welsh Ministers to make provision prohibiting the making or publishing of false statements of fact.

- Any potential barriers to the implementation of the Bill's provisions, and whether the Bill and accompanying Explanatory Memorandum and Regulatory Impact Assessment take adequate account of them.
- Whether there are any unintended consequences arising from the Bill, including potential implications for the operation of Senedd business.
- The Welsh Government's assessment of the financial and other impacts of the Bill as set out in Parts 2 and 3 of the Explanatory Memorandum.
- The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Part 1: Chapter 5 of the Explanatory Memorandum).
- Matters relating to the competence of the Senedd including compatibility with the European Convention on Human Rights.

- The balance between the information contained on the face of the Bill and what is left to subordinate legislation.
- Any matter related to the quality of the legislation.
- Any other matter related to the constitutional or other implications of the Bill.

5. The Committee launched a public consultation on 4 November 2025, which closed on 19 November; 19 submissions were received. The Committee also took evidence from a number of individuals and organisations. Details of the Committee's evidence gathering can be found in annexes 1 and 2.

6. The Committee wishes to thank everyone who gave evidence and assisted in its Stage 1 consideration of the Bill.

Scrutiny of the Bill by other Senedd committees

7. In line with usual practice, the Legislation, Justice and Constitution (LJC) Committee and the Finance Committee also scrutinised the Bill. Information about the work of those committees can be found on the Bill's webpage.

2. Background to the Bill

In the EM, the Counsel General states that the Bill's overall purpose is to enhance the accountability of Members of the Senedd by strengthening the systems that currently exist that regulate and sanction their behaviour and conduct.[7]

Member accountability in other parliaments of the UK

8. The *Recall of MPs Act 2015* (the 2015 Act) provides a system of recall for Members of the House of Commons.

9. A recall petition against an MP can only be opened if one of three conditions are met:

- The MP has, after becoming an MP, been convicted in the United Kingdom of an offence and sentenced or ordered to be imprisoned or detained for up a period of up to one year, and any appeal period has passed without the conviction being overturned.
- Following on from a report from the Committee on Standards in relation to an MP, the House of Commons orders the suspension of the MP from the service of the House for a specified period (at least 10 sitting days, or at least 14 days if sitting days are not specified).
- The MP has, after becoming an MP, been convicted of an offence under section 10 of the *Parliamentary Standards Act 2009* (if they provide information which they know to be false or misleading in a material respect in support of a claim for allowances).

10. If one of these conditions is met, the Speaker of the House of Commons gives notice to the petition officer in the MP's constituency (usually the returning officer), and a recall petition will be opened for a period of six weeks.

11. For a petition to succeed, it must be signed by 10 per cent of eligible registered electors in the constituency. If it is successful, the petition officer

[7] Explanatory Memorandum, paragraph 1

notifies the Speaker of the House of Commons and the MP's seat becomes vacant.

12. To date, there have been six recall petitions held, with four of these reaching the required threshold of signatures. One of the petitions failed to reach the required threshold and one was terminated early when the MP resigned after the petition had been open for two weeks.

13. In the Scottish Parliament, the Scottish Parliament (Recall and Removal of Members) Bill is a Member's Bill which has been introduced by Graham Simpson MSP. The Bill seeks to create a recall system for MSPs when they are convicted of a prison sentence of less than six months or prohibited from taking part in parliamentary proceedings for a period of ten sitting days or more. The Bill also makes provision to change the disqualification criteria for MSPs so that they are removed from office if they receive a prison sentence of 6-12 months or fail to attend the Parliament in-person for 180 days without a valid reason. At the time of writing, the Scottish Parliament (Recall and Removal of Members) Bill is at Stage 2 of the legislative process in the Scottish Parliament.

Senedd Cymru (Members and Elections) Act 2024

14. Whilst a recall mechanism is not included in the *Senedd Cymru (Members and Elections) Act 2024* (the 2024 Act), it was considered by the Reform Bill Committee as part of its Stage 1 scrutiny of the (then) Senedd Cymru (Members and Elections) Bill.[8]

15. The Reform Bill Committee recommended in its Stage 1 report on the Senedd Cymru (Members and Elections) Bill, that the Senedd's Standards of Conduct Committee (the Standards Committee) should develop options for strengthening individual members' accountability, including consideration of a recall mechanism, disqualification arrangements and the sanctions available to the Standards Committee when a complaint about a member is upheld.[9] The Reform Bill Committee also recommended that public consultation on potential options should be completed before the end of the Sixth Senedd.[10]

[8] Reform Bill Committee, Stage 1 report on the Senedd Cymru (Members and Elections) Bill, January 2024
[9] Reform Bill Committee, Stage 1 report on the Senedd Cymru (Members and Elections) Bill, recommendation 50
[10] Reform Bill Committee, Stage 1 report on the Senedd Cymru (Members and Elections) Bill, recommendation 50

16. During Stage 2 and Stage 3 proceedings on the Senedd Cymru (Members and Elections) Bill, amendments were brought forward, but not agreed to, in relation to the introduction of a recall system (Stage 2 Amendments 124 and 125[11] and Stage 3 Amendments 40 and 42[12]).

Inquiries undertaken by the Senedd's Standards of Conduct Committee

Individual Member Accountability: Recall

17. Following the discussion around the prospect of a recall system during the Senedd's consideration of the Senedd Cymru (Members and Elections) Bill, and a petition signed by over 2,000 people[13], the Standards Committee agreed to look at whether proposals could be developed for a recall system in the Senedd.[14]

18. The Standards Committee held an initial set of oral evidence sessions in June and July 2024, which informed a public consultation in summer 2024.[15] This consultation asked a number of detailed questions about how a recall system could work in the Senedd and also offered two potential options (see box 1).

Box 1

Option 1: A recall petition is run asking only whether the member should be recalled. In the event a member is recalled, the next eligible and willing candidate from the party's list on which the removed member was elected would fill the vacant seat. This approach means that signing the petition would remove the member, rather than result in a by-election in that constituency.

Option 2: A retain or remove and replace petition is run, asking whether the member should remain in place, or be removed and replaced (if possible) with the next candidate on the party's list. This would be subject to a campaign period, allowing the member subject to the 'recall' process an opportunity to defend their position with the electorate.

[11] Senedd Cymru (Members and Elections) Bill, Stage 2 Marshalled List of Amendments, 5 March 2024
[12] Senedd Cymru (Members and Elections) Bill, Stage 3 Marshalled List of Amendments, 30 April 2024
[13] P-06-1386 Introduce a way for constituents to vote out their MS before the end of their term
[14] Standards of Conduct Committee, Inquiry into Individual Member Accountability
[15] Standards of Conduct Committee, Inquiry into Individual Member Accountability, Consultation

19. Following the consultation, the Standards Committee held further evidence sessions in autumn 2024, before publishing its report on recall in January 2025.[16] The Standards Committee agreed that a system of recall should be introduced for the Senedd but that it would need to operate differently to the system for the House of Commons due to the different electoral system that will be used from May 2026. The Standards Committee recommended Option 2 should be taken forward, with a ballot to be held on a single day, similar to a Senedd by-election.[17]

20. The Welsh Government responded to the Standards Committee's report on recall on 11 March 2025.[18] It accepted, or accepted in principle, all of the Standards Committee's recommendations, and committed to bring forward a Bill during the current Senedd term to establish a system of recall for the Senedd.

Individual Member Accountability: Deliberate deception

21. Following a request from the then Counsel General in March 2024[19], the Standards Committee agreed to undertake an inquiry to gather evidence on the merits of introducing further mechanisms for the disqualification of members and candidates found to have deliberately deceived the electorate. It undertook a public consultation in summer 2024 to ask for views on three specific options to further regulate deliberately deceptive statements by Senedd Members and candidates in Senedd elections.[20] It gathered evidence as part of its wider work on Individual Member Accountability.

22. The Standards Committee published its report on deception on 19 February 2025.[21] In its report, the Standards Committee recommended a number of measures to address deliberate deception by Senedd Members and candidates.[22] A majority of the Standards Committee members recommended that different measures should be put in place for members and candidates.[23]

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[16] Standards of Conduct Committee, Report on Individual Member Accountability: Recall, January 2025
[17] Standards of Conduct Committee, Report on Individual Member Accountability: Recall, recommendations 2, 4 and 7
[18] Welsh Government response to the Standards of Conduct Committee, Report on Individual Member Accountability: Recall, March 2025
[19] Letter from the Counsel General and Minister for the Constitution, 13 March 2024
[20] Standards of Conduct Committee, Inquiry into Individual Member Accountability, Consultation
[21] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, February 2025
[22] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, recommendations 1, 3 to 5, and 7
[23] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, paragraph 186 and recommendations 1 to 5

23. The Welsh Government responded to the Standards Committee's report on deception on 26 March 2025. It accepted, or accepted in principle, all of the recommendations relevant to it and that would require legislative change.[24]

The Standards Committee's ongoing work related to individual member accountability

24. On 30 October 2025, Hannah Blythyn MS, Chair of the Standards Committee, wrote to us to provide information on the Standards Committee's ongoing work related to individual member accountability.[25]

25. In her letter, Hannah Blythyn highlighted some key differences between the recommendations made by the Standards Committee and the provisions of the draft version of the Bill (as published on 6 October 2025), including:

- the triggers and terminology of a recall system,
- the proposed appeals procedure which includes a sub-committee of lay members, and
- the placing of a duty on the Welsh Ministers to make provision prohibiting the making or publishing of false or misleading statements of fact before or during an election for the purpose of affecting the return of any candidate.

26. We turn to these matters individually in Chapters 4, 5 and 6 of the report.

27. The letter from Hannah Blythyn also draws attention to the wider programme of work that the Standards Committee is undertaking in relation to the Senedd standards regime as a whole. This includes:

- work to take forward recommendations 8 and 9 of the Committee's report on deliberate deception relating to a process for members to correct the record and for information relating to breaches of the Code of Conduct to be published in a more transparent way;
- exploring how appointing lay members may work in practice and to bring forward proposals for the Senedd to consider.

[24] Welsh Government response to the Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, March 2025
[25] Letter from the Chair of the Standards of Conduct Committee, 30 October 2025

28. Also enclosed in the letter from Hannah Blythyn is correspondence between her and the Llywydd, the Rt Hon Elin Jones MS, regarding the potential impact of the Standards Committee's recommendations on the Business Committee's procedural work programme. It also includes a letter and accompanying paper from Hannah Blythyn to the Counsel General and Minister for Delivery, setting out the Standards Committee's views on potential amendments to the *National Assembly for Wales Commissioner for Standards Measure 2009* (the 2009 Measure), which the Standards Committee believes could be incorporated into the Bill.

Pre-introduction consultation and engagement undertaken by the Welsh Government

29. In the EM, the Counsel General states:

> *"In the timescale available, and in order to introduce a Bill in the final year of the Senedd term, around 9 months after the Committee reports were published, it was not possible for the Welsh Government to undertake its own open public consultation on the proposed policy choices to be given effect through the Senedd Cymru (Member Accountability and Elections) Bill or on a draft Bill."*[26]

30. The Counsel General notes in the EM that the Standards Committee's reports on recall and deliberate deception were informed through an open public consultation and 21 evidence sessions, stating "The engagement and evidence received by the Standards of Conduct Committee has been, to a significant extent, the basis of the work in order to meet the challenging timescales."[27]

31. The Counsel General further notes that a number of the recommendations of the Standards Committee - including recommendations 3, 8 and 9 of its report on recall – requested that the Welsh Government undertake further engagement with the electoral community while developing the Bill. As such, in the EM the Counsel General states that Welsh Government officials undertook:

- targeted bilateral engagement with external stakeholders, including the Senedd Commission and the Electoral Commission, to ensure the Welsh

[26] Explanatory Memorandum, paragraph 132
[27] Explanatory Memorandum, paragraph 134

Government is cognisant of their views on the key issues including the financial implications of the proposals, and

- early and detailed engagement with the electoral administrator community, ensuring that administrative concerns could be fed into the legislation design process.[28]

32. The Counsel General also states in the EM that she engaged with the Chair of the Standards Committee on the development of the Bill in response to the recommendations of that Committee, including discussions on minor amendments to the 2009 Measure that the Standards Committee has suggested for inclusion in the Bill.[29]

33. The Counsel General considers that the targeted engagement:

- enabled the inclusion of detailed cost estimates to accompany the Bill, including in relation to its implications for the Welsh Government, Senedd Commission, electoral administrators (via the Electoral Management Board), and the Electoral Commission;

- informed the development of the question and responses to be included on the ballot paper of a recall poll to seek to ensure that they are concise, written in plain English and Welsh, use short sentences, and avoids jargon or technical terms that would not be easily understood by most people (through discussion with the Electoral Commission).[30]

[28] Explanatory Memorandum, paragraph 135
[29] Explanatory Memorandum, paragraph 138
[30] Explanatory Memorandum, paragraphs 136 and 137

3. General principles of the Bill, legislative competence, and the need for legislation

The Bill contains four Parts, consisting of 25 sections and including two Schedules. The Welsh Government is satisfied that the Bill is within the legislative competence of the Senedd.

The Bill: the timing of its introduction to the Senedd and the need for new primary legislation to deliver the overall objectives

The development of the Bill and its introduction to the Senedd

34. In the EM, the Counsel General sets out the background to the Bill and what events led to the Welsh Government introducing the Bill to the Senedd.[31]

35. As highlighted in Chapter 2 of our report, a recall mechanism was considered by the Reform Bill Committee in its Stage 1 report of the (then) Senedd Cymru (Members and Elections) Bill in January 2024. Specific consideration of the matter was subsequently taken on by the Standards Committee, which then reported to the Senedd in January 2025. Shortly afterwards, the Standards Committee also reported to the Senedd on the matter of deliberate deception by Senedd Members.

36. The *Elections and Elected Bodies (Wales) Act 2024* (the 2024 EEB Act) was introduced to the Senedd as a Bill in October 2023, and included a range of provisions to amend the administration of elections in Wales. At Stage 2 an amendment was tabled and agreed to by members of the Local Government and Housing Committee which would have enabled the disqualification of a Senedd Member found guilty of a new criminal offence of deliberate deception. The Welsh Government reached an agreement during Stage 3 of the Bill with the supporters of the amendment to remove that provision from the Bill in exchange for a commitment to undertake further work on the proposals and introduce legislation to the same effect by the end of the Senedd. The then Counsel General in a letter to the Standards Committee set out this position:

[31] Explanatory Memorandum, Chapter 3.1

> *"The Welsh Government will bring forward legislation before 2026 for the disqualification of Members and candidates found guilty of deliberate deception through an independent judicial process and will invite the Committee to make proposals to that effect.*
>
> *This issue is best considered in detail through the work that the Standards of Conduct Committee is undertaking in its inquiry into Individual Member Accountability, and I therefore invite the committee to make proposals on this important matter as part of that work. I look forward to the recommendations that the Committee makes."*[32]

37. As noted in the EM[33], in December 2024, during the Standards Committee's work on recall and deliberate deception, the Welsh Government made a commitment to preserve a slot in the fifth year of its legislative programme for legislation related to a recall mechanism. At the time, the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs (the Deputy First Minister), Huw Irranca-Davies MS, said:

> *"The challenging timescales should not be understated however, and it is essential that all parts of the process are able to proceed at pace. A balance needs to be struck between maximising the time available to properly develop legislation in what is an area with limited precedent and ensuring that the Senedd has the necessary time to scrutinise and improve that legislation."*[34]

38. Following this commitment, and in formally responding to the Standards Committee's report on recall, the Counsel General stated:

> *"I will bring forward a Bill during the current Senedd which establishes a system of recall. To develop, draft, scrutinise, and pass primary legislation before dissolution in little over a year represents a significant challenge, but one which, if the Senedd is so minded, the Government will look to undertake. It is, however, important to note that whereas this time frame*

[32] Letter from the Counsel General and Minister for the Constitution to the Standards of Conduct Committee, 13 July 2024
[33] Explanatory Memorandum, paragraph 17
[34] Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs to the Standards Committee, 2 January 2025

> *should allow for primary legislation to be put in place, albeit at pace, it would not allow for the subsequent development and passage of either secondary legislation or any Committee guidelines that would be needed before the system was fully implemented. While passing primary legislation during this Senedd will be an important achievement, full implementation will need to be taken forward at pace during the Seventh Senedd."*[35]

39. Representatives of the electoral community provided evidence to us on 18 November 2025, during which their involvement in the Bill's development was explained to us.

40. Tom Hawthorn of the Electoral Commission told us it had had "some really helpful conversations with [Welsh Government] officials", and the Electoral Commission has "been careful to try and translate what we have learned from the experience of recall petitions that have taken place for the UK Parliament, so that we can share that experience and learn from those experiences". In doing so, Mr Hawthorn said the Electoral Commission recognised that the electoral system for Senedd elections is very different to the system for UK Parliament elections, and those differences need to be reflected in the proposals that are being put forward.[36]

41. Mark Pascoe of the Electoral Management Board (the EMB) told us it had had updates from the Welsh Government on the progress of the policy as it was developed, but it had not had any particular conversations around the policy itself.[37]

42. Clare Sim of the Association of Electoral Administrators (the AEA) said it had not had "any explicit conversations regarding the development of the policy", but recognised that "a lot of the stuff to do with the administration of elections… will be reflected in the secondary legislation".[38]

43. On 6 October 2025, the Counsel General published to the Welsh Government's website a draft version of the Bill. In an accompanying written statement, the Counsel General said:

[35] Welsh Government response to the Standards of Conduct Committee, Report on Individual Member Accountability: Recall
[36] MAB Committee, 18 November 2025, RoP [5]
[37] MAB Committee, 18 November 2025, RoP [10]
[38] MAB Committee, 18 November 2025, RoP [15]

> *"The aim of publishing a draft of the Bill today is to give Senedd Members and interested stakeholders an opportunity to see the proposed scope and direction of the Bill before its formal introduction in the autumn. It is not published for further consultation at this stage. It is still subject to the Llywydd's determination and there may be changes before introduction. This is not therefore a final version."*[39]

44. The Senedd's Business Committee is usually able to provide Senedd Committees with (on average) 10 to 12 sitting weeks to consider a Bill's general principles during Stage 1 of the legislative process. With the 2026 Senedd election approaching, the Welsh Government is working to complete its legislative programme before the Senedd dissolves in April 2026. As such, we were given only seven sitting weeks to complete our evidence gathering and lay our report before the Senedd.

45. We wrote to the Business Committee on two occasions[40] expressing concerns about the challenging timetable within which we were asked to complete our work. In our second letter on this subject, dated 26 November, we highlighted our increasing concerns that there was insufficient time available to us to fully consider the Bill's provisions and its implications should it be passed into law.[41]

46. Professor Alistair Clark told us that he has "concerns about the speed with which this legislation is being brought forward". As a piece of "significant legislation", Professor Clark said it "needs sufficient time to be both scrutinised, and, if it is successful, to be implemented".[42] Professor Clark added:

> *"Both the practice of recall, and the introduction of the issue in part 3 about making or publishing false or misleading statement are important pieces of legislation. It is more important to get these right than to have rushed and problematic legislation on the statute book in advance of the 2026 Senedd election. I therefore recommend that this legislation be paused and, should a new administration be*

[39] Welsh Government, Written Statement: Draft of the Senedd Cymru (Member Accountability and Elections) Bill, 6 October 2025
[40] Letter to the Business Committee, 31 October 2025
[41] Letter to the Business Committee, 26 November 2025
[42] MAB04 Professor Alistair Clark

> *minded, be reintroduced as part of the new Welsh government's legislative programme in 2026."*[43]

47. In its written evidence, Transparency International UK also raised concerns about the pace at which the Bill may progress through the Senedd, suggesting the pace should be reconsidered, while also stating:

> *"… this draft Bill introduces or amends three important aspects of the standards and accountability landscape at the Senedd which each deserve fulsome scrutiny. The pace therefore of the planned passage of the Bill is disappointing. (…)*
>
> *Essentially, these policy proposals would change the accountability mechanisms in the Senedd and introduce new, potentially criminal, offences. They must be adequately consulted upon and scrutinised and detailed provisions with clear parameters as to the impact on Members of the Senedd understood and agreed to. Public perceptions of what is changing must also be considered."*[44]

48. In its evidence, Unlock Democracy stated that, due to the time constraints, "it has not been possible for Unlock Democracy to comment in detail on the draft bill".[45] One Voice Wales also noted the "very short timescale" given to stakeholders to submit a consultation response due to the timetable set for the Bill.[46]

The need for new primary legislation to deliver the overall objectives

49. A number of stakeholders expressed broad positive support for the introduction of the Bill and its aim to enhance the accountability of Senedd Members by strengthening the systems that currently exist to regulate and sanction their behaviour and conduct.

50. Alberto Costa MP, Chair of the House of Commons Committee on Standards, told us that the 2015 Act is "an important part in the standards landscape of the House of Commons".[47]

[43] MAB04 Professor Alistair Clark
[44] MAB11 Transparency International UK
[45] MAB08 Unlock Democracy
[46] MAB06 Un Llais Cymru/One Voice Wales
[47] MAB Committee, 27 November 2025, RoP [6]

51. The Electoral Reform Society (ERS) Cymru welcomes the Welsh Government's ambition to enhance the accountability of Members of the Senedd and strengthen regulations and sanctions around behaviour and conduct.[48]

52. Paul Evans and Sir Paul Silk consider the Bill to be "a welcome development of democratic accountability and likely to help in some degree to reinforce the confidence of the electorate in the Senedd".[49]

53. Elkan Abrahamson told us that "any steps to improve the integrity of the political process and the accountability of the political community are welcome".[50]

54. Quakers in Wales believes that the Bill provides an opportunity to embed improved standards of accountability and election integrity for the Senedd, describing it as "a significant step toward strengthening the foundations of democratic accountability, public trust and integrity in Welsh political life".[51] It also welcomes the steps the Bill takes to "enhance accountability of Members of the Senedd, to enable recall in appropriate circumstances, to strengthen the standards framework, and to address election conduct". Quakers in Wales nonetheless considers the Bill would benefit from "clarifications and enhancements, especially in relation to the role and status of lay members, term-limits, political neutrality, and consistency of standards applied to all participants in the standards regime".[52]

55. While expressing his view that establishing a recall mechanism "will help to restore some public confidence and improve accountability by allowing for recall in limited circumstances", Dr Ben Stanford also told us "there are several notable flaws". He said:

> *"First, there is a risk that the mechanism contributes to, rather than alleviates, public apathy if voters are only given a heavily diluted power of recall in the form of a "retain or remove and replace" system, which lacks a real choice of who should succeed the removed Member. Second, there is a risk that some voters will lack representation in the Senedd for potentially several years, in between elections, if recalled*

[48] MAB07 Electoral Reform Society Cymru
[49] MAB10 Paul Evans and Sir Paul Silk
[50] MAB16 Elkan Abrahamson
[51] MAB05 Crynwyr Cymru - Quakers in Wales
[52] MAB05 Crynwyr Cymru - Quakers in Wales

> *Members cannot be replaced due to the inability to hold a by-election."*[53]

56. Keith Bush KC, a former chief legal adviser to the (then) National Assembly for Wales, told us that the laudability of the Bill's aims cannot justify bad legislation, and that taking the Bill forward would create a complex recall system that would involve significant costs but not achieve the aims. He said the Bill does not ensure a relatively simple or effective system for achieving the aim of making Senedd Members more accountable to the electorate, and the recall system proposed in the Bill risks confusing and frustrating constituents, leading to a perception that it has been designed to give a misleading impression of better accountability. As a result, he is of the view that Part 1 of the Bill should not be taken forward, and that a recall mechanism should be developed when the experience of implementing the new electoral system can be factored into that development.[54]

57. When giving evidence to us at the end of our evidence-gathering period, the Counsel General told us:

> *"The Government is enabling a series of things that the Commission needs to put in place—the parliamentary authorities—and the Government is very keen not to appear to be telling the parliamentary authorities how to manage their business or run their proceedings. So, there are a large number of things in the Bill that are effectively Aunt Sallys, if you like, so a place to start the conversation, or they're permissive…".*[55]

58. When asked if the Government should have consulted the public on the Bill before introducing it to the Senedd the Counsel General responded:

> *"The Bill might well have benefited from pre-consultation, but this, as you know, is part of an agreement with a number of other parties in the Senedd…".*[56]

[53] MAB02 Dr Ben Stanford
[54] MAB13 Keith Bush KC. Original evidence submitted in Welsh; a courtesy translation was prepared by the Senedd's Translation Service.
[55] MAB Committee, 2 December 2025, RoP [10]
[56] MAB Committee, 2 December 2025, RoP [18]

Part 4 of the Bill, coming into force and implementation

59. Part 4 of the Bill contains general provisions, such as powers to make consequential and transitional provision and the coming into force dates.

60. Parts 2 and 4 of the Bill comes into force two days after the Bill receives Royal Assent. Part 3 of the Bill comes into force two months after Royal Assent. Part 1 of the Bill comes into force on a day appointed in an Order made by the Welsh Ministers.

61. As regards the power to commence Part 1 by Order, in the Statement of Policy Intent the Counsel General states:

> *"This power is necessary in order to carefully choregraph the implementation of the recall system. For example, the trigger events should not be in force prior to the regulations setting out the conduct of a recall poll being made (under section 11 of the Bill). There may also be considerations in terms of timing in relation to the Standards of Conduct Committee issuing the recall guidance required in order for trigger event B to be active, or for any need to amend the Senedd's Standing Orders to take account of the recall system."*[57]

62. In the EM, the Counsel General also states:

> *"... significant provision will need to be made in secondary legislation in respect of the "rules" of a recall poll (potentially akin to the Conduct Order for Senedd general elections) and financial regulation etc. With the slightly longer time horizon for the production of the secondary legislation, specific engagement and consultation plans will be developed, delivering on the specific recommendations [of the Standards Committee]."*[58]

63. The Counsel General hopes the necessary secondary legislation will be agreed early in the Seventh Senedd and has confirmed that the Welsh Government is "making sure that whoever the incoming Government is will be able to do that".[59]

[57] Statement of Policy Intent, page 9
[58] Explanatory Memorandum, paragraph 139
[59] Legislation, Justice and Constitution Committee, 17 November 2025, RoP [192]

64. In written evidence, ERS Cymru said it was concerned about the likelihood of the Bill's provisions being implemented within the next Senedd, adding:

> *"The legislation, as currently drafted, makes several provisions enabling further guidance or changes to the Standing Orders of the Senedd, and confers broad powers to Welsh ministers, rather than directly making changes under primary legislation.*
>
> *Given this bill is only recently introduced and would pass only shortly before dissolution for the Senedd election, our expectations are that any guidance or amends to the Standing Orders of the Senedd would only take place in the next Senedd. Particularly, with regards to recall of Senedd Members, this would only be possible if the Standards of Conduct Committee in a future Senedd decided to draft recall guidance, and then if that guidance passed the comparatively high bar of a two thirds threshold, which would be no guarantee. Furthermore, the bill confers broad powers to future Welsh Minister to create criminal offences, which could have unintended consequences."*[60]

65. In her written evidence to us, the Llywydd stated "it is possible that the Senedd's Standing Orders will require significant changes in order to comply with the legislation". The Llywydd went on to say:

> *"Once the required changes to the Senedd's Standing Orders are agreed, there will also be a number of additional steps which would need to be taken in order to give effect to certain provisions. For example, any recall guidance would need to be developed and consulted upon before being proposed for agreement to the Senedd.*
>
> *The Committee may wish to note that, due to the timescales involved, as currently drafted a number of the Bill's provisions will not be given effect until a significant period after the 2026 Senedd election."*[61]

66. When talking with us about the steps needed to implement the Bill's provisions, Tom Hawthorn of the Electoral Commission told us it would "provide

[60] MAB07 Electoral Reform Society Cymru
[61] MAB14 Rt. Hon. Elin Jones, Llywydd, Senedd Cymru

advice to Welsh Government about any issues, concerns or suggestions for improving that [subordinate] legislation".[62]

67. Clare Sim of the AEA added that it usually asks to see draft secondary legislation "to check the workability of it from an administrative perspective", following which it always works closely with the Electoral Commission on any issues or concerns that arise at that point.[63]

68. Mark Pascoe of the EMB said the Board could provide a forum for returning officers to discuss the delivery of recall polls, and the new elections information platform (for which the EMB is responsible) could provide information on recall polls directly to voters and information on how they can engage in the polls.[64]

69. Following their oral evidence session, the Electoral Commission wrote to us providing further commentary on potential barriers to implementing the Bill, stating:

> *"... the Welsh Government will need to ensure that sufficient time is provided for Constituency Returning Officers, campaigners and others responsible for implementation to prepare for their new responsibilities and duties. All legislation should be clear (including the introduction of any regulations for approval) at least six months before it is required to be implemented or complied with by voters, electoral administrators or campaigners."*[65]

70. In the EM, the Counsel General states:

> *"There is currently no intention to undertake a post-implementation review of this Bill. The Welsh Government has prepared this legislation in response to recommendations made by the Senedd's Standard of Conduct Committee as part of its inquiry into Individual Member accountability. On the Bill's measures to strengthen the Senedd's standards process, responsibility for monitoring of the impacts will be for the Senedd, the Senedd Commission and the Commissioner for*

[62] MAB Committee, 18 November 2025, RoP [92]
[63] MAB Committee, 18 November 2025, RoP [97]
[64] MAB Committee, 18 November 2025, RoP [95]
[65] MAB15 Electoral Commission

Standards. The Senedd may wish to conduct a review after the recall system has been implemented and is first used.

The Welsh Government will continue to monitor the impacts arising from the legislation over the course of the Senedd's scrutiny and implementation of the Bill's measures. As part of this monitoring, the impact assessments completed by the Welsh Government will be reviewed as necessary and appropriate, including conducting a reassessment of the impacts of the legislation when the Welsh Government develops the subsequent regulations that will implement the system of recall."[66]

Legislative competence

71. In the EM to the Bill, the Counsel General states:

"Senedd Cymru ("the Senedd") has the legislative competence to make the provisions in the Senedd Cymru (Member Accountability and Elections) Bill ("the Bill") pursuant to Part 4 of the Government of Wales Act 2006 ("GoWA 2006") as amended by the Wales Act 2017."[67]

72. For a Bill – if passed as an Act of Senedd Cymru – to be within the Senedd's legislative competence, it must not contain provisions which fail to meet any of the tests set out in section 108A of the *Government of Wales Act 2006* (the 2006 Act). One of these tests is that a provision must not breach any of the restrictions in Schedule 7B to the 2006 Act. One such restriction is that a provision cannot confer any function on a reserved authority without the consent of the appropriate Minister of the Crown.

73. In the Llywydd's view, most of the provisions of the Bill would be within the legislative competence of the Senedd. In her 3 November statement to the Senedd, the Llywydd states:

"In my view:

▪ *Most of the provisions of the Senedd Cymru (Member Accountability and Elections) Bill, introduced on 3 November*

[66] Explanatory Memorandum, paragraphs 243 and 244
[67] Explanatory Memorandum, paragraph 6

2025, would be within the legislative competence of the Senedd.

▪ *Certain provisions within section 4 would not be within legislative competence, to the extent that they impose duties on the courts, as the consent of the relevant UK Minister that is required to impose such duties has not yet been given."*[68]

74. Another of the tests set out in section 108A of the 2006 Act is that a provision must not be incompatible with the rights protected by the European Convention on Human Rights ('the Convention rights').

75. Specific matters relating to legislative competence and the convention rights are discussed further in Chapters 4 and 6.

Powers in the Bill to make subordinate legislation

76. The Bill delegates four powers to the Welsh Ministers to make subordinate legislation, as follows:

- Section 11(1) - a power to make regulations about the conduct of recall polls, subject to the Senedd approval procedure.
- Section 22(3) – a power to make an order under new subsection (2A) of section 13 of the 2006 Act to make provision prohibiting the making or publishing of false or misleading statements of fact before or during an election for the purpose of affecting the return of a candidate, subject to the Senedd approval procedure.
- Section 23(1) – a power to make regulations that make consequential, transitional etc. provision, subject to the Senedd approval procedure only if amending primary legislation.
- Section 24(3) – a power to make an order appointing the day on which Part 1 of the Bill comes into force, subject to no Senedd scrutiny procedure.

77. While the Bill sets out the framework for recall polls, much of the detail relating to the conduct of a recall poll, including the registration of electors and

[68] Senedd Cymru (Member Accountability and Elections) Bill, Presiding Officer's statement on legislative competence, 3 November 2025

the limitations on campaign expenditure and donations, will be set out in the regulations to be made under section 11(1) of the Bill.

78. Before making these regulations, the Welsh Ministers are required by section 11(4) of the Bill to consult the Electoral Commission. In accordance with subsection (5), any provision in the regulations relating to the specifics of what is or is not campaign expense or donation or the limits applying to campaign expenses and donations cannot be made without the consent of the Electoral Commission. However, the requirement to gain consent does not apply where the Welsh Ministers consider that varying a limit is "expedient" as a consequence of "a change in the value of money" (i.e. as a result of inflation).

79. When speaking with us on 18 November, Tom Hawthorn of the Electoral Commission said that, while a "lot of detail will be left to secondary legislation", "that's not uncommon for Senedd elections".[69] In written evidence following the evidence session, the Electoral Commission told us:

> *"It can be helpful to delegate powers to make more detailed regulations about the administration and regulation of elections, so that the law can continue to evolve to reflect changes in the wider environment and remain fit for the future. This is broadly consistent with the approach to secondary legislation for Senedd elections as delegated by the Government of Wales Act 2006, which currently also allows for the creation of criminal offences in connection with campaign spending limits."*[70]

80. Transparency International UK raised with us significant concerns about the balance of power between the primary legislation and what is being left to secondary legislation. In its written evidence it said:

- The Bill places "far too much of the detail of the proposals to be dealt with into secondary legislation", which "undermines the policy objectives of the Bill which is meant to enhance accountability" and "risks prompting further decline in public trust in politics and political institutions".

[69] MAB Committee, 18 November 2025, RoP [6]
[70] MAB15 Electoral Commission

- Without further detail on the face of the Bill, "prospective members of the Senedd will not know what they are signing up for in running for election in May 2026".
- Any "party-political capture of the process of passing secondary legislation could have dramatic and unforeseen consequences".
- It has "grave concerns at the level of detail currently in the draft Bill and would be alarmed at the detail of the reforms being left to secondary legislation" and "would recommend at the least a requirement for an enhanced scrutiny process for the regulations made possible by the draft Bill".[71]

81. In relation to Part 3 of the Bill, Alex Greenwood and Jonathan Elystan Rees KC state:

> *"It is the view of the authors that the creation of a criminal offence prohibiting the making or publishing of false/misleading statements of fact, before or during an election for the purpose of affecting the return of any candidate, is properly a matter for primary not secondary legislation."*[72]

82. These matters are discussed further in Chapters 4 to 6 of the report.

Costs

83. The RIA that accompanies the Bill sets out the expected costs and benefits resulting from the Bill. The appraisal period for the RIA covers 2026-27 to 2035-36, which includes two Senedd election cycles.[73]

84. Costs have been identified for the Welsh Government, the Senedd Commission, and for electoral administrators. The Welsh Government has engaged with the Electoral Commission and concluded that, although the Bill would place requirements on the Commission, these could be met from existing resources.[74]

85. The RIA identifies costs of £190,000 for the Welsh Government. This would be staff costs (opportunity costs) during 2026-27 to develop and make

[71] MAB11 Transparency International UK
[72] MAB18 Jonathan Elystan Rees KC and Alex Greenwood
[73] Explanatory Memorandum, Part 2, Regulatory Impact Assessment
[74] Explanatory Memorandum, paragraph 170

subordinate legislation in exercise of the powers and duties of Welsh Ministers in the Bill.[75]

86. The Welsh Government has engaged with the EMB to assess the cost of administering a recall poll. This assessment is based on a set of assumptions about the form that a recall poll would take (given that detailed rules will be set out in subordinate legislation) and uses the costs of the 2021 Senedd general election (with some modifications) to assess the cost of each element of administering a recall poll. The conclusion from this assessment is that the cost of administering a Senedd recall poll in a single constituency would be circa £274,900. Whilst these costs would be seen in the administration of elections by local authorities, they would be met by the Welsh Government.[76]

87. The RIA identifies costs for the Senedd Commission in relation to the development of sanctioning guidelines by the Standards of Conduct Committee and for the recruitment and remuneration of lay members of the Committee. The Welsh Government has engaged with the Senedd Commission to identify these costs. The majority of the costs identified for the development of guidelines relate to staff time (£64,800) with additional legal advice (£3,500-£6,000) and external academic research (£3,500-£4,000) also identified. This brings the total costs for this element to £71,800-£74,800.[77]

88. The RIA says that the recruitment of lay members is anticipated to be comparable to other public appointments previously undertaken by the Senedd. Based on this experience, the RIA identifies costs of £5,000-£20,000 for an external recruitment company and £8,200 of staff time opportunity costs. This brings the total costs for this element to £13,200-£28,200. As the timing and frequency of recruitment exercises is not known, these costs have been annualised across the appraisal period for the purposes of the RIA at £4,700 per annum (starting in 2026-27).[78]

89. Given that it is not known whether members of future Seneddau would choose to appoint lay members or not, how many members might be appointed or what the remuneration arrangements would be, the Senedd Commission identified the cost of lay members as unknown. However, for the purposes of the RIA, the Welsh Government has sought to provide a range of costs, starting from £0 if members were not appointed up to a top end cost of £87,200 per annum. In

[75] Explanatory Memorandum, page 38
[76] Explanatory Memorandum, paragraph 160
[77] Explanatory Memorandum, paragraphs 175 and 176 and page 51
[78] Explanatory Memorandum, paragraph 178 and page 51

addition to this, it identifies an estimated cost of ICT equipment for lay members of between £0 and £10,500 per annum.[79]

90. Having engaged with the Standards Commissioner, the Welsh Government does not identify any additional costs that would be occurred as a result of the own initiative investigation powers in the Bill. The RIA states that this is informed by the Commissioner's experience as the Northern Ireland Assembly Commissioner for Standards.[80]

91. In written evidence to us, Manon Antoniazzi, Chief Executive and Clerk of the Senedd, confirmed that "there has been a positive and constructive engagement between Senedd Commission and Welsh Government officials around the potential cost implications of the Bill to the Senedd Commission".[81] She added:

- As reflected in the EM (paragraph 179), the Senedd Commission considered that the remuneration costs of lay members were "most appropriately reflected as unknown".
- As regards the provision enabling the Commissioner for Standards to carry out own initiative investigations:
  - on the basis that there would be a low frequency of such cases which may vary depending on its complexity, "the opportunity costs arising from this power were considered to be negligible, unknown, and arising from within existing resources";
  - by association, the staff time in supporting a Standards of Conduct Committee in reporting on any cases arising from the new power were also considered to be negligible, unknown, and arising from within existing resources".
- Given that a standards of conduct committee has been established in every Assembly and Senedd, and the Senedd's Standing Orders already require there to be a committee responsible for the functions in Standing Order 22 (Standards of Conduct), it is not considered that the legislative mandating of a standards of conduct committee will give rise to specific costs.

[79] Explanatory Memorandum, paragraphs 182 to 183 and page 51
[80] Explanatory Memorandum, paragraph 185
[81] MAB09 Chief Executive and Clerk of the Senedd

- It is not anticipated that the process of a recall poll would entail additional work for the Senedd beyond business as usual.[82]

92. In its written evidence, the Electoral Commission confirmed that the provision of information to voters about the process for any recall poll and guidance to CROs to support delivery of the poll "may require some additional resources, but this is not likely to be significant". It also told us:

> *"It is not currently clear what role the Electoral Commission would be required to play in securing compliance with regulations about recall poll campaign expenses and donations. Depending on the scope and scale of these requirements, there may be some further financial implications."*[83]

Our view

93. As a Committee we all agree that strengthened mechanisms to enhance the accountability of Members of the Senedd should be welcomed, not least because of the consequential effect such mechanisms could have on public perception of, and trust in, the Senedd and (by association) other democratic institutions in Wales.

94. We acknowledge the general support we have received for a recall procedure to be available to Welsh voters should the behaviour and actions of an elected representative fall short of what should reasonably be expected of a Member of the Senedd. We also recognise the positive impact that lay members could have on the operation of the Senedd's standards system.

95. Nonetheless, we feel it is important to recognise the concerns of stakeholders as regards the speed at which this Bill may proceed through the Senedd on its way to becoming an Act – an Act that will have significant consequences for the way our parliament operates and, perhaps more importantly, the way the Welsh public will have additional recourse to hold us accountable for our actions.

96. A stark comment provided to us, and which is reflective of others we received, came from Keith Bush KC who said "the laudability of the Bill's aims cannot justify bad legislation". The few weeks we have had to undertake scrutiny, and the minimal amount of consultation responses we received because of the

[82] MAB09 Chief Executive and Clerk of the Senedd
[83] MAB15 Electoral Commission

curtailed scrutiny period, means we have insufficient evidence to conclude whether or not this is 'bad legislation'.

97. The Counsel General's comments to us that a large number of things in the Bill are a "place to start the conversation" is far from the best legislative practice and highlights that we, as a committee and the Senedd as a whole, are placed in an unenviable position.

98. The Counsel General has sought to explain in the EM the timescale for legislating, highlighting that we are in the final year of the Sixth Senedd. In the EM, the Counsel General also confirms that the Welsh Government did not undertake its own public consultation on the policies which are given effect through the Bill. In explaining this further, the Counsel General draws attention to the fact that the Standards Committee's reports on recall and deliberate deception were informed through public consultation and evidence sessions and that this work "has been, to a significant extent, the basis of the work in order to meet the challenging timescales". But, it is our understanding that the final proposals in the Bill are not entirely reflective of the options consulted on by the Standards Committee i.e. recall guidance was not something that was considered during that consultation.

99. Similarly on the subject of evidence drawn on in developing the Bill, in the EM the Counsel General states that Welsh Government officials undertook targeted bilateral engagement with the Senedd Commission to ensure the Government was "cognisant of their views on the key issues including the financial implications of the proposals". However, it would appear from the evidence we have received from the Llywydd and Chief Executive and Clerk for the Senedd that they were not formally consulted on the specific provisions in the Bill.

100. One of the themes of our evidence session with Daniel Greenberg, Parliamentary Commissioner for Standards, was the importance of public confidence in the standards system and the involvement of the public in the development of proposals for changes to the standards regime. Whilst we acknowledge that some public engagement was undertaken by the Standards Committee during its work on individual member accountability, the proposals in this Bill have not been subject to public consultation by the Welsh Government. Furthermore, our engagement with the public has been limited by the time available for Stage 1 scrutiny.

101. We note that, in her statement to the Senedd on the introduction of the Bill, the Counsel General reflected on the tight timescales involved in the Bill's passage.[84]

102. Our scrutiny of the Bill has been limited by the fixed end point of the Sixth Senedd. But, subject to the agreement of the Senedd, while the Bill will likely complete its legislative stages in late March 2026, a significant amount of work remains to be done before a recall poll can be held. This includes:

- The preparation of regulations on recall polls under section 11, which would likely be subject to a period of consultation before being laid before the Senedd for approval.
- In relation to trigger event B, the development of recall guidance by the Standards of Conduct Committee, which may follow the appointment of lay members, as well as a possible inquiry on what should be included in the guidance and a subsequent public consultation on draft guidance.
- The Gould Principle, which states that all relevant legislation to an election – including secondary legislation – should be made at least six months prior to the notice of that election, may also be applied to recall polls as they are recognised in the EM as an 'electoral event'.

103. Therefore it is likely that recall (particularly for trigger event B) will not be operational until a significant period into the Seventh Senedd. This is because of the need for considerable work to be done on secondary legislation and the development of guidance, and that is only after the next Welsh Government and the Senedd agrees to proceed with these pieces of work. Our surmising of the situation was confirmed by the Llywydd in her evidence to us.

104. The fact that large parts of the Bill (if and when enacted) will only become fully understood and therefore operational once provision is made in regulations or orders and relevant guidance has resulted in the concerns about there being an inappropriate balance of power between the primary legislation and what is being left to secondary legislation.

Conclusion 1. We are concerned that a failure to amend Part 3 of the Bill as per our recommendation 11 (see Chapter 6) will result in the Bill not receiving the

[84] Plenary, 4 November 2025, RoP [156]

support of Senedd Members when they are asked to approve the Bill at Stage 4, meaning Parts 1 and 2 will also be lost.

Recommendation 1. If the Senedd supports the general principles of the Bill and it advances to the next stage of the legislative process, we recommend that all Parts of the Bill be amended and improved before it is passed and enacted. In relation to Part 3, the Bill must be amended to meet our recommendation 11.

105. We discuss the specific parts of the Bill, and highlight our recommendations for change and/or further action, in the remaining Chapters of the report.

4. Part 1 of the Bill: Recall of Members of the Senedd

Part 1 of the Bill provides for the introduction of a system of recall to the Senedd. This system would allow the electorate an opportunity to determine whether a Member of the Senedd should retain their seat or be removed from office during their term as a result of certain circumstances.

106. The provisions in Part 1 of the Bill come into force on a day appointed by the Welsh Ministers in an order made by Welsh Statutory Instrument.

Initiating a recall poll

107. On the subject of the recall system provided for in the Bill, Hannah Blythyn MS, the Chair of the Standards Committee, told us that "what is set out in the Welsh Government's Bill very much reflects the recommendations of the Standards of Conduct Committee", which had "sought to find a solution that was practical and pragmatic within the context of the electoral system we'll see in place after 2026".[85]

108. In its report on recall, the Standards Committee recommended[86] that a system of recall be known as a 'remove and replace ballot' to ensure it was clear what the process involved given its difference to the House of Commons system. In its response to the Standards Committee's report, the Welsh Government said it would give this matter further consideration as there is popular understanding amongst the electorate of "recall" as a way to remove a representative.[87]

109. This was reflected on by Hannah Blythyn when she gave evidence to us on 11 November; she said:

[85] MAB Committee, 11 November 2025, RoP [5]
[86] Standards of Conduct Committee, Report on Individual Member Accountability: Recall, recommendation 4
[87] Welsh Government response to the Standards of Conduct Committee, Report on Individual Member Accountability: Recall

> *"The only bit where I think there is an element of difference is that, in the draft Bill, it refers to a recall poll still. One of the things we did recommend as a committee was that it be called something such as remove-and-replace, because people are very familiar with the recall system for Westminster now, and this is going to be a slightly different approach. But, also, I think we would take on board that people understand what recall means, so there's only a minor divergence."*[88]

110. Framing their comments around the experiences in the House of Commons following the enactment of the 2015 Act and the introduction of a recall system in the Commons, Paul Evans and Sir Paul Silk believe that creating a mechanism for the recall of Senedd members is "a useful and sensible democratic development".[89]

111. Professor Alistair Clark suggested to us that the proposed recall system provisions in the Bill "potentially gives the Senedd a further tool to hold members accountable". However, he added that its use should only be seen as a last resort, after all other potential avenues for redress and accountability – in both the Senedd and political parties - have been exhausted.[90]

112. That a recall process should not be seen as the only way to strengthen the system to hold Senedd Members to account was also a view expressed by ERS Cymru. In written evidence it said:

> *"... whilst we do not think that recall procedures are an infallible solution to member accountability, it is important that there is a mechanism to remove Members who have committed serious breaches of conduct and recall measures give voters the opportunity to make that decision."*[91]

113. On the recall proposals, Tom Hawthorn told us that what will be important for the Electoral Commission is "clarity for voters, so that they can have confidence that the process is robust and that they understand the outcomes, and also fairness for the Member in question, to make sure that they feel that the process

[88] MAB Committee, 11 November 2025, RoP [6]
[89] MAB10 Paul Evans and Sir Paul Silk
[90] MAB04 Professor Alistair Clark
[91] MAB07 Electoral Reform Society Cymru

has been fair and has taken account of all of the legal processes that might sit around that".[92]

114. Clare Sim, representing the AEA, told us the AEA's view "has always been to question the need, possibly, for a recall mechanism and maybe moving to automatic disqualification in certain instances".[93] She later added:

> *"From what we've learnt from what has happened at UK Parliament level in Great Britain, every recall petition has led to a by-election for that person's seat, which has generally then led to a new person being elected. We appreciate, obviously, that there's no by-election element that results from it at a Senedd level, but our concerns are that because of the nature of it, which generally leads to that, whether there would be benefits that if somebody has an offence to that point where generally the public have voted for that person then to lose their seat, whether, in terms of the administrative burden but also the huge burden on the public purse that each election or recall petition would place on people, whether that becomes an automatic disqualification, which would bypass the need for a recall process".*[94]

115. We also received evidence which was not supportive of the recall provisions in the Bill. In the main, these concerns centre on the way a vacancy caused by the removal of a member via a recall poll will be subsequently filled. These concerns are discussed later in this Chapter when we look at the provisions in the Bill regarding the outcome of a recall poll.

116. The Standards Committee recommended that it should be for the Senedd to decide on the triggers for recall through guidance agreed by the Senedd, including those which may result in automatic recall, such as a prison sentence.[95]

117. Daniel Greenberg, the Parliamentary Commissioner for Standards in Westminster, offered some general remarks about triggers based on his experience. He told us:

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[92] MAB Committee, 18 November 2025, RoP [101]
[93] MAB Committee, 18 November 2025, RoP [14]
[94] MAB Committee, 18 November 2025, RoP [33]
[95] Standards of Conduct Committee, Report on Individual Member Accountability: Recall, recommendation 6

> *"... anything that provides what I would call a fixed point for an effect of sanction has the potential for impacting on the committee's ability to make its own overarching proportionality and wider decisions, and I think that's something that you need to bear in mind as an inevitable result of creating a fixed point along the sanctions spectrum."*[96]

118. The Bill, through section 2, sets out the circumstances in which a Member of the Senedd would be subject to a recall poll. There are two 'trigger events' included in the Bill that would result in a member being subject to a recall poll (see box 2).

Box 2

Trigger event A: That a Member of the Senedd, after becoming a member, has been convicted in the UK of an offence for which the member is sentenced or ordered to be imprisoned or detained.

Trigger event B: That Senedd Cymru resolves to submit the Member to a recall poll following a report from the Standards of Conduct Committee recommending submission of the Member to a recall poll.

Trigger event A

119. Section 2(2) of the Bill provides for trigger event A, with further information about this event set out in sections 3 and 4.

120. Trigger event A applies only to sentences or orders of 12 months or less. In the event that a Member of the Senedd is sentenced or ordered to be imprisoned or detained indefinitely or for more than one year, they are already disqualified under paragraph 6 of Schedule 1A to the 2006 Act.

121. Section 3(1) of the Bill clarifies that references to an offence include those committed before the Member begins their term in office and before section 2 of the Bill comes into force, but that the Member must be convicted on or after the date that section 2 comes into force.

122. Section 3(2) of the Bill clarifies that reference to a Member of the Senedd being sentenced or ordered:

[96] MAB Committee, 25 November 2025, RoP [8]

- includes when the sentence or order is suspended,
- does not include the Member being remanded in custody, and
- does not include the Member being authorised to be detained under mental health legislation if there is no sentence or order for imprisonment or detention other than under that legislation.

123. Hannah Blythyn told us that, while the Standards Committee would support an automatic trigger for recall in cases of custodial or suspended sentences of 12 months or less, it would prefer this to be placed in guidance rather than on the face of the Bill.[97]

124. When we asked Douglas Bain for his views on trigger event A applying only to sentences or orders of 12 months or less, he said "Whatever period is imposed is going to be arbitrary, and there'll be cases that fall just one side or just the other side of it".[98]

125. Paul Evans and Sir Paul Silk expressed some words of caution that the effect of trigger event A means that the courts will be making a decision whether to impose a sentence that automatically disqualifies, or a sentence that allows the voters to decide by recall poll. They suggested this "may place the court in an undesirable dilemma" and noting there "is a risk that this may be represented as the courts acting politically – or even result in the courts actually behaving politically".[99]

126. Section 4 of the Bill places a duty on the Courts of England and Wales to notify the Presiding Officer when a relevant sentence or order is imposed on a Member of the Senedd. The court that imposes the sentence or order must notify the Presiding Officer.

127. Subsection (4) of section 4 provides that if the conviction, sentence or order is overturned on appeal, the court to which the appeal was brought or remitted by another court must notify the Presiding Officer that it has been overturned.

128. Subsection (5) of section 4 clarifies that an appeal includes an appeal to a court in England and Wales (including the Supreme Court) and an application,

[97] MAB Committee, 11 November 2025, RoP [16]
[98] MAB Committee, 11 November 2025, RoP [100]
[99] MAB10 Paul Evans and Sir Paul Silk

but does not include a reference under Part 2 of the *Criminal Appeal Act 1995* to the Criminal Cases Review Commission.

129. While section 4 of the Bill imposes a duty on the courts of England and Wales to notify the Presiding Officer if a member is convicted of an offence in the England and Wales jurisdiction, it does not impose the same duty on the courts in Scotland or Northern Ireland.

130. Paul Evans and Sir Paul Silk highlighted this matter in their written evidence, stating that, while the Senedd cannot pass law affecting Scotland or Northern Ireland, "the Bill might say something on its face about what would happen in the case of conviction or appeal in those jurisdictions".[100]

Trigger event B

131. Section 2(4) of the Bill provides for trigger event B, with further information set out in section 5.

132. Section 5 of the Bill provides that the Senedd's Standards of Conduct Committee, as established in accordance with section 18 of the Bill, may issue guidance about the matters to be taken into account when considering whether to recommend submitting a member to a recall poll. That Committee is required to have regard to its recall guidance before recommending a member be submitted to a recall poll.

133. Section 5(2) of the Bill restricts the Standards of Conduct Committee from recommending that a member be submitted to a recall poll unless recall guidance has been issued.

134. Subsection (4) of section 5 requires that, before issuing guidance, the Standards of Conduct Committee must carry out a public consultation on a draft version of the guidance, which must be brought to the attention of each Member of the Senedd and the Senedd Commissioner for Standards (as required by subsection (5)).

135. Following this public consultation, the Standards of Conduct Committee must (if it wishes to proceed) lay a copy of the draft guidance (with or without modification) before the Senedd, in accordance with section 5(6) of the Bill. It can then only be issued if the draft has been approved by a resolution of the Senedd

[100] MAB10 Paul Evans and Sir Paul Silk

where the number of votes cast in favour of the resolution is at least two-thirds of the total number of votes cast (as prescribed by section 5(7)).

136. The Standards Committee, in its report on recall, recommended[101] that the guidance should be "subject to a vote by the Senedd", but did not specify that it should require a two-thirds majority.

137. Section 5(8) enables the Standards of Conduct Committee to replace the guidance once it is issued. Subsection (9) ensures that recall guidance continues to have effect (including on the dissolution of the Senedd) until it is replaced in accordance with section 5. In the EM, the Counsel General states that this means that trigger event B cannot be switched off once guidance under section 5 has been issued without the Senedd making further primary legislation.[102]

138. When giving evidence to us on 25 November, Daniel Greenberg talked about recall guidance within the context of flexibility versus certainty, stating "the approach of having guidance is ultimately flexible and the inevitable corollary of flexibility is a lack of certainty".[103] He also said that he thought it was "fair for standards committees generally to want members of a Parliament to have a reasonable degree of certainty about the likely outcomes of standards investigations"[104], before going on to say:

> *"[section] 5 in its present form is that everything will depend or would depend on the nature of the guidance and how that guidance is designed to reflect the overarching coherence of the sanctions regime and how much certainty and clarity it gives to Members at the same time. So, what I'm really saying, perhaps, is that the challenge that I've talked about of steering between flexibility and certainty, what you would be doing in [section] 5 is putting that challenge off to the level of quasi-legislation rather than addressing it in a final form on the face of the Bill. Perhaps that's inevitable if you take this route, but that is something I think the committee will have to be very aware of at this point."*[105]

[101] Standards of Conduct Committee, Report on Individual Member Accountability: Recall, recommendation 6
[102] Explanatory Memorandum, draft Explanatory Notes, page 65, paragraph 15
[103] MAB Committee, 25 November 2025, RoP [12]
[104] MAB Committee, 25 November 2025, RoP [13]
[105] MAB Committee, 25 November 2025, RoP [15]

139. On 11 November, Hannah Blythyn told us that, while understanding the Welsh Government's rationale, requiring a two-thirds majority to approve the recall guidance "make(s) that guidance an outlier on all other standards processes", highlighting that, when there is a Standards Committee report on an individual following a report from the Standards Commissioner, the vote to approve the report is by a simple majority, as is the requirement for approving the Code of Conduct.[106]

140. The Counsel General, when asked to explain why the Bill has been drafted with a two-thirds majority requirement in mind, said the Welsh Government does not have a particular view and that it was reflecting the current requirement for changes to the Senedd's Standing Orders.[107]

141. Dr Ben Stanford considers that the need for a Senedd resolution approving the recall guidance by a majority of two-thirds of votes cast "is positive and will help to ensure broad political support".[108] Douglas Bain was similarly supportive of this requirement.[109]

142. ERS Cymru suggested that consideration should be given to what options would be available if it is not possible to attain a two-thirds majority to approve or change the recall guidance. It also highlighted that the Senedd's current rules around sanctions for members' conduct are based on a simple majority.[110]

143. When asked if the Bill should place a requirement on the Standards of Conduct Committee to issue recall guidance, rather than leaving it as a permissive power as currently drafted, Douglas Bain said "I don't think that would do any harm at all."[111] On this issue, the Counsel General told us the Welsh Government "strongly feel that it's not for the Government to tell the parliamentary Commission what it must do".[112]

144. On the subject of consultation, Dr Stanford said "Comprehensive public consultation on the drafting of the guidelines will be essential to allow for a diversity of views across the political spectrum and to establish a consensus on what conduct should lead to the recommendation for a recall poll".[113]

[106] MAB Committee, 11 November 2025, RoP [21]
[107] MAB Committee, 2 December 2025, RoP [40]
[108] MAB02 Dr Ben Stanford
[109] MAB Committee, 11 November 2025, RoP [111]
[110] MAB07 Electoral Reform Society Cymru
[111] MAB Committee, 11 November 2025, RoP [121]
[112] MAB Committee, 2 December 2025, RoP [33]
[113] MAB02 Dr Ben Stanford

145. Part 2 of the Bill makes provision for lay members to be appointed to the Standards of Conduct Committee, and this is discussed in Chapter 5 of our report. But, in the context of the recall guidance, Professor Alistair Clark told us that the question of lay members' role in the recall guidance process is unclear. He said:

> *"This is currently a key process in the recall process that would benefit from independent oversight. Consequently, assuming the Bill is proceeded with, any such guidance must be informed by Lay Members' views. This suggests either that initial guidance is reissued after the appointment of Lay Members, or alternatively the Committee waits until Lay Members are appointed before drafting such guidance. This seems to underline the difficulties with the recall guidance process in trigger event 2 highlighted above which seem to be caused by the haste to legislate for recall."*[114]

146. In his evidence, Professor Clark said "There are significant concerns around the second potential trigger event", suggesting that leaving the potential for a recall poll dependent on the publication of guidance "seems ill-advised". He also suggested that the Standards of Conduct Committee issuing guidance about the matters which it must take into account "seems ill-conceived". His concerns about trigger event B led Professor Clark to recommend that this trigger "be given much clearer consideration, and based in more objective criteria which is then enshrined in legislation". He also suggested that any criteria for triggering recall "must be well linked to, and a clear progression of, the Senedd's Code of Conduct and its menu of potential sanctions to begin with, rather than seeing recall as something vital and necessary in its own right".[115]

147. On trigger event B, Paul Evans and Sir Paul Silk told us that the choice not to set a specific threshold in law for the period of suspension that will lead to the trigger being pulled may entail some risks. They said:

> *"A specified period of suspension could, of course, come in guidance or standing order, but specifying it on the face of the Bill may be thought preferable. The case against this is that the threat of recall has become a major constraint on the flexibility of the Standards Committee's discretion in recommending sanctions – in other words they cannot reach the conclusion that an MP deserves a period of suspension longer than nine*

[114] MAB04 Professor Alistair Clark
[115] MAB04 Professor Alistair Clark

> *days but has not met the criteria for facing recall. Whether it is decided to go for something more specific or leave the decision entirely to the discretion of the Standards Committee, there is always a risk of potential political manipulation, as cases at Westminster have demonstrated. In response to these attempts to "game" the system the Commons have essentially made the decision of the House on sanctions recommended by its Standards Committee a take-it-or-leave-it choice, rather than allowing for the manipulation of a recommendation of the Committee about a period of suspension to be adjusted upwards or downwards by amendment. The extent to which the Senedd in plenary can second guess its Standards Committee is a matter the Senedd will need to give some thought to in framing its standing orders in due course."*[116]

148. In its written evidence, Transparency International UK suggested that consideration should be given to whether the basic principles to be captured in the recall guidance should be included in the Bill. It gave examples that sanctioning guidelines should be graduated to reflect the seriousness of the breach, or that a defined period of suspension should trigger a recall event.[117]

Other 'triggers'

149. Commenting on his personal experience of the House of Commons system as Chair of its Committee on Standards, Alberto Costa MP said the recall system had proved to be "an effective tool" in the Commons but suggested we should consider a specific number of days suspension threshold as a trigger mechanism.[118]

150. Dr David Stirling, a lay member on the Commons' Committee, added that "the benefit of having it laid out specifically is that it provides a degree of clarity for everyone involved".[119]

151. Continuing on the theme of suspensions as a trigger, Alberto Costa MP added:

> *"... if I were to offer any advice to your committee, it would be that you seek external professional advice from the judiciary*

[116] MAB10 Paul Evans and Sir Paul Silk
[117] MAB11 Transparency International UK
[118] MAB Committee, 27 November 2025, RoP [8]
[119] MAB Committee, 27 November 2025, RoP [14]

> *involved in workplace disputes, as well as trade unions, to get a better understanding of the sorts of levels in which, in the ordinary workplace, suspensions are granted."*[120]

152. When she gave evidence to us, Hannah Blythyn confirmed that the Standards Committee had discussed other automatic triggers for recall when it took evidence during its inquiry, noting that the offence in the 2015 Act relating to false information regarding allowances "very much reflect the challenges of the time". She went on to say:

> *"One of the reasons why we suggested to have guidance alongside it was that it actually enables—as, perhaps, the standards landscape changes over time—the Senedd to be more agile, and actually reflect that as well. As you can imagine, there were discussions about whether deliberate deception should be there, or somebody found guilty of sexual harassment. I think there was a concern that putting just one thing, or two things, in there elevates one form of misconduct over another, where, actually, they should be acting as a deterrent for all."*[121]

153. We also asked Douglas Bain for his views on whether there should be other automatic triggers in the Bill such as harassment. He told us he would not favour having harassment as an automatic trigger as "it would send entirely the wrong message", adding that "Each case has to be looked at on its individual facts, and an appropriate penalty or sanction imposed."[122]

154. Daniel Greenberg also offered words of caution when asked about other trigger points, stating "it will inevitably change the committee's focus when it is setting its own decisions about sanctions in individual cases".[123]

155. Paul Evans and Sir Paul Silk suggested that there would be merit in including in the Bill a provision similar to the third condition of the 2015 Act "so that an MS who commits an offence under the Government of Wales Acts (for example under section 36 of the 2006 Act), whether or not imprisoned, should be subject to a recall poll".[124]

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[120] MAB Committee, 27 November 2025, RoP [17]
[121] MAB Committee, 11 November 2025, RoP [17]. See also RoP [19].
[122] MAB Committee, 11 November 2025, RoP [98]
[123] MAB Committee, 25 November 2025, RoP [22]
[124] MAB10 Paul Evans and Sir Paul Silk

156. Transparency International UK considers that "there may be some forms of impropriety that are so egregious that they merit expulsion without recourse to recall". It suggested that breaches which cause harm to others, including bullying or harassment, be among those considered to be in this category.[125]

Holding a recall poll

Date of recall poll and notice

157. If the Presiding Officer is satisfied that one of the trigger events has occurred, section 6 of the Bill places them under a duty to fix a date for a recall poll and to notify the constituency returning officer (CRO) for the Senedd constituency of the Member subject to a recall poll.

158. The Presiding Officer is required to undertake these actions "as soon as reasonably practicable" after becoming aware that a trigger event has occurred. There are four exceptions (set out in section 6(2) of the Bill) where this duty does not apply:

- if the date of the recall poll would be within 6 months of the next ordinary general election to the Senedd;
- if the date of the recall poll would be after the next ordinary general election;
- if the Member of the Senedd is already subject to a recall poll;
- if the Member has already vacated their seat.

159. Section 6(4) requires that the date for a recall poll must be within three months of the day that the Presiding Officer gives notice to the CRO.

160. Subsection (5) of section 6 requires that a notice given by the Presiding Officer has to include:

- the name of the Member of the Senedd subject to the recall poll,
- the date on which it is given,
- which of the trigger events has occurred,

[125] MAB11 Transparency International UK

- information about the trigger event, and
- the date for the recall poll.

161. In accordance with section 7 of the Bill, the relevant CRO is under a duty to notify persons registered in the registers of local government electors within the relevant Senedd constituency of the poll, as soon as is reasonably practicable and in accordance with provision made in regulations by the Welsh Ministers under section 11.

162. Under section 11(1), the Welsh Ministers may by regulations make:

- provision about the conduct of a recall poll, including:
  - about the registration of electors,
  - about the limitation of recall poll campaign expenses and donations, and
  - for the combination of polls;
- provision about the questioning of a recall poll and the consequences of irregularities; and
- further provision about the giving, sending, delivery or receipt of notices or other documents under the Bill.

163. As set out in paragraph 79 above, section 11(4) of the Bill requires the Welsh Ministers to consult the Electoral Commission before making these regulations, which will be subject to the Senedd approval procedure.

164. Paul Evans and Sir Paul Silk expressed caution regarding the section 11 regulations and the consequential "considerable discretion to the Welsh Ministers about the conduct of recall polls". They suggested that the Bill could be improved by making specific provisions, in particular for less discretion about number of voting stations, for more convenient opening hours, and for consideration to people who have difficulty getting to polling stations. They added that "Giving discretionary powers to returning officers over the conduct of a political event is undesirable, and can even lead to accusations of bias, as in the North Antrim recall petition in 2018".[126]

[126] MAB10 Paul Evans and Sir Paul Silk

165. Transparency International UK told us that, given the regulation-making power in section 11 appears to be wide-ranging, consideration should be given to making provision on the face of the Bill for more extensive consultation and scrutiny of the use of these powers.

166. Given the importance of the section 11 regulations to the operation of recall polls, we asked the Counsel General to explain the permissive nature of the power, rather than the Bill being drafted in such a way as to require the Welsh Ministers to make the regulations. The Counsel General said "If the committee wants that to be mandatory, we're not going to object to that".[127]

167. Tom Hawthorn of the Electoral Commission told us that the recall poll proposals in the Bill being similar to that of a by-election meant the Electoral Commission believes there would not be any particular challenges resulting from the proposals.[128] He went on the say that it is important that voters have a good opportunity to participate in the poll, which will include making sure that voters "understand very clearly what the recall poll process looks like and how they can participate".[129]

168. Professor Alistair Clark said the one-day process envisaged for a recall poll is welcome, but highlighted the resource implications for local authorities.[130]

169. Tom Hawthorn also noted that a three month timeframe within which a recall poll must be held is not an uncommon time for returning officers to run by-elections.[131] Clare Sim, representing the AEA, offered similar views, stating that the three-month period articulated in the Bill "is sufficient in the sense that's what a Senedd by-election currently runs to"; but she also said "there should be strong emphasis that it should always be at the end of that three-month period, to allow sufficient time for people to secure polling stations, secure staffing to run that poll".[132]

170. The Public and Commercial Services Union (PCS) Wales has raised concerns with section 6(2) of the Bill which means a recall poll will not be called if the date of the recall poll would be within 6 months of the next ordinary general election to the Senedd. PCS Wales notes that, at a general election, it "will be the entire

[127] MAB Committee, 2 December 2025, RoP [65]
[128] MAB Committee, 18 November 2025, RoP [19]
[129] MAB Committee, 18 November 2025, RoP [21]
[130] MAB04 Professor Alistair Clark
[131] MAB Committee, 18 November 2025, RoP [24]
[132] MAB Committee, 18 November 2025, RoP [27]

party list being questioned not the conduct of that individual member within the list". It added

> *"It also risks those who report a Member's misconduct feeling that their complaint is subject to political pressure when the Standards Committee is not able to go through the full process in sufficient time to give recall as a potential sanction before the 6month cut-off."*[133]

171. On the subject of campaigning, while noting that the legislative details regarding campaigns will be set out in secondary legislation, Tom Hawthorn said a lesson the Electoral Commission has learned from the UK Parliament recall petitions process is that the regulation of campaigners tends to be based on the rules for candidate elections for the UK Parliament. He added:

> *"That means that there's more of a role for returning officers, or recall petition officers for those petitions, including registering potential petition campaigners, and that's quite a different role that returning officers don't normally have. So, it's very important to get clarity about that process, both for people who want to campaign in that recall poll process, but also for constituency returning officers, if they are being expected to run that regulation process."*[134]

172. In its written evidence, the Electoral Commission added:

> *"It will be important to ensure there is appropriate and proportionate regulation and transparency of campaigner spending in relation to any recall poll, including clarifying the roles of Constituency Returning Officers, the Electoral Commission and the police and prosecuting authorities. The UK Government has recently indicated that it intends to legislate to extend the Commission's existing enforcement role to also include political finance offences relating to recall petitions for Members of the UK Parliament."*[135]

173. On campaigning rules and other matters which may be dealt with in the section 11 regulations, Clare Sim of the AEA said clarity is needed as regards the

[133] MAB12 Public and Commercial Services Union Wales
[134] MAB Committee, 18 November 2025, RoP [23]
[135] MAB15 Electoral Commission

potential registration of campaign groups and what they may be permitted to do (and have access to) during a recall poll.[136]

174. Professor Alistair Clark questioned whether it is right that regulation of campaigns should be made by the Welsh Ministers, suggesting that section 11 "seems widely drawn and delegates Ministers some important powers in this regard". He believes that "Closer consideration of how recall polls might be regulated under Welsh circumstances is therefore necessary, and also whether these are powers that should be allocated to Ministers without oversight".[137]

175. PCS Wales suggested there should be restrictions on the funding available to both sides of the campaign with regulations similar to those for a referendum, identifying official campaign groups for each side of the question and allocating maximum spend and requirements to register funding/spending with the Electoral Commission as with election related expenses and referendum rules.[138]

176. Transparency International UK said it would "counsel against Ministers having the exceptional right to set limits to donations and spending based on inflation". It also noted that the 2015 Act sets a limit of £10,000 for accredited campaigners' expenditure around recall petitions, and it therefore suggested the provisions in the 2015 Act should be reviewed to see how they may be best applied in the Welsh context.[139]

177. A significant issue presented to us in evidence is the importance of public awareness and understanding of the recall process.

178. Tom Hawthorn noted research that the Electoral Commission had undertaken on the recall petition for the UK Parliament in Peterborough, which found very high rates of awareness that a recall petition was going to take place but that awareness of, and understanding of, what the petition was about was less high. He said the evidence demonstrated "there really is a need for making sure that there's good information available to voters about the process, and about the background to the petition as well".[140]

179. Eifion Evans, representing the EMB, also noted the importance of communication and highlighted that the EMB has set up a communication group in partnership with the Welsh Government. He stated the importance of

[136] MAB Committee, 18 November 2025, RoP [78]
[137] MAB04 Professor Alistair Clark
[138] MAB12 Public and Commercial Services Union Wales
[139] MAB11 Transparency International UK
[140] MAB Committee, 18 November 2025, RoP [36]

ensuring that the public understand the consequences of a recall poll and that this is something that needs to get out to the public "early doors", so that there is already an understanding when a recall poll is required.[141]

180. In its written evidence, One Voice Wales expressed a view that, for recall to be meaningful, voters need to know when and how to trigger it. It said, given voters may still be adjusting to the new electoral system in place for Senedd elections, a recall mechanism might be complicated to communicate.[142]

181. Clare Sim from the AEA highlighted the difference between the system proposed for the Senedd and the recall petition process in the House of Commons as being one of the biggest communications challenges. She agreed that it was important for the public to understand the consequences of a recall poll, particularly as it is likely to result in the Member being replaced by someone from the same political party.[143]

182. Quakers in Wales also highlighted the need for public awareness campaigns to help make the new arrangements meaningful for voters.[144]

183. On the subject of communications, the Counsel General told us:

> *"... I think you'd have to develop a set of comms that were very explicit about who is being asked to participate and what they are doing, and I think, particularly in light of the fact that we have the list system for voting, it's very important to explain what's happening."*[145]

184. The Counsel General went on to reflect on the fact that, in accordance with the 2024 Act, members in the Seventh Senedd will be invited to review the operation of the voting system for Senedd elections, noting that "if the voting system changes, that might have quite an effect on the way that the recall system works".[146]

[141] MAB Committee, 18 November 2025, RoP [43] to [45]
[142] MAB06 Un Llais Cymru/One Voice Wales
[143] MAB Committee, 18 November 2025, RoP [48] to [51]
[144] MAB05 Crynwyr Cymru - Quakers in Wales
[145] MAB Committee, 2 December 2025, RoP [48]
[146] MAB Committee, 2 December 2025, RoP [48]

Early termination of recall poll

185. Section 8 of the Bill provides for situations in which a recall poll can be terminated early. These are:

- Early termination event A: that the Presiding Officer has proposed a day for the holding of a poll at an extraordinary general election within six months.
- Early termination event B: the Member of the Senedd has vacated their seat.
- Early termination event C: where trigger event A has occurred, the conviction, sentence or order is overturned on appeal.

186. If one of these events occurs, the Presiding Officer must, in accordance with section 8(5), notify the relevant CRO as soon as reasonably practicable after becoming aware of the event occurring and must specify which of the early termination events has occurred.

187. Upon receipt of this notice issued under section 8(5), the CRO must then take such steps they consider necessary to terminate the process for the recall poll and give public notice of the termination of that process. Further details about the requirements for the CRO will be provided for in regulations made under section 11 of the Bill.

188. Under subsection (8) of section 8, the Presiding Officer must lay any notice for early termination before the Senedd, unless it has been dissolved as a result of early termination event A.

189. Given that the Presiding Officer must set the date for a recall poll within three months of giving notice to the CRO for the relevant Senedd constituency that a member is subject to a recall poll, this effectively means that the Member involved has three months within which to seek an appeal.

190. PCS Wales note that, as currently drafted, the Bill will lead to a Senedd Member being subject to a recall petition during the time they may be appealing their conviction. It said:

> *"Members cannot control the timing of the UK Courts (and should not seek to) therefore their appeal may not be heard before they have lost their post as a Member of the Senedd. There is no mechanism to reverse the recall petition if the*

> *courts later decide to overturn the case on appeal. This is a significant impact on the affected Member's right to a fair trial as their appeal in the courts effectively becomes a part of the recall process."*[147]

191. The interaction between trigger event A and an subsequent appeal against a sentence was also raised by Paul Evans and Sir Paul Silk.[148]

192. In its written evidence, the Electoral Commission also said it is not clear how the requirement to hold a recall poll within three months after the Presiding Officer has given notice of the triggering event would take account of any period allowed for a Senedd Member to appeal their conviction (where that conviction was the trigger event). It noted that this could mean that a Senedd Member might be removed as a result of a recall poll which has already taken place, even if their original conviction is subsequently overturned on appeal.[149]

193. Clare Sim of the AEA raised similar concerns when giving evidence to us on 11 November. She said the AEA is concerned about "the language around early termination, where it seems to be suggesting that the recall petition would be held within three months of that sentence being handed down, but before their appeals process has been heard".[150] Clare Sim made reference to the example of Claudia Webbe MP who, while originally sentenced to a suspended prison sentence, had her prison sentence removed on appeal seven months after the sentencing. She added:

> *"… what would happen if you do not allow that appeals process to be heard before you then trigger that recall petition, the burden that places on administrators of starting a poll that could then have to be cancelled halfway through, where, obviously, all the cost elements and everything are still a cost element because everything has to be done so far in advance to make sure that everything's ready for that poll. (…) equally, what would happen if you held the recall poll, the appeals process followed massively after that and then something was changed as to the legality of whether that person needs to be removed."*[151]

[147] MAB12 Public and Commercial Services Union Wales
[148] MAB10 Paul Evans and Sir Paul Silk
[149] MAB15 Electoral Commission
[150] MAB Committee, 18 November 2025, RoP [76]
[151] MAB Committee, 18 November 2025, RoP [77]

194. Eifion Evans, representing the EMB, echoed these concerns, stating:

> *"... if you start a process and have to stop it halfway through, there are unnecessary cost implications to that. More worryingly, if the recall poll has completed before the appeals process, and the appeals process is successful, what do we do then? That's the bit of the legislation that does concern me, as well. (...) We need to hold back and wait for the appeals process to finish first."*[152]

195. In his written evidence, Keith Bush KC told us the Bill does not engage effectively with the question of appeals against a conviction or sentence. He said justice demands that a member should not lose their seat in the Senedd until all appeals have failed. He added that it is impossible to defend proposals that would allow a recall poll to proceed even though an appeal is pending.[153] When he was asked about this issue, Daniel Greenberg said "as soon as you create a statutory process of this kind, you are no longer able to operate a purely exclusive cognisance approach"[154], adding:

> *"... if there is going to be judicial involvement, you must make sure that there is an appropriate opportunity for that involvement to take place in a way that doesn't come in and retrospectively nullify something that you've done. So, you have to ensure that any legal challenges, legal appeals, legal processes take place at an appropriate point in the overall timeline to provide finality and clarity."*[155]

196. When asked by the LJC Committee if she thought the three-month period provided for in the Bill is sufficient for the appeals process in the criminal courts to have run its course, the Counsel General said "it's very unlikely that an appeal would ever have been completed within three months, but we don't think that's a reason not to legislate in case it was".[156]

197. The Counsel General subsequently told us that, in preparing the Bill, the Government wanted to "find a balance between having a sanction for conduct

[152] MAB Committee, 18 November 2025, RoP [99]
[153] MAB13 Keith Bush KC. Original evidence submitted in Welsh; a courtesy translation was prepared by the Senedd's Translation Service.
[154] MAB Committee, 25 November 2025, RoP [27]
[155] MAB Committee, 25 November 2025, RoP [28]
[156] LJC Committee, 17 November 2025, RoP [50]

that's proximate to the event and fairness in the whole system"[157] as well as wanting to "make sure that the disqualification system and the recall system match in some fashion".[158]

Conduct of recall poll

198. Section 10 of the Bill provides for a recall poll to be conducted by ballot and states the question and answers that must appear on the ballot paper for a recall poll.

199. The ballot paper is required to be written in Welsh and English and must include the question set out in section 10(3) (see box 3).

Box 3

A ddylid diswyddo neu gadw [insert the name of Member of the Senedd to whom the recall poll applies] fel aelod o Senedd Cymru?

Should [insert the name of Member of the Senedd to whom the recall poll applies] be removed or retained as a member of Senedd Cymru (the Welsh Parliament)?

200. The two answers that must appear on the ballot paper are provided for in subsections (4) and (5) of section 10 (see box 4).

Box 4

Diswyddo [insert the name of Member of the Senedd to whom the recall poll applies] fel aelod o Senedd Cymru.

Remove [insert the name of Member of the Senedd to whom the recall poll applies] as a member of Senedd Cymru.

And

Cadw [insert the name of Member of the Senedd to whom the recall poll applies] fel aelod o Senedd Cymru.

Retain [insert the name of Member of the Senedd to whom the recall poll applies] as a member of Senedd Cymru.

[157] MAB Committee, 2 December 2025, RoP [14]
[158] MAB Committee, 2 December 2025, RoP [21]

201. The Welsh Government has decided to include the question (and answers) on the face of the Bill on the basis that it provides a "useful reference point to explain how the recall poll process would be conducted" and provides "consistency and certainty to all involved in the process".[159]

202. In line with a recommendation of the Standards Committee[160], in the EM, the Counsel General states that the Welsh Government has engaged with the Electoral Commission on the format of the question and answers to ensure they are "concise, written in plain English and Welsh, use short sentences, and avoids jargon or technical terms".[161]

203. Tom Hawthorn, representing the Electoral Commission, said a significant point for voters will be making sure that they understand the question that is being asked of them on the recall poll ballot paper, and that it is "very important to make sure that the question wording is clear and intelligible".[162] He recommended that there should be a form of public testing with members of the public who will experience the question in real life so that it is possible to understand how they respond and react to the question.[163] The AEA voiced support for such testing.[164]

204. When giving evidence to us on 2 December, the Counsel General commented that the Welsh Government believes the ballot paper question "should be on the face of the Bill, because we think it should be politically neutral" and, in addition, the Government does not "think that there should be any question of the next Senedd posing a different question".[165]

205. A Welsh Government official accompanying the Counsel General confirmed that the Government has not undertaken any detailed user testing on the ballot question set out in section 10 of the Bill, but that user testing is "something we could consider as part of the ongoing development of the Bill".[166]

206. On the subject of the ballot paper design, Professor Alistair Clark told us:

[159] Explanatory Memorandum, paragraph 100
[160] Standards of Conduct Committee, Report on Individual Member Accountability: Recall, recommendation 8
[161] Explanatory Memorandum, paragraph 101
[162] MAB Committee, 18 November 2025, RoP [22]
[163] MAB Committee, 18 November 2025, RoP [41]. See also MAB15 Electoral Commission.
[164] MAB Committee, 18 November 2025, RoP [52]
[165] MAB Committee, 2 December 2025, RoP [45]
[166] MAB Committee, 2 December 2025, RoP [43]

> *"Ballot paper design for a Recall poll will need careful consideration, beyond the wording that is already in the Bill. There is political science evidence that voters complete ballot papers from top to bottom. This can lead to bias in results, with options towards the top of the ballot paper more likely to be chosen. A vertical design, with the retain option above the remove option (or vice versa) would seem to imply a preference for whatever option is placed above the other. Avoiding this difficulty would require the two options to be placed horizontally, side by side."*[167]

207. PCS Wales told us it considers there to be a "serious risk of confusion with the language of the proposed question". It said:

> *""Remove" and "Retain" are complex language and similar sounding in English. "Diswyddo" and "Cadw" are less similar in Welsh but a direct translation of these to "Dismiss" and "Keep" would be better terms to use in the ballot and for campaigning purposes around the ballot."*[168]

208. Paul Evans and Sir Paul Silk suggested that it may be desirable for the ballot paper to include a statement by the Llywydd as to why the poll is being held, so that electors know why they are being asked to vote.[169]

Outcome of recall poll

209. Section 12 of the Bill outlines the steps that must be taken after the end of voting in a recall poll.

210. Section 12(2) of the Bill states that as soon as reasonably practicable after the end of voting in a recall poll, the CRO must (in accordance with section 11 regulations):

- determine the result of the recall poll;
- announce the result of the recall poll;
- depending on the result of the recall poll, declare that the Member is either:

[167] MAB04 Professor Alistair Clark
[168] MAB12 Public and Commercial Services Union Wales
[169] MAB10 Paul Evans and Sir Paul Silk

- removed as a Member of Senedd Cymru, or
- retained as a Member of Senedd Cymru; and

- notify the Presiding Officer in writing of the result of the recall poll and the declaration.

211. Section 12(3) sets out that the Member will be removed from office if a majority of those voting in the recall poll vote in favour of removing them from office. The Member will retain their seat if a majority of those voting in the recall poll vote in favour of retaining them or an equal number of votes were in cast in favour of each answer.

212. Section 12(4) requires the Presiding Officer to lay before the Senedd any notice received from the CRO about the result of a recall poll and the declaration of the result.

213. Section 13 of the Bill sets out the consequences of a declaration that the Member of the Senedd is to be removed from office. In these circumstances, the Member's seat would become vacant on the making of the declaration by the CRO subject to any provision made in section 11 regulations about questioning the outcome of a recall poll.

214. The vacancy would then be filled in the usual way in accordance with section 11 of the 2006 Act (as amended by the 2024 Act) (see box 5).

Box 5

Filling vacancies under the new Senedd electoral arrangements

For a member elected on a political party list, the vacancy is filled by the highest-placed eligible person on the list who has not yet been returned. If there are no eligible candidates remaining on the list, the seat will remain vacant until the next general election.

For a member elected as an individual candidate (an independent), the seat will remain vacant until the next general election.

215. Section 14 of the Bill provides that the validity of a recall poll held as a result of the occurrence of trigger event B is not affected by any defect in Senedd proceedings leading to that trigger event. This includes the proceedings on any committee or sub-committee connected with the report from the Standards of

Conduct Committee. The validity of the poll is also not affected by any defect in Senedd proceedings connected with the issuing of recall guidance.

216. As noted earlier in the Chapter, we received evidence which was not supportive of the recall provisions in the Bill. In particular, a number of stakeholders who responded to our consultation have concerns with the way a vacancy caused by the removal of a member via a recall poll will be subsequently filled.

217. Keith Bush KC expressed significant concerns with Part 1 of the Bill. As regards the solution proposed in the Bill to the challenge of applying a recall system to an electoral list system – the result being a removed member would be replaced by a member of the same political party – he told us that there is a risk that voters will find this confusing and pointless and one which deprives them of control over their representatives.[170]

218. ERS Cymru raised similar issues, stating "if a vacancy occurs and the next person on the list automatically fills the seat, voters will not have been given a say over who they would wish to fill the vacancy and moreover, could contribute to the perception that parties are rewarded for poor conduct". It added:

> *"Voters should be at the centre of decisions about who represents them. As such, we would suggest the committee explores whether the legislation could be strengthened to ensure voters can have a say on who is elected in the event of a vacancy.*
>
> *One option for this, under the current electoral system, would be to explore using the D'Hondt method. (…) In short, this would retain the proportionality of the original Senedd election while giving voters more choice in who represents them than simply going to the next person on a party list. It could also offer an alternative for if a casual vacancy is created and a party list is exhausted."*[171]

219. As part of its evidence, ERS Cymru provided a briefing note on how it saw the D'Hondt method being used.[172]

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[170] MAB13 Keith Bush KC. Original evidence submitted in Welsh; a courtesy translation was prepared by the Senedd's Translation Service.
[171] MAB07 Electoral Reform Society Cymru
[172] MAB07 Electoral Reform Society Cymru

220. Unlock Democracy told us that it "does not welcome the current provision in the Bill for: Enhancing the accountability of Members of the Senedd to the electorate, providing a mechanism to recall an elected Member, removing them from office during their term on the basis of the expressed will of voters in the relevant constituency." In its written evidence, Unlock Democracy added:

> *"The evidence from the UK parliament is that the recall of MPs provision frequently leads to MPs from a different party being elected. This can be explained in part at least by the actions of the outgoing MP often having been condoned or ignored by their party. To ensure a party isn't shielded from its own bad behaviour, the recall provision must allow for an MS of a different party to be elected. I hope the draft bill can be amended to reflect this."*[173]

221. Dr Ben Stanford similarly expressed concerns that the Bill will "significantly limit the role of voters". He explained that his concerns resulted from the fact that voters will be presented with the choice to retain or replace the Senedd Member with the next candidate in the respective party list, rather than being given the option to "hold the respective political party accountable and for a genuine choice between candidates and parties in a fresh by-election". Dr Stanford noted that, out of the four UK Parliament by-elections that followed recall, three were won by different political parties which, in his views, "suggests that with the UK Parliament recall mechanism, voters have more often than not decided to punish the politician as well as their respective political party". Dr Stanford added:

> *"In the case of an independent MS being recalled, or a party having no more able or willing candidates on their constituency list, the seat would remain vacant until the next election (Government of Wales Act 2006, s.11), creating a new problem of voters having reduced representation in the Senedd."*[174]

222. Transparency International UK also told us that it does not believe that "a simple replace with the next listed candidate from the same party will help restore trust in politics". It similarly drew attention to the outcomes of three-quarters of the by-elections following recall in the UK Parliament which saw the

[173] MAB08 Unlock Democracy
[174] MAB02 Dr Ben Stanford

seat change party hands. The outcomes of the Westminster by-elections following recall petitions were also highlighted by ERS Cymru.[175]

223. Transparency International UK also said:

> *"It is also the case that in some instances the behaviour that has led to the recall process being triggered is something which the party has allowed to occur, either through a culture of overlooking impropriety or active support for a Member despite the judgement of the Standards Committee. The Owen Paterson case at Westminster and the Michael Matheson case in Holyrood illustrate this dilemma. It should not therefore be possible for a party to simply parachute in the next available candidate without the public determining if they consider a change of party as important as a change of representative. We stand by our position that if recall is to be introduced in Wales, the choice to select an alternative party as well as a new representative should be possible."*[176]

224. PCS Wales suggested that a mechanism is required "to ensure that representation of the people is maintained in order for the remove/retain vote to be a fair question not swayed by the possibility of underrepresentation for a constituency if the consequence of a "remove" result is underrepresentation for that constituency."[177]

225. However, Paul Evans and Sir Paul Silk suggested that the outcome of a recall poll resulting in a replacement member from a political parties list of eligible candidates rather than a by-election "makes the decision much more precisely about an individual's conduct". They also suggested that this system may be beneficial in reducing the risk of attempts to use the mechanism for party political purposes.[178]

226. Professor Alistair Clark told us:

> *"Part 1, section 12 is clear that under the two-answer recall ballot proposed, a majority of votes cast, or 50%+1, will be the winning option. Recall polls are likely to be relatively low turnout electoral events. There is the possibility that a member*

[175] MAB07 Electoral Reform Society Cymru
[176] MAB11 Transparency International UK
[177] MAB12 Public and Commercial Services Union Wales
[178] MAB10 Paul Evans and Sir Paul Silk

> *is recalled on the basis of a relatively small vote in the constituency/region which they have been recalled. Whether this might be desirable would seem to be worth consideration since, on principle, the idea that a member can be removed by 50%+1 of a low turnout ought to be of concern to members. Although unusual, one option might be for a recall poll to achieve a certain level of turnout before a recall poll is successful. This would, however, be a policy matter for consideration by the Welsh government and Senedd."*[179]

227. Paul Evans and Sir Paul Silk also suggested that consideration should be given to whether a minimum threshold of participation in the poll should be required, as a "poll with a very low turn-out which results in a recall could appear undemocratic".[180]

Functions of officers

228. Section 15 of the Bill sets out the functions of the CRO in relation to a recall poll. It states that it is the CRO's general duty to do anything necessary for effectually conducting the recall poll in accordance with the Bill (if and when enacted) and regulations made under it.

229. Section 15(2) provides that a CRO may appoint one or more deputies to perform any or all of these functions.

230. In the EM, the Counsel General states that although recall legislation in other parts of the UK (notably for the House of Commons) defines a new post of 'petition officer' (which is then filled by a CRO), the benefits of doing so "are not clear in the Welsh context" as the recall poll in Wales will be similar to an election.[181]

231. The EMB was established by the Democracy and Boundary Commission Cymru in 2025. It is a part of the Commission and has statutory responsibilities set out in Part 2A of the *Democracy and Boundary Commission Cymru etc. Act 2013* (the 2013 Act) (as amended by the 2024 EEB Act).

232. The general function of the Board is to co-ordinate the administration of Welsh elections and referendums, including assisting returning officers in carrying

[179] MAB04 Professor Alistair Clark
[180] MAB10 Paul Evans and Sir Paul Silk
[181] Explanatory Memorandum, paragraph 107

out their functions and promoting best practice in the administration of elections and referendums. The 2013 Act defines "Welsh elections and referendums" as:

a. Senedd Cymru elections;

b. local government elections in Wales;

c. devolved referendums.

233. The Bill as drafted does not amend the 2013 Act to include a recall poll within this definition, and it is unclear what statutory functions the EMB will have in relation to recall polls.

234. When asked whether the Bill should be amended to bring recall polls under the statutory functions of the EMB, Eifion Evans noted that it was a question that the Board would need to discuss over the coming weeks to decide what it thinks its role would be.[182] In subsequent correspondence, the EMB said:

> *"The Board's view is that the EMB should be able to bring recall polls within its remit and that that the proposed legislation should enable the functions of the EMB, where relevant, to be applied to the recall proposals.*
>
> *The EMB acts as a forum for returning officers to raise and discuss issues and consider best practice. Given the nature of the proposed recall polls, it is appropriate that these provisions are extended to cover them.*
>
> *The Welsh Elections Information Platform Regulations 2025 provide that the EMB is responsible for the operation of Welsh Elections Information Platform. The platform will provide information about electoral events taking place in Wales and as such, our view is that recall polls should be included in the legislation (or separate legislation) to enable the EMB to publish information about them.*
>
> *Whilst unlikely that the EMB would want to direct a single returning officer in the conduct of a stand-alone recall poll, powers of direction could be useful in requiring returning officers to make available the datasets needed to*

[182] MAB Committee, 18 November 2025, RoP [84]

> *communicate any recall poll to voters through the Welsh Elections Information Platform.*
>
> *As such, our view is that consideration should be given to whether there is a need to be explicit in the proposed legislation that the functions of the EMB extend to recall petitions as well as devolved elections and referendums."*[183]

235. When we asked the Counsel General whether the Welsh Government had given consideration to extending the statutory functions of the EMB to cover recall polls she told us that, if we thought it would add value, the Government would be "very happy to go along with that".[184]

Interpretation of Part 1 and consequential provision

236. Section 16 of the Bill defines terms for the purpose of Part 1 of the Bill.

237. The Llywydd noted in her written evidence that section 16 defines the "Presiding Officer" ("Llywydd") as "the Presiding Officer of Senedd Cymru appointed in accordance with section 25 of the Government of Wales Act 2006". The Llywydd went on to state that section 25(1) of the 2006 Act "provides that the Senedd must "elect" its Presiding Officer, rather than "appoint"". The Llywydd noted that this is reflected in section 25(2) of the Bill which refers to "the person elected" in its reference to the Presiding Officer.[185]

238. As such, the Llywydd recommended to us that section 16 of the Bill should be amended to replace "appointed" with "elected", to reflect section 25 of the 2006 Act.[186]

239. Section 17 of the Bill introduces Part 1 of Schedule 2 to the Bill, which makes consequential provision relating to Part 1 of the Bill.

240. Part 1 of Schedule 2 makes consequential amendments to the *Political Parties, Elections and Referendums Act 2000* (the 2000 Act) to ensure that, where appropriate, the oversight functions of the Electoral Commission apply to recall polls.

241. The amended functions include:

[183] Letter from the Electoral Management Board for Wales, 4 December 2025
[184] MAB Committee, 2 December 2025, RoP [50]
[185] MAB14 Rt. Hon. Elin Jones, Llywydd, Senedd Cymru
[186] MAB14 Rt. Hon. Elin Jones, Llywydd, Senedd Cymru

- to report on the administration of any recall poll;
- to keep under review and submit reports to the Welsh Ministers on devolved matters;
- for representatives of the Commission to be able to attend a recall poll,
- to prepare a code of practice for the attendance of observers at a recall poll;
- to be consulted on any change to electoral law made by regulation (and to consent to the setting of spending limits);
- the giving of advice and assistance.

242. . The Electoral Commission currently publishes guidance for petition officers and for recall petition campaigners for recall petitions for Members of the UK Parliament. The Electoral Commission has confirmed it will do the same for recall polls in Wales.[187]

243. In the EM, the Counsel General states that the Welsh Government engaged with the Electoral Commission on the likely cost implications of extending its existing functions as per the Bill's provisions.[188] According to the EM, the Electoral Commission considered that the new requirements could be met within existing resources and therefore no additional costs would be placed on them.[189]

Our view

244. We note that Part 1 of the Bill addresses recommendations made in the Standards Committee's report on recall, and the evidence we received suggests there is broad support for the Senedd to operate a recall system.

245. Nonetheless, while our work focused on the detail of how the recall mechanism proposed in the Bill would operate in practice, strong views have been expressed to us on the system of recall proposed in the Bill in general. In particular, there are concerns that a recalled member (if elected on a party list) would be replaced with someone from the same political party they were elected to represent, and this may not be acceptable to the public nor help to build trust in politics.

[187] MAB Committee, 18 November 2025, RoP [80]
[188] Explanatory Memorandum, paragraph 170
[189] Explanatory Memorandum, paragraph 170

246. We are aware the Standards Committee considered the issue of how a member would be replaced in its report on recall, and concluded that recommending by-elections for recall matters would not be consistent with decisions already made regarding the electoral system being introduced for the 2026 Senedd election.[190]

Conclusion 2. Should the Seventh Senedd agree to review the electoral system in place for Senedd elections, the impact on a recall system (should this Bill be passed and enacted) must be considered as part of that holistic review.

247. While the electoral system in place for the 2026 election is outside the remit of our consideration of the Bill, the consequences of the closed-list proportional representation system does mean that there are constraints on the way a recall system can operate. As such, we feel we must acknowledge the concerns raised with us about how the interplay between the new electoral system and the process by which a recalled member will be replaced could "contribute to the perception that parties are rewarded for poor conduct", while also risking voter confusion.

248. One of the matters we pursued with electoral organisations was the importance of public awareness and understanding of the recall process.

Conclusion 3. Should the Bill be passed by the Senedd and enacted, we believe that significant effort will be needed by all those involved in the recall system to ensure the Welsh public is sufficiently educated about the system and the outcomes of any recall polls.

249. On the issue of trigger event A, we note that it will be activated if a Member of the Senedd has been convicted in the UK of an offence or ordered to be imprisoned or detained for a period of 12 months or less.

250. The evidence we received did not raise any significant concerns with trigger event A itself, but stakeholders have raised issues with the proposed operation of a recall poll that follows this trigger, in particular the requirements of sections 4 and 6.

251. While section 4 of the Bill imposes a duty on the courts of England and Wales to notify the Presiding Officer if a member is convicted of a trigger event A offence in the England and Wales jurisdiction, it does not impose the same duty on the courts in Scotland or Northern Ireland because to do so would be outside

[190] Standards of Conduct Committee, Report on Individual Member Accountability: Recall, paragraph 85

the legislative competence of the Senedd. While we understand the competence issues, without the duty applying to all courts in the United Kingdom, we do not consider this notification mechanism to be satisfactory or necessary.

Recommendation 2. Section 4 should be removed from the Bill.

252. Before we turn to trigger event B, we wish to reflect on the link between section 6 (which places a duty on the Llywydd to fix a date for the recall poll) and the provision in section 8(4) (which provides that a recall poll will not take place where trigger event A has occurred but the conviction, sentence or order is subsequently overturned on appeal). This scenario is defined in the Bill as "early termination event C".

253. In accordance with section 6, the Presiding Officer must set the date for a recall poll within three months of giving notice to the CRO for the relevant Senedd constituency that a member is subject to a recall poll. This means that, where trigger event A has occurred (i.e. the Member has been convicted of an offence and ordered to be imprisoned or detained for a period of 12 months or less) the Member involved has three months within which to appeal that conviction and have the sentence of imprisonment overturned. If the conviction is overturned within that three month period, early termination event C occurs and no recall poll is held.

254. We are aware that a conviction of more than 12 months automatically leads to a Senedd Member being disqualified, and the provisions relating to automatic disqualification do not include any mechanism providing a member with time to conduct an appeal to have that conviction overturned.

255. We note that the Bill's equality impact assessment highlights that the introduction of the recall system does not provide for delaying the holding of a recall poll until the expiry of the criminal appeals period. We further note that the Welsh Government states it considered the impact of this proposal on the right to a fair trial provided under Article 6 of the European Convention on Human Rights and concluded that the proposal "does not prevent a Member from exercising their right to appeal their conviction and sentence".[191]

256. We also acknowledge the Counsel General's evidence to us that the Government wanted to make sure that the disqualification and the recall systems 'matched'.

[191] Welsh Government, Senedd Cymru (Member Accountability and Elections) Bill: Equality impact assessment, 4 November 2025

257. However, we also feel it is important to highlight the evidence we heard which suggests a recall system should take into account the time needed for appeals to be dealt with in the criminal justice system.

Conclusion 4. We acknowledge the views, expressed to us regarding the implications of the recall poll provisions in the Bill, on appeals which may be heard in the criminal justice system. However, given there is no mechanism allowing time for appeals in the provisions governing the automatic disqualification of a member where they have been convicted of an offence and sentenced to imprisonment for a period of more than 12 months, we can appreciate the logic as to why both systems should align.

258. As regards section 5 and trigger event B, we note that the Bill will enable the Standards of Conduct Committee, as established in accordance with section 18, to issue guidance about the matters it must have regard to when considering whether to recommend submitting a member to a recall poll.

259. While we acknowledge that section 5 of the Bill responds to recommendation 6 of the Standards Committee's report on recall, we have been struck by the evidence highlighting that the flexibility of guidance needs to be balanced against the certainty and transparency of a robust recall system. One step towards improving certainty would be a requirement for this guidance to be issued.

Recommendation 3. Section 5 of the Bill should be amended so that the Standards of Conduct Committee, established in accordance with section 18, is required to issue guidance about the matters to be taken in to account by that committee when considering whether to recommend submitting a Member of the Senedd to a recall poll.

260. We note that section 5(7)(b) will require two-thirds of Senedd Members voting to approve the recall guidance, and we acknowledge the rationale for this requirement put forward by the Counsel General. However, it is our understanding that it is a simple majority voting in favour that is required for the Senedd's Code of Conduct and for individual standards reports to be approved. As such, the higher voting threshold for the guidance would make it an outlier in the whole standards landscape.

261. In addition, as commented on by ERS Cymru and others, should it not be possible for the recall guidance to obtain support from two-thirds of Senedd

Members voting (as required by section 5(7)(b)), trigger event B will not become operational. This is of concern to us.

Conclusion 5. A majority of the Committee considers that a simple majority voting in favour of the recall guidance would better reflect the Senedd's current standards-related processes.

Recommendation 4. A majority of the Committee considers that the Bill should be amended so that the Standards of Conduct Committee is able to issue recall guidance so long as a simple majority of the total number of votes cast by the Senedd are in favour of the resolution.

262. On the topic of 'other triggers', we acknowledge the evidence we have heard about the merits (or otherwise) of placing other trigger events on the face of the Bill; trigger events which could include incidents of sexual harassment or bullying, for example. While we do not consider that the Bill should provide for such 'other triggers', we would expect the future Standards of Conduct Committee to carefully consider how these matters would be addressed when it develops recall guidance.

263. While we acknowledge that Part 1 of the Bill sets out the key framework for recall polls, much of the detail relating to the conduct of a recall poll, including the registration of electors and the limitations on campaign expenditure and donations, will be set out in secondary legislation made under section 11 of the Bill.

264. The regulation-making power in section 11 is therefore extensive and, as highlighted by stakeholders, gives considerable discretion to the Welsh Ministers about the conduct of recall polls.

Conclusion 6. We believe there would be merit in exploring how additional provision could be added to the face of the Bill requiring more extensive consultation with stakeholders and more in-depth scrutiny by the Senedd before regulations under section 11 can be made.

Recommendation 5. Given the importance of the section 11 regulations to the recall process, the Bill should be amended so that the Welsh Ministers are required to make the regulations, rather than enabled to do so as section 11(1) is currently drafted.

265. As regards section 10 of the Bill and the provision made for the ballot itself, we agree with the evidence we received that the ballot paper design for a recall poll needs careful consideration so voters understand the task at hand.

Recommendation 6. The Welsh Government must consult with the Electoral Commission and other electoral stakeholders on the format of the ballot paper for recall polls and it should be subject to user testing at the earliest opportunity, if the Bill is passed and enacted.

266. Turning to section 15 of the Bill, which relates to the functions of CROs, we understand that the Bill as drafted does not amend the 2013 Act to include a recall poll within the definition of 'Welsh elections and referendums'. As such, we are unclear what statutory functions the EMB will have in relation to recall polls. The EMB has confirmed to us it believes it should be able to bring recall polls within its remit and consideration should be given to whether there is a need to be explicit in the Bill that the functions of the EMB extend to recall petitions.

Recommendation 7. The Bill should be amended to make it explicit that recall polls will fall within the statutory functions of the Electoral Management Board.

267. Finally as regards Part 1 of the Bill, we note the Llywydd's concerns about the way "Presiding Officer" is currently defined in section 16 of the Bill.

Conclusion 7. We would welcome the definition of "Presiding Officer" in section 16 of the Bill being amended as per the suggestion from the Llywydd.

5. Part 2 of the Bill: Standards of conduct of Members of the Senedd

Part 2 of the Bill makes provision requiring that each Senedd establish a standards of conduct committee, enabling the appointment of lay members to that Committee, providing for the Senedd Commissioner for Standards to carry out own initiative investigations, and changing the persons who are not eligible to serve as the Commissioner.

268. Provisions in this Part (including Part 2 of Schedule 2) come into force the day after the Act receives Royal Assent.

Standards of Conduct

Standards of Conduct Committee

A statutory Standards of Conduct Committee

269. Section 18(3) of the Bill inserts new section 30A into the 2006 Act. New section 30A requires that the Senedd must have a standards of conduct committee that has functions relating to the standards of conduct of Members of the Senedd as specified in Standing Orders. It also provides for additional functions of the Committee to be specified in Standing Orders.

270. The current requirement for the Senedd to have a standards of conduct committee is set out in Standing Orders.

271. In the EM, the Counsel General states that having the Standards of Conduct Committee's role and remit set out in legislation will "strengthen the commitment to the importance placed on standards and accountability" and is likely to raise the profile of the Committee within the Senedd and with the public.[192]

[192] Explanatory Memorandum, paragraph 110

272. The Counsel General also states that requiring the Standards of Conduct Committee to exist enables duties to be placed on the Committee to deliver the new recall system and provides an "effective arrangement" for delivering on the Standards of Conduct Committee's recommendation relating to lay members.[193]

273. New section 30A(3) provides that the number of members of the Standards of Conduct Committee is to be specified in Standing Orders, and that this may include lay members – i.e. members who are not Members of the Senedd.

274. Further provision about what Standing Orders may include about the Standards of Conduct Committee is set out in subsections (5) and (6). In the EM, the Counsel General states that, whilst it is established convention that the Senedd's procedures and processes are a matter for it to decide upon itself, it is "considered important" that the Bill requires that Standing Orders make provision in relation to certain matters to deliver the policy objectives of the Bill.[194]

275. Subsection (5) of new section 30A provides that the Standing Orders may include provision:

- to exclude lay members from proceedings of the Standards of Conduct Committee or a sub-committee of the Committee;
- about the membership of any sub-committees of the Standards of Conduct Committee, including members who are not members of the Committee;
- for members of a sub-committee to be to be appointed other than by the Standards of Conduct Committee itself;
- that any sub-committee which is set up to carry out reviews or appeals against proceedings of the Standards of Conduct Committee, or sub-committee proceedings, relating to the conduct of members can be made up entirely of one or more lay members.

276. When we asked Hannah Blythyn if the Bill should mandate the establishment of a standards of conduct committee she confirmed that it was not a recommendation made by the Standards Committee, but suggested "it does serve to emphasise how seriously this institution takes those matters". She went

[193] Explanatory Memorandum, paragraph 110
[194] Explanatory Memorandum, paragraph 113

on to say that the Senedd does not "want to be left behind, but lead the way when it comes to our standards of conduct".[195]

277. Douglas Bain suggested that having a mandated standards of conduct committee would not, in practice, make any real difference because the Senedd has always had a standards of conduct committee. However, he did express a concern that "by putting it in statute it removes the opportunity to easily change the provisions if anything is found in need of change".[196]

278. In her written evidence the Llywydd said it is unclear why there is a need to mandate the establishment of a standards of conduct committee, questioning why a reference to 'the Committee on Standards of Conduct', as defined in section 20 of the 2009 Measure, would not be sufficient in relation to the placement of direct duties onto a committee. The Llywydd said consideration should be given to:

> *"... whether there needs to be a legal requirement on the Senedd to establish a 'Standards of Conduct Committee' or whether it would be sufficient for the Bill to refer to 'the Committee on Standards of Conduct, as defined in s.20 of the National Assembly for Wales Commissioner for Standards Measure 2009', in order for duties to be placed directly onto that committee."*[197]

279. Manon Antoniazzi, the Chief Executive and Clerk of the Senedd, also noted that a standards of conduct committee has been established in every Assembly and Senedd to date, and that Standing Order 22 already requires that, in proposing the remits of committees, the Business Committee must ensure that there is a committee with responsibility for the functions specified in Standing Order 22 (Standards of Conduct).[198]

280. Cathy Mason MLA, Chairperson of the Committee on Standards and Privileges (the CSP), Northern Ireland Assembly, highlighted that provision for the CSP is set out in Standing Orders, rather than legislation, and said "the existing

[195] MAB Committee, 11 November 2025, RoP [29]
[196] MAB Committee, 11 November 2025, RoP [114]
[197] MAB14 Rt. Hon. Elin Jones, Llywydd, Senedd Cymru
[198] MAB09 Chief Executive and Clerk of the Senedd, Senedd Cymru

legal/procedural arrangements have served the CSP well and the issue of placing the Committee on a statutory basis has not arisen".[199]

281. Daniel Greenberg also suggested consideration needed to be given to the mixing of statute and self-regulation because of the inevitable introduction of possible distortion.[200]

282. However, other consultation respondents welcomed the legislative requirement for the establishment of a standards of conduct committee, including Paul Evans and Sir Paul Silk[201], Unlock Democracy[202] and Transparency International UK, with the latter suggesting it would be "a vital safeguard against executive whim or disregard for standards processes and one that will help to future proof the standards system".[203]

283. On this matter, the Counsel General said:

> *"... the Government does think that a standards committee should be a compulsory part of any parliamentary arrangements. (...)*
>
> *... it seems inconceivable to me that you could have a decent parliamentary authority that didn't have a Standards of Conduct Committee, so we thought we would put that beyond doubt. It also means that the provisions around lay members and so on make some sense."*[204]

284. Subsection (8) of new section 30A specifies office holders who are not permitted to be members of the Standards of Conduct Committee or a sub-committee of the Committee. These are:

- the First Minister, a Welsh Minister, the Counsel General and a Deputy Welsh Minister;
- the Presiding Officer and the Deputy Presiding Officer.

[199] MAB03 Cathy Mason MLA, Chairperson of the Committee on Standards and Privileges, Northern Ireland Assembly
[200] MAB Committee, 25 November 2025, RoP [59]
[201] MAB10 Paul Evans and Sir Paul Silk
[202] MAB08 Unlock Democracy
[203] MAB11 Transparency International (UK)
[204] MAB Committee, 2 December 2025, RoP [35] and [68]

285. The Llywydd questioned why the Welsh Government has chosen to include this provision in the Bill, stating:

> *"Although there is precedent for including provision on the membership of specific Senedd committees (i.e. the Llywydd's Committee and the Audit Committee) in legislation, it is unclear why the Welsh Government has chosen to include such provision in this Bill, in relation to the Standards of Conduct Committee. Unless there is specific and justifiable reasoning for matters relating to committee membership to be provided for in legislation, the Senedd should be able to decide on such matters itself."*[205]

286. As such, the Llywydd suggested we should explore why the list of office holders which are not permitted to be members of the Standards of Conduct Committee has been included on the face of the Bill.[206]

287. In his evidence, Professor Alistair Clark also suggested that the Bill may be an opportunity to consider the functioning of a standards of conduct committee more widely, either by "legislating for the Standards Committee Chair to be selected from the main opposition party, or, if more applicable, for Standing Orders to be amended accordingly".[207]

288. As highlighted above, one particular matter a mandated sub-committee of the Standards of Conduct Committee could take on is to carry out reviews or appeals against proceedings of the Standards of Conduct Committee.

289. The Senedd previously had an appeals process in place as part of the procedure for dealing with complaints against members. The process pre-dated the creation of an independent Senedd Commissioner for Standards. The appeals process enabled Senedd Members to appeal a decision to an independent legally qualified person (nominated by the Presiding Judge of the Wales Circuit). Appeals could only be made on narrow procedural grounds and were conducted entirely on written representation.

290. The Standards Committee considered the effectiveness of the appeals mechanism in 2022 as part of a wider review of the procedures for dealing with complaints against Members of the Senedd. It expressed at that time its concerns that the appeal procedure was potentially open to abuse by Senedd Members

[205] MAB14 Rt. Hon. Elin Jones, Llywydd, Senedd Cymru
[206] MAB14 Rt. Hon. Elin Jones, Llywydd, Senedd Cymru
[207] MAB04 Professor Alistair Clark

seeking to delay the outcome of the process, was costly, that the right of appeal was unqualified and that there was no sanction for making an appeal without merit. A majority of the Standards Committee agreed that an appeals process should be removed from the complaints procedure, and the revised complaints procedure was agreed to by the Senedd.

291. In its report on deliberate deception, the Standards Committee recommended that, in light of the possible introduction of a recall mechanism, consideration should be given to the re-introduction of an appeals process for Senedd Members.[208] The Standards Committee said in that report that the Welsh Government should consider introducing a legislative mechanism to enable the Senedd to establish an appeals process with reference to an appropriate independent judicial panel such as the Adjudication Panel for Wales.[209] The Adjudication Panel for Wales already hears appeals from local authority members in relation to standards issues.

292. The Standards Committee recommended that the Welsh Government introduce a legislative mechanism to enable a future appeals procedure, to be brought into force by the Senedd.[210] Should the Welsh Government accept this recommendation, the Standards Committee said it would consider how an appeals process should work in practice and bring forward proposals for the Senedd to agree.[211] In its response, the Welsh Government said that while this was a matter for the Senedd, Welsh Government officials would consider what provision may be needed.[212]

293. Hannah Blythyn told us that, given the Standards Committee's recommendations for the introduction of a form of recall for the Senedd, the Committee felt there should be reintroduction of an appeals process alongside it. However, she said "clearly how that looks in practice is going to need careful consideration as we move forward".[213] Huw Williams, Chief Legal Adviser to the Senedd Commission who accompanied Hannah Blythyn at our meeting on 11 November, suggested that the Bill "appear[s] to create the necessary framework

[208] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, recommendation 11
[209] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, paragraph 201
[210] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, recommendation 11
[211] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, paragraph 201
[212] Welsh Government response to the Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception
[213] MAB Committee, 11 November 2025, RoP [37]

to actually establish a formal committee that could carry out either review or formal appeal functions".[214]

294. The re-introduction of an appeals mechanism was also welcomed by Dr Ben Stanford, who noted that concerns with the fairness of the Westminster recall mechanism led to the Independent Expert Panel having its role extended in 2022 to hear appeals from MPs against the decisions of the Committee on Standards.[215]

295. However, Douglas Bain indicated he was not supportive of the re-introduction of an appeals process, stating "I would want to see a much more convincing case set out for it. (...) Inevitably, introducing an appeals process would lead to delay and uncertainty".[216]

296. Alberto Costa MP told us that the Senedd should "create an appeal system separate from the Standards of Conduct Committee. Otherwise, you're acting as a first workplace forum as well as an appellate body, and I don't think you should be wearing those two hats".[217]

297. On the subject of appeals, Daniel Greenberg told us that objective and clear grounds of appeal as well as finality have to be built into any appeals process.[218] He also suggested that careful thought is needed regarding the role of lay members with appeals, stating "from a fairness and due process perspective, there clearly are issues about having one particular group potentially tasked with coming in at a later stage and having to hear an appeal."[219]

298. On this subject, the Counsel General told us the Welsh Government "really feel[s] strongly it's a matter for the parliamentary authorities to decide how their standards committee and appeal mechanisms work".[220]

The appointment of lay members

299. As previously stated in paragraph 276, new section 30A(3) allows for the appointment of lay members to the Standards of Conduct Committee. This responds to recommendation 2 of the Standards Committee's report on

[214] MAB Committee, 11 November 2025, RoP [34]
[215] MAB02 Dr Ben Stanford
[216] MAB Committee, 11 November 2025, RoP [116]
[217] MAB Committee, 27 November 2025, RoP [97]
[218] MAB Committee, 25 November 2025, RoP [64] and [65]
[219] MAB Committee, 25 November 2025, RoP [69]
[220] MAB Committee, 2 December 2025, RoP [70]

deliberate deception.[221] The House of Commons' Committee on Standards has operated with lay members for more than a decade (see box 6).

Box 6

Committee on Standards, House of Commons

Lay members (those who are not MPs) were first appointed to the House of Commons' Committee on Standards in 2012, with three members appointed. In 2016, that was changed to provide for an equal number of lay members to elected members on the committee. The Committee currently has seven lay members.

Lay members play a full role in the Committee's work, including in disciplinary cases and inquiries relating to standards matters. In 2019, the House of Commons voted to grant lay members full voting rights as a result of recommendations made by the Committee.

Lay members are appointed by the House of Commons through a motion following a "fair and transparent" recruitment process for a non-renewable term of up to six years.

300. New section 30A(6) sets out the provisions that Standing Orders must and may make if the Senedd chooses to appoint lay members to the Committee:

- In relation to Committee or sub-committee proceedings about the conduct of a Member of the Senedd, Standing Orders must provide for:
  - lay members to have the same participation and voting rights as other members of the Committee, and
  - the number of lay members and other members required for proceedings to be quorate.
- In relation to Committee or sub-committee proceedings concerning other matters (except for the scrutiny of legislation), Standing Orders may provide for:
  - lay members to have the same participation and voting rights as other members of the Committee, and

[221] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, recommendation 2

- the number of lay members and other members required for proceedings to be quorate.

301. New section 30A(6)(c) provides that Standing Orders must make provision that lay members cannot participate or vote as a member in proceedings of the Standards of Conduct Committee or sub-committee proceedings concerning the scrutiny of legislation. The rationale for this given by the Counsel General in the EM is that it would be inappropriate for lay members to be involved in this element of the Committee's work as they are unelected, and that it should only be a matter for elected members to devise and scrutinise legislation.[222]

302. Section 18(3) of the Bill also inserts new section 30B into the 2006 Act. This new section makes further provision for lay members of the Standards of Conduct Committee, including how they are to be recruited, appointed and cease to hold office.

303. New section 30B(1) places a restriction on the membership of the Standards of Conduct Committee in that there cannot be more lay members of the Committee than members who are Members of the Senedd. In the EM the Counsel General states that this approach balances the important role that lay members play with the "appropriateness" of ensuring a committee of the Senedd is not constituted in a way that could lead to Members of the Senedd being outnumbered by unelected members.[223]

304. Subsections (2), (3) and (4) of new section 30B provide for lay members to be appointed by resolution of the Senedd by a motion tabled with the consent of the Presiding Officer. It also states that the person put forward for nomination in the motion must have been selected on the basis of fair and open competition.

305. Subsection (5) provides that the maximum fixed term of an appointment of a lay member cannot exceed six years but can end after the date of the next Senedd election, meaning that an appointment can continue into a further Senedd term. In the EM the Counsel General states that this will avoid a situation where recruitment for lay members has to occur at the beginning of each Senedd term, which could delay the Standards of Conduct Committee beginning its work.[224] The Counsel General also states that it will provide a degree of experience

[222] Explanatory Memorandum, paragraph 121
[223] Explanatory Memorandum, paragraph 118
[224] Explanatory Memorandum, paragraph 122

and continuity for the Standards of Conduct Committee between Seneddau and avoid "unnecessary" administrative burdens at the start of each term.[225]

306. New Schedule 1B to the 2006 Act is introduced via Schedule 1 to the Bill (as introduced by section 18) and sets out the categories of person (Part 1 of the Schedule) and offices (Part 2 of the Schedule) that would disqualify an individual from appointment as a lay member of the Standards of Conduct Committee (see box 7).

Box 7

New Schedule 1B sets out that the following categories of person are disqualified from being appointed as a lay member of the Committee:

A person disqualified from membership of the Senedd except in relation to the requirement to be on the local government register of electors at an address in a Senedd constituency and persons imprisoned or detained following conviction.

A person convicted in the UK of an offence for which the person is sentenced or ordered to be imprisoned or detained, if the conviction is not spent.

A person who currently holds an office or has held an office at any time during the two years before their appointment as a lay member would take effect. These offices are:

- Any person who holds one of the disqualifying offices in the second column of the table in Part 2 of Schedule 1A (except the judicial offices),
- A Member of the Senedd,
- A Member of the House of Commons or House of Lords,
- A community or county councillor in Wales,
- A Member of the Scottish Parliament,
- A Member of the Northern Ireland Assembly, and
- A Police and Crime Commissioner for a police area in Wales.

[225] Explanatory Memorandum, paragraph 122

307. The House of Commons' Standing Orders do not allow any current or former members of the House of Commons or the House of Lords to be lay members of its Committee on Standards.

308. Subsection (7) of new section 30B restricts a lay member from serving more than two terms of office (whether or not these are consecutive). The draft Explanatory Notes to the Bill state that all other terms and conditions are for the Senedd to determine and may be set out in Standing Orders.[226]

309. Subsection (8) provides for the circumstances when a person automatically ceases to hold office as a lay member. These are:

- if they are a candidate at a Senedd general election (after the period for giving notice of withdrawal of candidature has ended), or
- if they fall into any of the categories set out for disqualification in subsection (6).

310. Subsection (9) of new section 30B also provides for a lay member to resign by giving notice to the Standards of Conduct Committee and for them to be removed by the Senedd, subject to a resolution that is supported by at least two-thirds of the total number of votes cast. This motion can only be tabled with the consent of the Presiding Officer and in accordance with any provision made in Standing Orders.

311. This differs from the approach in the House of Commons, where a lay member can only be removed from their post by a resolution of the House of Commons that follows the House of Commons Commission reporting that it is satisfied that the person should cease to be a lay member. The House of Commons Commission's report must include a statement setting out its reasons for this coming to this conclusion.

312. Subsection (11) requires Standing Orders to make provision for the investigation and adjudication of complaints about misconduct of lay members.

313. Subsection (12) enables the Senedd Commission to pay lay members "such remuneration and allowances as the Commission may determine".

314. Hannah Blythyn told us that one of the potential benefits of having a mandated standards of conduct committee is the consequential provisions in the

[226] Explanatory Memorandum, draft Explanatory Notes, page 71, paragraph 48

Bill for lay members.[227] On the subject of lay members, she said "as a committee, we see this as a positive step forward… not just to strengthen that kind of independence and confidence in the system, but actually to enable us to use independent expertise".[228]

315. Douglas Bain was equally supportive of the prospect of lay members sitting on a standards of conduct committee. He suggested that the inclusion of suitably qualified independent members may serve to guard against any perception that Senedd Members "are entirely marking their own homework"[229], a point echoed by Transparency International UK[230] and Daniel Greenberg.[231]

316. Daniel Greenberg also told us that "Bringing in effective independent elements of the regime adds credibility in a very important way to the overall standards scheme, and lay members must be an important part of that".[232]

317. Similar supportive comments were offered by Dr Ben Stanford[233], ERS Cymru[234], Unlock Democracy[235], and Professor Alistair Clark.[236]

318. Dr David Stirling, as a lay member himself on the Commons Committee on Standards, told us that one particular strength of having lay members sit on a standards committee is that political considerations – such as how a suspension of a member would impact on a Government with only a minor majority – "are never being brought into the discussion".[237]

319. On the issue of voting rights for lay members, Dr Stirling added "I'm not entirely sure what the point would be of having lay members on a committee if they weren't able to be involved in the decision making".[238]

320. Paul Evans and Sir Paul Silk suggested to us consideration should be given "to going one stage further" by making lay members an obligatory feature of a standards of conduct committee. They said lay members' participation in the

[227] MAB Committee, 11 November 2025, RoP [33]
[228] MAB Committee, 11 November 2025, RoP [46]
[229] MAB Committee, 11 November 2025, RoP [124]
[230] MAB11 Transparency International UK
[231] MAB Committee, 25 November 2025, RoP [34]
[232] MAB Committee, 25 November 2025, RoP [34]
[233] MAB02 Dr Ben Stanford
[234] MAB07 Electoral Reform Society Cymru
[235] MAB08 Unlock Democracy
[236] MAB04 Professor Alistair Clark
[237] MAB Committee, 27 November 2025, RoP [19]
[238] MAB Committee, 27 November 2025, RoP [51]

Westminster Standards Committee "has proved a strong reinforcement to the perceived independence and impartiality of that Committee".[239]

321. Quakers in Wales also suggested that lay members must be included on a standards of conduct committee, and that the Bill should include a principle that lay members must be, and be seen to be, politically neutral and independent. It also said it would "welcome a target number or range of numbers e.g. 4 of 9 members must be lay members".[240]

322. Similar comments about the number of lay members were made by Professor Alistair Clark. He said:

> *"The key question of how many Lay Members to appoint has been left unaddressed by the legislation. To some degree this is inevitable, given the institutional changes that will happen from the 2026 election. It is however possible to anticipate potential outcomes in this regard, since the overall size of the future Senedd is already known, and the Committee is likely to be larger than it currently is. This should have been done.*
>
> *It is correct that the number of Lay Members should not exceed the number of elected members (Para 118 explanatory memorandum). At the same time, it is important that Lay Members do not feel pressurised or outnumbered by elected members into taking one course of action over another, which could happen if there are fewer lay members than elected members. This speaks to an equivalent number of Lay Members and elected members in the future Standards Committee."*[241]

323. However, on the Bill's provisions relating to the Standards of Conduct Committee and lay members, the Llywydd warned that "Inclusion of these provisions within the Bill may be viewed as being in conflict with the principle that a parliament should be free to govern itself, free from external interference." She added:

> *"Any provisions currently included in the Bill, which limit the Senedd's discretion to decide its own procedures, should be*

[239] MAB10 Paul Evans and Sir Paul Silk
[240] MAB05 Crynwyr Cymru - Quakers in Wales
[241] MAB04 Professor Alistair Clark

> *given careful consideration by the Committee and, potentially, be recommended to be removed.*
>
> *The Committee may therefore wish to consider the basis on which the Bill is seeking to amend the Government of Wales Act 2006 beyond what is necessary to deliver what the Standards of Conduct Committee has recommended."*[242]

324. On who should not be permitted to serve as lay members, Hannah Blythyn said she thought the Bill was "perfectly sensible, as presented"[243]; Douglas Bain offered a similar view.[244] When specifically asked whether past Members of the Senedd should be allowed to serve as lay members after only a two year break from sitting as a member, the Clerk to the Standards Committee confirmed the Committee's view that it should be longer than two years and should be in line with the disqualification period for who may be appointed as the Standards Commissioner.[245] Hannah Blythyn added "If you change one, you change both".[246]

325. Dr David Stirling commented that "political independence is really important for lay members", and he suggested "it would be really hard having been a Member of Parliament, even after a five-year break, to come back and genuinely say you were independent".[247]

326. Douglas Bain confirmed to us that the minimum period following which a past Senedd Member could be appointed as a lay member should be four years rather than two, suggesting that two years "sends the wrong signal to the public".[248]

327. When asked to explain the rationale for the drafting in the Bill regarding the disqualification of former Members of the Senedd from being appointed lay members, the Counsel General confirmed that the Welsh Government looked to the disqualification criteria for who may be appointed the Standards Commissioner and replicated those criteria.[249]

328. On the terms of office of lay members, Hannah Blythyn told us that the Standards Committee would welcome "continuity that would be achieved by

[242] MAB14 Rt. Hon. Elin Jones, Llywydd, Senedd Cymru
[243] MAB Committee, 11 November 2025, RoP [48]
[244] MAB Committee, 11 November 2025, RoP [127]
[245] MAB Committee, 11 November 2025, RoP [51]
[246] MAB Committee, 11 November 2025, RoP [52]
[247] MAB Committee, 27 November 2025, RoP [62]
[248] MAB Committee, 11 November 2025, RoP [129]
[249] MAB Committee, 2 December 2025, RoP [91]

terms that don't coincide with the Senedd terms" and for the terms to not start and finish at the time.[250] This was supported by Daniel Greenberg[251] and the Counsel General.[252]

329. Quakers in Wales said it would favour shorter total term limits for lay members "in the interests of clarity, transparency and fairness", suggesting as an example a term of 3 years renewable (in line with the House of Lords arrangements) or 6 years non-renewable (in line with the House of Commons arrangements). It also said that the Bill (or relevant regulations) should clearly set out the process for reappointment of lay members and whether open competition will apply to "avoid perceptions of cronyism, entrenchment or dependency on political actors".[253]

330. As a current lay member of the Commons Committee on Standards, Dr David Stirling expressed his view that renewable terms "brings in a danger". He added:

> *"I think there's a value in a fresh voice and fresh thinking around the table. So, I personally wouldn't be a huge supporter if someone suggested that we were able to stand for a second six-year term. I think that would be too long."*[254]

331. On the subject of renewable terms for lay members, the Counsel General said "it's a matter for the parliamentary authorities", but that the Senedd "should be careful that you don't make it so that you have somebody who's perfectly capable of serving and you've put a rule in place that means you can't ask them".[255]

332. As regards the conduct of lay members, PCS Wales told us:

> *"Lay Members should be subject to the full rules of a Member of the Senedd with regard to their role on the Committee, including being subject to investigation by the Commissioner for Standards for their conduct in that role. They should also be*

[250] MAB Committee, 11 November 2025, RoP [48] and [49]
[251] MAB Committee, 25 November 2025, RoP [39]
[252] MAB Committee, 2 December 2025, RoP [89]
[253] MAB05 Crynwyr Cymru - Quakers in Wales
[254] MAB Committee, 27 November 2025, RoP [64]
[255] MAB Committee, 2 December 2025, RoP [97] and [99]

> *subject to the full range of sanctions of the Committee – including recall of some form".*[256]

333. One final matter on the Bill's provisions for lay members relates to the drafting of the long title. The long title states that one of the Bill's purposes is to require the existence of a Standards of Conduct Committee of the Senedd that includes members who are not Members of the Senedd. When we asked the Counsel General if she considered that this exaggerates the effect of the Bill, given that the appointment of lay members is at the Senedd's discretion, she replied:

> *"Yes, it does go beyond what's strictly provided for by the Bill. So if the committee doesn't make any amendments that mandate the appointment of lay members, then we'll adjust the long title accordingly."*[257]

Other matters relating to the conduct of Senedd Members

334. We highlight in Chapter 2 that, alongside the Bill, the Standards Committee is continuing its work looking at the Senedd standards regime as a whole. When giving evidence to us, Hannah Blythyn confirmed that the Standards Committee is considering changes to rule 2 of the Code of Conduct.

Senedd Commissioner for Standards

Power of the Senedd Commissioner for Standards to investigate on own initiative

335. Section 19 of the Bill inserts new section 10A into the 2009 Measure.

336. Section 19 provides the Senedd Commissioner for Standards (the Commissioner) with the power to initiate their own investigations (an own initiative investigation). This provision responds to recommendation 6 of the Standards Committee's report on deliberate deception.[258]

337. Currently the Commissioner can only investigate the conduct of a Member of the Senedd if a complaint is made to them. The equivalent bodies for the House of Commons and Northern Ireland Assembly have own initiative powers.

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[256] MAB12 Public and Commercial Services Union Wales
[257] MAB Committee, 2 December 2025, RoP [94]
[258] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, recommendation 6

338. Subsection (1) of new section 10A provides the Commissioner with the power to investigate the conduct of a Member of the Senedd on their own initiative if the Commissioner:

- has reasonable grounds for suspecting that the conduct of the Member has, at a relevant time, failed to comply with a requirement of a relevant provision (see box 8), and
- is satisfied that any other conditions – which may be set out in Standing Orders or rules made by the Senedd – are met.

Box 8

What is a relevant provision?

Section 6 of the Standards Measure defines a 'relevant provision' as:

Any provision in the Standing Orders relating to:

- the registration or declaration of financial or other interests;
- the notification by Members of the Senedd of their membership of societies; or
- the registration or notification of any other information relating to Members of the Senedd or persons connected to them

Any resolution of the Senedd relating to the financial or other interests of Members of the Senedd.

Any Code of Conduct approved by the Senedd relating to standards of conduct of Members of the Senedd.

Any resolution of the Senedd relating to standards of conduct of Members of the Senedd.

339. If the Commissioner undertakes an own initiative investigation, subsection (2) of new section 10A requires them to report to the Senedd on the outcome of the investigation.

340. Subsection (3) of new section 10A requires the Commissioner to conduct an own initiative investigation and a report under subsection (2) in accordance with:

- the provisions of Standing Orders, and

- any rules relating to investigations conducted under this section which have been adopted by the Senedd under Standing Orders.

341. However, subsection (4) of the new section provides for the Commissioner to decide when and how to carry out an own initiative investigation, subject to the requirements in subsections (1) and (3).

342. Subsection (5) allows the Commissioner to discontinue an own initiative investigation without reporting on it to the Senedd if rules have been made in accordance with subsection (3)(b) setting out the circumstances in which that may happen. Subsection (6) requires the Commissioner to notify the Member of the Senedd under investigation giving reasons for discontinuing the investigation.

343. Subsection (7) of new section 10A prohibits any report made by the Commissioner following an own initiative investigation from including any recommendation as to what sanction, if any, should be imposed on the Member under investigation. This is in line with existing requirements for the Commissioner's reports, with sanctions being in the remit of the Standards Committee, based on the report of the Commissioner.

344. Subsection (8) requires the Commissioner to write to the Clerk of the Senedd if, during an own initiative investigation, they become aware of any circumstances which give rise to issues of principle or general practice which are relevant to the Clerk's functions as principal accounting officer under section 138 of the 2006 Act. This reflects an equivalent provision in the Standards Measure relating to the investigation of complaints by the Commissioner.

345. Subsection (9) requires that Standing Orders set out the detail of how own initiative investigations are to operate.

346. In the EM, the Counsel General notes that the Welsh Government engaged with the Commissioner to understand any potential costs of providing these powers to the office in Wales given his previous experience as Commissioner in Northern Ireland.[259]

347. When she gave evidence to us, Hannah Blythyn confirmed that section 19 of the Bill responds to a recommendation of the Standards Committee, adding that "at the moment, the Senedd is actually an outlier in this regard, with other Parliaments already providing their commissioners with such a power".[260]

[259] Explanatory Memorandum, paragraph 185
[260] MAB Committee, 11 November 2025, RoP [56]

348. Douglas Bain, as Commissioner, said he welcomed the section 19 provision and confirmed he had been calling for own initiative powers since his appointment as Commissioner. He told us:

> *"I had a power to initiate investigations whilst I was Northern Ireland's standards commissioner, although I used it only once. I would envisage that it would be used very rarely. In the six years in which I've been working in the Senedd, I can think of only two occasions on which I would have considered using this power, had it been available. Both of these were alleged misconduct that had been widely reported in the media, and I think it sends the wrong signal to the public when they read of that and no action is taken. Now, no action could be taken because, much to my surprise, not a single person made a complaint about either of the incidents, perhaps assuming that someone else was going to do that. But the result was that, as far as the public were concerned, the Senedd condoned what had happened."*[261]

349. Dr David Stirling suggested that it was "entirely appropriate for the commissioner to have that independence as to when to initiate an investigation or where to extend an investigation", and, in the context of the House of Commons, it would not be something the Committee on Standards would "in any way seek to influence".[262]

350. Alberto Costa MP added that the Commissioner's ability to initiate investigations:

> *"... safeguards the commissioner's operational independence to enable the commissioner to respond to events, rather than wait for complaints that may or may not arise. And this undoubtedly strengthens accountability in demonstrating the independence of the system."*[263]

351. Daniel Greenberg told us about his experience of using own initiative powers in Westminster, saying the most important feature of it is that "it must go along with public expectations that reports of impropriety will be investigated in the same rigorous and thoroughly evidence-based way that all other investigations

[261] MAB Committee, 11 November 2025, RoP [131]
[262] MAB Committee, 27 November 2025, RoP [84]
[263] MAB Committee, 27 November 2025, RoP [86]

are carried out by the commissioner".[264] He added that such investigations must never become "either in fact or in perception, an opportunity to go on fishing expeditions and look for trouble".[265]

352. On the benefits of a commissioner having powers to investigate on their own initiative, Daniel Greenberg said:

> *"... the most obvious benefit is that whether or not an investigation is commenced does not depend on simply whether somebody thinks to complain to me or not. (...)*
>
> *... it enhances credibility for the regime as a whole, because the public can see that, in the performance of my operationally independent role, whether or not an investigation is triggered is wholly down to the matters I discussed before—evidence, justification, proportionality—and not on what the public might see as a whim of mine or a whim of the public."*[266]

353. Support for the Commissioner to have own initiative powers also came from Quakers in Wales[267], ERS Cymru[268], Professor Alistair Clark[269], Unlock Democracy[270], and Paul Evans and Sir Paul Silk.[271]

354. In offering its support, Transparency International UK said:

> *"Following the appropriate procedures for dealing with complaints against Members, the Commissioner is well placed to open investigations into breaches of the Code considering their familiarity and experience of process. Allowing the Commissioner to open investigations also enables another layer of monitoring and accountability to the standards of Members."*[272]

355. While supportive of section 19, PCS Wales suggested that, without the external commissioning of expert advice on matters of bullying and sexual

[264] MAB Committee, 25 November 2025, RoP [46]
[265] MAB Committee, 25 November 2025, RoP [47]
[266] MAB Committee, 25 November 2025, RoP [52] and [53]
[267] MAB05 Crynwyr Cymru - Quakers in Wales
[268] MAB07 Electoral Reform Society Cymru
[269] MAB04 Professor Alistair Clark
[270] MAB08 Unlock Democracy
[271] MAB10 Paul Evans and Sir Paul Silk
[272] MAB11 Transparency International UK

harassment, the Bill risks laying too much power at the individual judgement of the Commissioner.[273]

Senedd Commissioner for Standards: eligibility

356. Section 20 of the Bill amends the Standards Measure by adding two categories of persons not eligible to be appointed as the Commissioner:

- a person who is employed by a member of the Senedd on work related to the Member's political functions (or has been so in the two years prior to the appointment is to take effect), and
- a person who is employed by a registered political party (or has been so in the two years prior to the appointment is to take effect).

357. One matter that is not currently addressed is the disqualification of former Members of the Senedd. The Standards Committee wrote to the Counsel General in May 2025 to outline its view that the two-year period of ineligibility of former Members of the Senedd, or Senedd or Welsh Government staff, may "now be too short" and that such a person could be still, or be perceived to be, too close to the Member complained about or to witnesses. As noted above (in paragraph 327), Hannah Blythyn confirmed this position when she gave evidence to us, noting the Standards Committee's view that the disqualification period for who may be appointed as the Commissioner should be longer than two years and in line with what is proposed for the eligibility criteria for ex-Senedd Members to sit as lay members.

Other matters relating to the role of the Senedd Commissioner for Standards

358. In its written submission, ERS Cymru suggested a further reform that could be made to the standards process, which it has been calling for alongside other organisations including WEN Wales, Chwarae Teg and Oxfam. This would see the single role of commissioner replaced with a small panel of commissioners to "reflect a wider set of experiences and expertise".[274]

359. The Senedd's Chief Legal Adviser drew attention to the 30 October letter from the Standards Committee which includes a note indicating "a number of relatively minor but nevertheless useful changes that have been suggested by the operation of the system and that have been spotted by the committee, but also

[273] MAB12 Public and Commercial Services Union Wales
[274] MAB07 Electoral Reform Society Cymru

as a result of observations that have been made by the commissioner under his power to make general observations".[275]

360. When Douglas Bain subsequently provided evidence to us, he listed a number of matters regarding the role of Commissioner which he felt could be improved. These include:

- Amendments to section 16 of the 2009 Measure that would enable the Commissioner to publish the name of the Member and brief details of the complaint, but only after the Commissioner has decided that the complaint is admissible; or the removal of section 16 with provision instead made in Standing Orders.[276]
- Amendments to sections 11 and 12 of the 2009 Measure enabling the service of notices by electronic means, enabling interviews to be conducted remotely, and enabling the Commissioner to require answers to written questions or interrogatories.[277]
- Amendments to section 13 of the 2009 Measure enabling the administration of an oath to a translator.[278]
- Amendments to section 15 of the 2009 Measure creating a new offence of obstructing or interfering with an investigation by the commissioner.[279]

361. We also received evidence from Cymdeithas yr Iaith which stated that it is unacceptable and contrary to standard practice in public bodies and the justice system across Wales that the Commissioner is not currently subject to any statutory duties in relation to the Welsh language. It therefore sees the Bill as an opportunity to rectify the matter for the good of the Welsh language in the new Senedd. Cymdeithas yr Iaith told us it strongly recommends that the Bill should be amended in two ways: by amending section 20 of the Bill to require a Commissioner to be able to communicate in Welsh, and by adding the Commissioner to the bodies that are required to comply with the Welsh Language Standards.[280]

[275] MAB Committee, 11 November 2025, RoP [82] and [83]
[276] MAB Committee, 11 November 2025, RoP [141] to [144]
[277] MAB Committee, 11 November 2025, RoP [146] to [147]
[278] MAB Committee, 11 November 2025, RoP [148]
[279] MAB Committee, 11 November 2025, RoP [149]
[280] MAB17 Cymdeithas yr Iaith. Original evidence submitted in Welsh; a courtesy translation was prepared by the Senedd's Translation Service.

Our view

362. We note that Part 2 of the Bill puts measures in place to enact recommendations made by the Standards Committee and, as highlighted in Chapter 3, we recognise the general support for the introduction of lay members to the Senedd's standards system as well as provisions aiming to bolster the power of the Commissioner for Standards.

363. On the matter of whether or not the establishment of a standards of conduct committee should be mandated in legislation, we have received mixed views.

364. We acknowledge that section 18 of the Bill would make the Senedd's Standards of Conduct Committee the first in the UK to be required in statute. We similarly recognise the comments from the Chair of the current Standards Committee that, while not a recommendation of that Committee, requiring the establishment of such a committee in statute would mean the Senedd would be leading the way when it comes to standards of conduct.

365. However, the evidence from the Llywydd and others reminding us of the principle that a parliament should be free to govern itself is persuasive. The Senedd has chosen to place a requirement for there to be a standards of conduct committee in its Standing Orders. That each Assembly and Senedd to date has established such a committee without legislative prompting illustrates the important status that is already given to standards matters by the legislature in Wales and by its elected members.

366. We note the views of the Counsel General, that requiring the establishment of a standards of conduct committee in statute enables duties to be placed directly on that committee "where that is considered essential to deliver the effective implementation of the new system of recall for Members of the Senedd".

367. However, as noted above, the Counsel General herself also said that the Welsh Government feels strongly that it is for the parliamentary authorities to decide how their standards committee and appeal mechanisms work.

368. In the main, it would appear that the provisions in Part 2 of the Bill relating to the Standards of Conduct Committee are not required to be set out in legislation. We acknowledge that legislative change is required to enable non-Members of the Senedd to sit on a standards of conduct committee, and we welcome the Bill making provision in this regard.

Conclusion 8. The Senedd's procedures are a matter for the Senedd. Any limits placed in legislation on the Senedd's ability to design its own structures in order to discharge its responsibilities must be kept to a minimum.

369. As such, while we welcome the spirit within which section 18 has been prepared by the Welsh Government, we believe it is overly prescriptive and has the potential to cause confusion when read alongside existing Senedd procedures as well as long-standing parliamentary principles about the operation of sub-committees. We know this will not have been the intention of the Government.

Recommendation 8. We agree that the Bill should make provision:

- for a mandatory Standards of Conduct Committee,
- enabling lay members to be appointed to Senedd committees considering matters relating to the standards of conduct of Members of the Senedd;
- that prohibits the following from being appointed lay members:
    - current and former elected members of all parliaments and legislatures of the UK,
    - members of the House of Lords,
    - current and former elected members of community, county and county borough councils in Wales,
    - current and former police and crime commissioners for a police area in Wales, as well as
    - persons holding the disqualifying offices in the second column of the table in Part 2 of Schedule 1A to the 2006 Act (except the judicial offices);

and consequently do not consider that any other provision currently in section 18 is required, and the Bill should be amended accordingly.

Conclusion 9. In line with recommendation 8, based on the evidence we have heard, while we believe that:

- the Senedd should have an appeals process built into its standards system,

- lay members sitting on a standards of conduct committee should have voting rights (except in relation to Bill scrutiny),
- the total number of lay members sitting on a standards of conduct committee should not be more than the number of elected Members of the Senedd on that committee,
- lay members should be appointed for a maximum term of five years, and an appointment should be renewable only once,
- the Senedd, when initially appointing lay members, should consider differing lengths of terms so that not all appointments end at the same point in time,
- the Senedd, when appointing lay members, should consider the Welsh language skills of the potential appointees to ensure a minimal level of such skills amongst the lay membership, and
- the Chair of the Standards of Conduct Committee should not be selected from the same party as the party in government or the largest party represented in the Senedd,

these matters should be determined by the Senedd and provided for in its Standing Orders.

370. Finally on the subject of lay members, we note that the Bill's long title says that one of its purposes is to "require the existence of a Standards of Conduct Committee of the Senedd that includes members who are not Members of the Senedd". However, given that the appointment of lay members will be at the discretion of the Senedd, this does not reflect the actual effect of the Bill. We note that the Counsel General agrees with us and welcome her commitment to bring forward the required amendment to ensure the long title reflects what is strictly provided for in the Bill.

371. On the subject of the provisions in the Bill relating to the Senedd Commissioner for Standards, the Bill's provisions to extend the powers of the Standards Commissioner to initiate investigations without having received a complaint have been broadly supported.

Conclusion 10. We agree with the evidence we have heard that enabling the Standards Commissioner to initiate investigations has the potential to enhance the standards system, and we are therefore content with section 19.

372. As regards section 20 of the Bill and the changes to the eligibility criteria for those who may be appointed Commissioner, we note that these changes reflect matters raised by the Standards Committee in correspondence to the Counsel General and Minister for Delivery in May 2025.

Conclusion 11. We acknowledge that section 20 of the Bill amends the National Assembly for Wales Commissioner for Standards Measure 2009 by adding two categories of persons not eligible to be appointed as the Senedd Commissioner for Standards and we are content, subject to our views set out in recommendation 9.

Recommendation 9. The Bill should be amended so that the following persons are disqualified from being appointed as the Senedd Commissioner for Standards:

- current and former elected members of all parliaments and legislatures of the UK,
- members of the House of Lords,
- current and former elected members of community, county and county borough councils in Wales,
- current and former police and crime commissioners for a police area in Wales, as well as
- other persons holding the disqualifying offices in the second column of the table in Part 2 of Schedule 1A to the 2006 Act (except the judicial offices).

373. We also heard evidence about a number of other matters regarding the role of Standards Commissioner, including amendments which could be made to section 16 of the 2009 Measure that would enable the Commissioner to publish the name of the Senedd Member and brief details of the complaint after the Commissioner has decided that the complaint is admissible, as well as amendments to section 13 of the 2009 Measure enabling the administration of an oath to a translator. We draw these matters to the attention of the Senedd.

374. On the subject of better facilitating the use of the Welsh language in our standards system, we acknowledge the evidence from Cymdeithas yr Iaith and agree that it would be a positive step forward to see the Office of the Commissioner for Standards made subject to the Welsh Language Standards.

Recommendation 10. The Counsel General should amend the *Welsh Language (Wales) Measure 2011* to include the Senedd Commissioner for Standards within the list of public bodies listed in Schedule 6 to the Measure. We note that such an amendment to Schedule 6 could be achieved either by including a provision on the face of the Bill or by bringing forward an order under section 35 of the Measure. Similarly, the Counsel General should also include the Senedd Commissioner for Standards in a relevant set of Welsh Language Standards regulations. We note that this could be achieved either by including provision on the face of the Bill or through regulations made using powers under the Measure. If these changes are not included on the face of the Bill, the appropriate statutory instruments should be brought forward at the earliest opportunity.

6. Part 3 of the Bill: Conduct of Senedd Cymru elections

Part 3 of the Bill contains provisions which amend the power of Welsh Ministers to make provision by order under section 13 of the 2006 Act about the conduct of Senedd elections.

375. The purpose of these provisions is to require the Welsh Ministers to make provision to prohibit the making or publishing of false or misleading statements of fact before or during an election for the purpose of affecting the return of any candidate.

376. Provisions in Part 3 of the Bill come into force at the end of the period of two months beginning on the day on which the Act receives Royal Assent.

Background

377. Section 13 of the 2006 Act provides a broad power for the Welsh Ministers to make provision about Senedd elections. This includes making provision about the conduct of elections, the questioning of an election of a member and the consequences of irregularities, and the return of a member otherwise than at an election.

378. In July 2025, the Welsh Ministers made the Senedd Cymru (Representation of the People) Order 2025 (the Conduct Order), which contains much of the detail about the conduct of Senedd elections, including provision regarding the regulation of the conduct of candidates at elections. This includes regulation of false statements in nomination papers, controls on donations and expenses, rules on the sending of election communications, rules on bribery and treating, undue influence of voters and the prohibition of false statements of fact in relation to the personal character or conduct of a candidate (see box 9). The Conduct Order consolidated and remade previous such conduct orders bilingually for the first time, taking into account changes made by the 2024 Act and the 2024 EEB Act.

Box 9

Article 75 of the Conduct Order

Article 75 of the Conduct Order already makes it an offence for any person to make or publish 'any false statement of fact in relation to the personal character or conduct of any candidate' before or during a Senedd election 'for the purpose of affecting how a vote is given at the election'. A person would not be guilty of an offence if 'they can show that they had reasonable grounds for believing, and did believe, the statement to be true'.

This offence was originally included in section 106 of the *Representation of the People Act 1983* (the 1983 Act).

379. In its report on deliberate deception, a majority of the members of the Standards Committee recommended the following:

> *Recommendation 1: That the Welsh Government should clearly define deliberate deception in legislation related to Senedd elections and that definition is then replicated in any associated Standing Orders and guidance and in the Code of Conduct in relation to Members.*
>
> *Recommendation 3: The Welsh Government considers broadening the scope of [article] 75 of the Senedd Cymru (Representation of the People) Order 2025 to make it an offence for a candidate or any election agent to make or publish a deliberately deceptive statement/information for the purpose of affecting how a vote is given at the election*
>
> *Recommendation 4: That section 13 of the Government of Wales Act 2006 should be amended to stipulate that any Conduct Order may include a provision for deliberate deception.*

380. The Standards Committee also concluded:

> ***Conclusion 2:*** *The Committee believes further work should be undertaken by the Welsh Government, that extends beyond the 2026 election, that builds on the body of evidence the Committee has gathered to explore the complex issues around the regulation of*

> *political deception in further detail, including considering the use of an expert panel to assess the evidence and implications.*

381. In responding, the Counsel General accepted in principle the Standards Committee's recommendation that the Conduct Order should be amended. The Counsel General stated that the Welsh Government did not believe that the Conduct Order could be broadened as recommended by the Standards Committee, but that Welsh Government officials would develop a proposed offence in line with the recommendation. The Counsel General added that any offence would need to be subject to further consultation and it would not therefore be feasible to include in the final Conduct Order for the 2026 election.[281]

Power of the Welsh Ministers to make provision about Senedd elections etc.

382. Section 22(3) of the Bill inserts new subsections (2A) and (2B) into section 13 of the 2006 Act. New subsection (2A) places a duty on the Welsh Ministers to make provision prohibiting the making or publishing of false or misleading statements of fact before or during an election for the purpose of affecting the return of any candidate. New subsection (2B) states that this may include provision:

- about what is or is not a "statement of fact";
- prohibiting false statements only or both false and misleading statements;
- specifying the period in which any prohibition has effect;
- prohibiting false or misleading statements of fact relating to matters specified in the Order or matters generally;
- prohibiting false or misleading statements of fact made or published by persons or categories of person specified in the Order or any person;
- prohibiting the making or publishing of false or misleading statements knowingly or recklessly;
- specifying exemptions or exceptions to any prohibition.

[281] Welsh Government response to the Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, March 2025

383. We note that new subsection (2A) refers to "the making or publishing of false **or** misleading statements", however new subsection (2B) refers to "prohibiting false statements only or both false **and** misleading statements". (Our emphasis added.) For the purpose of this report, we will refer to the terminology used in subsection (2A).

384. Section 22(4) of the Bill inserts new subsection (4A) into section 13 of the 2006 Act to clarify that an order under this section may confer a power or duty on any person (including a power or duty to make subordinate legislation) and create criminal offences.

385. Before exercising the power in section 13 of the 2006 Act, as amended by section 22, section 7 of the 2000 Act requires the Welsh Ministers to consult the Electoral Commission.

386. In the Statement of Policy Intent accompanying the Bill the Counsel General states that "the creation of a potential offence in respect of deliberate deception by candidates is a novel proposition".[282] The Counsel General adds that the Welsh Government has not had time to undertake comprehensive engagement with the police, the Crown Prosecution Service or the Ministry of Justice and therefore it has not been possible in its view to undertake "the necessary engagement in the development of an offence at this time".[283]

Introduction of a new criminal offence via secondary legislation

387. The Bill would provide Welsh Ministers with a power to introduce a new criminal offence via secondary legislation.

388. In its Position Statement, the Criminal Bar Association (CBA) stated:

> *"... the creation of a criminal offence prohibiting the making or publishing of false/misleading statements of fact, before or during an election for the purpose of affecting the return of any candidate, is properly a matter for primary not secondary legislation."*[284]

[282] Statement of Policy Intent, page 6
[283] Statement of Policy Intent, page 6
[284] MAB18 Jonathan Elystan Rees KC and Alexander Greenwood

389. Jonathan Elystan Rees KC built on this in oral evidence saying that, given the "inherently serious matter" of allegations of deliberately interfering with an outcome of an election by use of false statements or representations, that it:

> *"…. ought to be dealt with by way of primary legislation, with the accompanying scrutiny that is due to primary legislation, rather than being a matter for Welsh Ministers to create by way of regulation. Obviously, I understand that there is a degree of scrutiny that is required in the making of secondary legislation, but to mark the importance of such a serious alleged offence, it ought to be dealt with, we would suggest, by an Act of the Senedd."*[285]

390. Alexander Greenwood expanded further, explaining that there is a need for "significant consultation as to the implications of what is actually being proposed".[286]

391. In his written evidence, the Rt Hon Lord Thomas of Cwmgiedd stated:

> *"In Westminster there would be a very strong view that this should be done in primary legislation."*

392. With regards to the desirability of creating such an offence, Lord Thomas went on to say:

> *"It is not easy to debate the desirability of creating an offence going well beyond current UK electoral law without the detailed provisions of the offence being clear. In particular, it is important to be able to see how it is thought that in contradistinction to statements about personal character statements about facts of a more general nature are to be brought within the scope of the criminal law."*[287]

393. Both Professor Horder and Transparency International UK identify unintended risks to free speech of any prohibition that they say should be considered. Transparency International UK expresses concern that complaints

[285] MAB Committee, 27 November 2025, RoP [130]
[286] MAB Committee, 27 November 2025, RoP [151]
[287] MAB19 Lord Thomas of Cwmgiedd

could "risk malicious use akin to Strategic Litigation against Public Participation (SLAPPs)".[288] Professor Horder warned:

> *"... there is a significant risk that an over-broad false statement law will have an unduly chilling effect on the speech of conscientious people and media outlets fearful of transgressing the law, whilst failing to do much to deter those who see in the use of such laws against them an opportunity to gain public prominence and possibly political martyrdom."*[289]

394. The Counsel General was questioned further on why she intended to bring forward the offence in secondary legislation without having conducted any public consultation. She replied: "Well, because we were asked to is the answer to the question". She went on to say that conduct orders are "complex pieces of legislation", and that:

> *"... although in theory they're secondary legislation, they're as complex as any piece of primary legislation that we do. So, it would be appropriate for it to be included in the conduct Order, it seems to me."*[290]

Scope of the provisions in section 22

395. In addition to concerns about the use of secondary legislation to introduce a new criminal offence on the making or publishing of false or misleading statements during an election, we also heard evidence about the breadth of powers that would be provided to the Welsh Ministers in section 22 of the Bill and concerns about the lack of detail about how those powers could be exercised on its face.

396. The Bill does not specify details about the content of any order that would be made under section 13 of the 2006 Act to prohibit the making of false or misleading statements of fact. It does not therefore contain on the face of the Bill information such as:

- definitions of key terms such as what is or isn't a statement of fact nor the definition of making or publishing;

[288] MAB11 Transparency International UK
[289] MAB01 Professor Jeremy Horder
[290] MAB Committee, 2 December 2025, RoP [112]

- what time period any prohibition would cover and the time period for when a complaint could be made;
- the timescale in which the Welsh Ministers must introduce an Order;
- to which person, or categories of persons, the offence will apply (for example, candidates and their agents, registered campaigner or to all people);
- the matters that would be covered, if they would be limited to only specific matters or matters generally;
- whether those making false or false and misleading statements would need to do so 'knowingly' or 'recklessly'.

397. An order would be subject to the Senedd approval procedure. Any future Welsh Minister using the powers provided in the Bill would be required to consult the Electoral Commission but would not be required to consult anyone else. The Counsel General has outlined her view that consultation should be undertaken but acknowledges that, beyond the Electoral Commission, this would not be a statutory requirement. [291]

398. Transparency International UK expressed the same concern regarding the lack of detail on the face of the Bill about the scope and application of the new criminal offence. It calls for section 13 of the 2006 Act to be amended to stipulate that an order made to prohibit the making or publishing of false or misleading statements is subject to an enhanced period of consultation and scrutiny, which is "tested with the public".[292]

399. The Electoral Commission cautioned against the power in section 22 of the Bill, stating in its written evidence:

> *"Creating a new prohibition and offences relating to the making or publishing of false statements of fact would be a significant new policy for Welsh elections (and for elections elsewhere in the UK). Given the sensitive and complex policy considerations that are raised by restrictions on political speech … it may be necessary to consider carefully the balance*

[291] Plenary, 4 November 2025, RoP [155]
[292] MAB11 Transparency International UK

> *between what is specified in primary legislation and what can more appropriately be specified in regulations."*[293]

400. In his evidence, Lord Thomas suggests that given the lack of detail on the face of the Bill it may be prudent for the Welsh Government to publish a draft order prior to the Bill being agreed by the Senedd that would set out further detail about the scope of an offence to be included in the Order:

> *"[It] seems to me therefore it would be prudent to draft in detail the elements of the offence to be set out in the subordinate legislation now, so that a view can be taken of the desirability of proceeding further with this part of the legislation. I assume that this must have been done as part of the process of drafting the detailed power contained in the Bill."*[294]

401. Professor Jeremy Horder expressed concern about the unintended consequences of including a duty to make an order about a specific element of conduct in an election within a section that is otherwise permissive. He suggested that the requirement on the Welsh Ministers in the Bill to prohibit false or false and misleading statements "runs counter to the permissive character of Section 13 of GoWA which generally empowers Ministers to take action on the conduct of elections" but doesn't require them to take specific steps.

402. In "an ideal world", Professor Horder says that the Bill would empower the Welsh Ministers to "take such steps" as are "reasonable and proportionate to discourage and prevent" the making or publishing of false or misleading statements. [295]

403. Transparency International UK specifically draws attention to the "use of the word 'must' in new subsection (2A)"[296], which it believes risks binding a future government and parliament.

404. However, in the EM accompanying the Bill, the Counsel General states:

> *"A duty, rather than a discretionary power, is considered appropriate in this circumstance due to the Bill's passage at*

[293] MAB07 Electoral Reform Society Cymru
[294] MAB19 Lord Thomas of Cwmgiedd
[295] MAB01 Professor Jeremy Horder
[296] MAB11 Transparency International UK

> *the end of the Senedd term, with the aim of ensuring that such provisions are included in a future Conduct Order."*[297]

Definitions

405. Key terms included in section 22 of the Bill are not defined on its face.

406. The Counsel General states that it has not been possible to carry out consultation due to the Welsh Government's commitment to introduce the Bill before 2026. The Counsel General notes that the Standards Committee carried out consultation as part of the inquiry on deliberate deception it was asked to undertake by the Welsh Government.[298]

407. However, in its report on deliberate deception, the Standards Committee set out its view on the importance of including clear definitions in any legislation. It said:

> *"The general consensus amongst those who gave evidence to this Committee is that a clear definition is essential as a yardstick by which to measure whether the statement is a matter of fact or opinion, and whether it was said deliberately or recklessly without regard to whether it was true or not."*[299]

408. Chief Constable Amanda Blakeman, in her evidence to the Standards Committee, called for "total clarity to be written into the legislation".[300]

409. Recommendation 1 of the Standards Committee's report on deliberate deception called on the Welsh Government to clearly define deliberate deception in legislation relating to Senedd elections.[301] It said this definition should be replicated in any guidance and Standing Orders on members' conduct to ensure consistency across the treatment of candidates and members.

410. In its evidence to us, Transparency International UK expressed concern that:

> *"... Part 3 would place power with Welsh Ministers to introduce a wide range of possible provisions under secondary legislation*

[297] Explanatory Memorandum, paragraph 3
[298] Explanatory Memorandum, paragraph 133
[299] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, paragraph 187
[300] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, paragraph 43
[301] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, recommendation 1

> *without full understanding of the implications of these provisions.*
>
> *This does not provide any clarity as to what might be an offence under this section, what the sanctions might be, or how accountability will be provided. If this were to go ahead, the detail would be of utmost importance in order to achieve the intended objective of improving public trust in politicians. We would suggest this detail should not be something that could be decided in secondary legislation and should instead be open to a wide consultation and tested with the public."*[302]

411. Sir Paul Silk and Paul Evans in their written evidence suggested that clarity is needed from the Welsh Ministers about how the power to determine what is or is not a statement of fact will be used.[303]

412. Elkan Abrahamson suggested that, given further consultation is to take place, it may not be necessary to define a 'statement of fact'. He also stated that the Public Office (Accountability) Bill[304] does not define the terms false or misleading. However, he anticipates a body of commentary and ultimately case law will develop around that legislation (if and when enacted) and this might help the Welsh Ministers in their deliberations in future.[305]

413. Professor Horder makes a related point, arguing that, 'statement of fact' is an ordinary English phrase and so does not need to be defined in law. He told us:

> *"However, it would be helpful, being mindful of obligations to respect free speech, to make it clear that a statement of opinion is not to be regarded as a statement of fact, even when – as is commonly the case – the opinion relies on underlying factual assumptions."*[306]

414. In its written submission, the Electoral Commission says that, although there is limited detail in the Bill and draft explanatory notes about how a prohibition would be defined or enforced, there are general lessons that have been identified

[302] MAB11 Transparency International UK
[303] MAB10 Paul Evans and Sir Paul Silk
[304] Public Office (Accountability) Bill
[305] MAB16 Elkan Abrahamson
[306] MAB01 Professor Jeremy Horder

in research about similar prohibitions in other comparable democracies. It added that one of the general lessons identified in research is that:

> *"To ensure legitimate debate is protected and not unduly constrained, legislation should make clear the distinction between acceptable and unacceptable statements, so that enforcement action is focused on the most significant false statements."*[307]

415. Professor Horder called for clarity on the definitions of 'making' and 'publishing' statements. He queried whether they would include forwarding or copying and pasting a statement, and messages in private chat or online groups.[308]

416. The Counsel General, in evidence to the LJC Committee, expressed her view that it is not always clear what is a statement of opinion or a statement of fact, and said that the issues covered by the Bill are "complicated".[309]

417. We asked whether, in the absence of specific examples in the Bill, the Senedd would be creating legislation that may not be able to be used. In response, the Counsel General stated:

> *"I think it is about the principle of it. So, the principle is that a politician seeking election shouldn't deliberately deceive the public. That's the principle, isn't it? And, okay, I can't come up with one right now, but that doesn't mean that they don't exist. I think the principle is an important principle that we would all agree with, wouldn't we? Nobody's going to disagree that a politician shouldn't be allowed to deliberately deceive the electorate. I would be very surprised to find somebody who disagrees with that statement. So, I think, Sam, it is a point of principle rather than a specific that we're establishing, and it's why I think the piece of work that actually defines the offence itself should be undertaken by the next Senedd."*[310]

[307] MAB15 Electoral Commission
[308] MAB01 Professor Jeremy Horder
[309] LJC Committee, 17 November 2025, RoP [157]
[310] MAB Committee, 2 December 2025, RoP [152]

The inclusion of misleading statements

418. In relation to the potential inclusion of misleading statements of fact, Professor Horder expressed concern about the difficultly in determining whether or not a statement is misleading:

> *"Any extension in the Bill that criminalises misleading – as well as false - statements about candidates themselves (or their politics) will enter into new and difficult territory, not least because whether a statement is adjudged to be 'misleading' necessarily involves a value judgement and not just empirical evidence, in relation to what may be highly contested issues."*[311]

419. Professor Horder argues that criminalisation should be focused on "knowing (in the case of misleading statements) or knowing/reckless (in the case of false statements) statements intended to affect elections or referendum outcomes".[312]

420. Quakers in Wales also emphasised the importance of ensuring that the elements of false or misleading statements being made 'recklessly or knowingly' is included in any prohibition.[313]

421. Elkan Abrahamson, however, said that misleading statements should be included as they have the same impact as false statements, but they should have had to be made intentionally or recklessly. He goes on to say:

> *"It is important that candidates appreciate they cannot avoid liability by simply reposting social media entries, they must take responsibility for checking the veracity of any statements before circulating them."*[314]

422. On this point, the Counsel General told us about the importance of including 'deliberate' alongside any definition of an offence introduced under the Conduct Order. Although acknowledging "It's very difficult to come up with examples of it", the Counsel General suggested that sharing or re-posting information, people should be mindful that "what they are repeating is true and isn't based on a falsehood".[315]

[311] MAB01 Professor Jeremy Horder
[312] MAB01 Professor Jeremy Horder
[313] MAB05 Crynwyr Cymru - Quakers in Wales
[314] MAB16 Elkan Abrahamson
[315] MAB Committee, 2 December 2025, RoP [149] and [150]

423. In his evidence, Elkan Abrahamson also pointed out a contradiction about what could be provided for in an order made under section 13 of the 2006 Act as amended by section 22 of the Bill. New subsection (2A) says the Welsh Ministers "must" make an order prohibiting the making or publishing of false or misleading statements but new (2B)(b) says a provision required by (2A) "may" include prohibiting of false statements or both false and misleading statements.[316]

Consultation on an Order

424. As noted above there is no requirement for the Welsh Ministers to consult on an order made using the powers in this Bill. Evidence to the Committee has expressed concern about this, and so we asked the Counsel General about this.

425. The Counsel General told us that, given the technical nature of the Conduct Order, consultation on its content is usually done with the authorities that run elections. When asked whether it was her intention to conduct a public consultation, the Counsel General said:

> *"... it's an interesting combination of a technical piece of work that does have quite an effect on the way the public exercises its democratic right. So, you could take the view that public consultation is appropriate. I don't think it's a particularly accessible piece of work, so you'd have to do some work around it if you were going to do some consultation."*

426. She elaborated further on this point, saying:

> *"I have absolutely no objection at all to doing a public consultation on it as well. I think you would probably have to explain in a little more detail what you were consulting on and why. But that's not hard to do."*[317]

Enforceability

427. We asked the Criminal Bar Association about the potential difficulties of enforceability of a prohibition of false or misleading statements in line with what is currently in the Bill. Alexander Greenwood said:

> *"The evidential considerations are difficult, the investigation phase. But they should be, should they not, because these are*

[316] MAB16 Elkan Abrahamson
[317] MAB Committee, 2 December 2025, RoP [164]

> *serious allegations, and in order to make them you need concrete evidence."*

428. He expanded further, stating:

> *"... the period of time during which investigations could take place may be lengthy, but that doesn't mean to say that the state should not hold these matters in extremely high regard and demonstrate that through, perhaps, the use of the criminal law."*[318]

429. In its written evidence, the Electoral Commission drew our attention to key lessons identified by broadly comparable democracies which notes that "complaints should be considered and resolved quickly with effective remedies that can be applied and enforced in practice".[319]

430. In oral evidence, Tom Hawthorn from the Electoral Commission expanded further on this and emphasised the need for "real clarity" about the kinds of statements that will be covered, to ensure there is distinction between acceptable and unacceptable statements. He called for:

> *"... a mechanism that would allow complaints to be resolved quickly, so that voters and campaigners have certainty and confidence while the election is taking place and before the conclusion of the election, and also to make sure that whichever body is responsible for enforcing that prohibition has the confidence and impartiality to be able to deliver that process. So, I think it's about making sure that the provisions will support confidence and will be workable in practice."*[320]

431. On the issue of resolving issues in a timely manner, Professor Horder remarked:

> *"... it is typically much easier to deal swiftly and immediately with a false claim by countering it publicly online and in the media, than it is to take action though the police/courts. That*

[318] MAB Committee, 27 November 2025, RoP [190] and [191]
[319] MAB15 Electoral Commission
[320] MAB Committee, 18 November 2025, RoP [113]

> *matters, in what is commonly a fast-moving information environment at election (or referendum) time."*[321]

432. Transparency International UK also drew our attention to the potential difficulties of enforcing such a prohibition, suggesting that it "would not succeed in improving trust in politicians". It went on to say:

> *"Introducing an offence that would be hard to prove and difficult to prosecute risks simply adding another mechanism where the public see no accountability for the perceived or alleged offence."*[322]

Timescale for an Order to be introduced

433. As highlighted above, section 13 of the 2006 Act provides a broad power for the Welsh Ministers to make provision about Senedd elections via an order. As drafted, this power is permissive and enables the Welsh Ministers to make provisions about the conduct of an election on a number of issues but it does not require them to do so. There is also no requirement for the Welsh Ministers to make an order about the conduct of elections before each election.

434. We note above that Part 3 of the Bill amends section 13 of the 2006 Act to require the Welsh Ministers to make an order prohibiting the making or publishing of false or false and misleading statement of fact before or during an election; however, no timescale is placed on this duty.

435. In her evidence to the LJC Committee the Counsel General said that the duty to introduce an Order would have to be satisfied by the next election. However, that is not the case in the Bill as currently drafted. In a follow-up letter to the LJC Committee, the Counsel General clarified this point, stating:

> *"Once new sub-section 13(2A) is enacted and has come into force, which will be after the 2026 election, the Welsh Ministers will be subject to the duty. Although there is no deadline for compliance with the duty, I consider it will be incumbent upon the Welsh Ministers to have made provision to satisfy the duty before the next election when any provision made under section 13(2A) would have effect.*

[321] MAB01 Professor Jeremy Horder
[322] MAB11 Transparency International UK

> *Whilst there is no specific legislative requirement to update the Conduct Order prior to each election, the Conduct Order has been revised or remade in advance of every scheduled Senedd election held to date. I believe it is inconceivable that this would not continue to be the case given the critical role the Order plays in enabling an election to be run".*[323]

436. In written evidence Elkan Abrahamson said:

> *"The duty at the new subsection 2A ('The Welsh Ministers must…)is open -ended, I.e. no time scale. I would suggest that a time scale be added so that it reads 'The Welsh Minister must within (say) 12 months of this Act being passed etc.' Without a time limit there is no accountability and no opportunity to challenge delay."*[324]

Application of the prohibition

437. As currently drafted, by virtue of section 22, any order introduced to prohibit the making or publishing of false or misleading statements of fact would only apply before or during a Senedd election.

438. However, Professor Horder questioned why, if introduced, a prohibition would not extend to referendum campaigns.[325]

439. Similarly, the prohibition would not currently apply to the conduct of a local government election.

440. Section 13 of the 2006 Act relates to the conduct of Senedd elections. As such it would not be possible to expand the scope of a criminal offence to local government elections or referendums using the power given to the Welsh Ministers by section 13.

Justice impact assessment and human rights assessment

441. The equality and justice impact assessments published alongside the Bill do not consider the human rights implications or impact on the justice system of

[323] Letter from the Counsel General to the Legislation, Justice and Constitution Committee, 4 December 2025
[324] MAB16 Elkan Abrahamson
[325] MAB01 Professor Jeremy Horder

Part 3 of the Bill. The Welsh Government says this would be considered when any order prohibiting false or misleading statements of fact is made.

442. In written evidence, both Professor Horder[326] and Elkan Abrahamson[327] identified ways in which the provisions in the Bill could interact. In relation to human rights, that included if the prohibition on false or misleading statements does not require proof of knowledge or recklessness, if the penalties are disproportionate, or if the period in which the prohibition applies is unclear.

443. The need to both balance the rights of individuals against any benefits to be gained by criminalising deliberate deception and the potential impact on the resources and capacity of the justice system were issues that were explored further by the Standards Committee in its report on deliberate deception.[328]

444. In their evidence, Alex Greenwood and Jonthan Elystan Rees KC (representing the Criminal Bar Association) outlined their view that any offence should be subject to a full justice impact assessment.

445. When asked to expand on their views, Jonathan Elystan Rees KC said:

> *"... because this is an interesting and also serious proposal for a new provision of criminal law in Wales, that it ought to be dealt with by way of primary legislation, it ought to have proper consultation and scrutiny, and it ought to have a proper justice impact assessment.*
>
> *The proposal at the moment of simply creating a duty upon the Welsh Ministers to act on the Bill, requiring a prohibition to be created, means that, in fact, at this stage at least, there is no justice impact assessment on the consequence of imposing that duty. And there will be a consequence, there will be an effect, because you're not proposing at the moment simply to draw to the Welsh Ministers' attention that they have the power to do this. The Bill actually says, 'The Minister must do this', and we understand from the justice impact assessment for the rest of the Bill that it's very clear that the Welsh Government at least understands that that provision in the Bill requires them to create a prohibition via a new criminal offence. It actually says*

[326] MAB01 Professor Jeremy Horder
[327] MAB16 Elkan Abrahamson
[328] Standards of Conduct Committee, Report on Individual Member Accountability: Deliberate deception, February 2025

> *that. So, there is a justice impact that will flow from the present proposal, but no such impact assessment has been done. I understand the reason why; it's because it's very difficult to carry out an impact assessment on a criminal offence—a serious criminal offence—that we don't actually know the terms of."*[329]

Our view

446. A robust democracy depends on members of the public making informed decisions about the people it chooses to represent them. The advancement of technologies such as social media and artificial intelligence has made it difficult to distinguish truth from falsehood, and there is no denying that it has affected political discourse in the last few years.

447. As a Committee, we are in agreement that safeguarding against the deliberate spread of misinformation is important to the proper functioning of elections and our democratic system.

448. Those who put themselves forward for election do not do so lightly. It is only right therefore that they have clarity about the boundaries within which they must conduct themselves, and the serious consequences of straying outside of what is acceptable and into what is criminal behaviour.

449. We would echo the sentiments of the Counsel General that it would be difficult to identify anyone who disagrees with the principle of holding to account those who are found to have deliberately misled in order to affect the outcome of an election. Indeed the conduct of candidates at elections is already highly regulated.

450. However, the introduction of any new criminal offence, especially one that relates to freedom of speech and the proper functioning of our democratic system, is an extremely serious matter. There is a long-held constitutional principle that new criminal offences should only be introduced via primary legislation where they can be subject to full consultation, scrutiny, assessment and amendment.

451. While it may be correct, as the Welsh Government has suggested, that the current Conduct Order for Senedd elections contains criminal offences, these offences originated in primary legislation. For example, the current offence on the

[329] MAB Committee, 27 November 2025, RoP [146] to [147]

making of false statements on a candidate's personal character was first introduced via the 1983 Act.

Conclusion 12. The arguments put forward to us in evidence overwhelmingly suggest that such a significant change as provided for in section 22 should be subject to the scrutiny and transparency of the primary legislation process, and not left to the Welsh Ministers to bring forward via secondary legislation where the legislation could not be amended.

452. The power given to the Welsh Ministers to prohibit the making of false or misleading statements in the Bill is extremely broad. It does not define the scope of a possible prohibition, its content, to whom it would apply, or what defences would be made available to individuals. For example, there is no definition of what constitutes a "statement of fact," nor clarity on what is meant by "making or publishing". The Bill is also silent on the timeframes for prohibition, the period for complaints, the scope of persons covered, and whether the offence requires knowledge or recklessness.

Conclusion 13. We believe that a power to limit free speech before or during an election with so few parameters as to the scope of any prohibition would be extraordinary as drafted even if contained within primary legislation.

453. Without clear definitions, evidence also pointed to the potential misuse of the new offence through malicious complaints with the aim of silencing legitimate debate. We heard how this may have a "chilling effect" on free speech and may result in deterring individuals from standing in elections for fear of prosecution. Conversely, it would fail to deter those who might seek to gain notoriety and "political martyrdom" from such cases.

454. The Welsh Government implies that further work on these key details could be taken forward in the next Senedd before an Order is introduced but there is no requirement for this to be done. Furthermore, the Counsel General implied that, whilst this offence could apply to any member of the public, it was usual to only consult technical electoral experts on matters contained in a conduct order.

455. During the course of our scrutiny of the Bill, it became quickly apparent that introducing a criminal offence prohibiting the making or publishing of false or misleading statements of fact during an election, whether in the context of this Bill or otherwise, would be a highly complex matter. Not least as there is a fine line to be walked between respecting protected rights to freedom of expression and

free and fair elections, and the safeguarding of democratic integrity by deterring behaviours of dishonesty.

456. We note that in its report on deliberate deception, the Standards Committee called for clear definitions to be developed by the Welsh Government and for an expert panel to be established to discuss issues related to deliberate deception fully, given the limited time the Committee had to conclude its work.

457. The Welsh Government has stated that it did not have time in the drafting of the Bill to consult on these critical definitional issues nor to engage with the Crown Prosecution Service, judiciary or police.

458. The limited detail on the scope of this new offence in the Bill means that the Welsh Government has not been able to provide an assessment of its implications for human rights nor produce a justice impact assessment for this part of the Bill.

459. Concern about the lack of detail on the face of this Bill about the prohibition, and therefore the inability to assess its potential consequences and implications, is clear in the evidence we received.

460. We were also presented with evidence which highlighted the difficulties with investigating and prosecuting such offences. The need for concrete evidence to prove that a statement is not only false or misleading but also made with the intent to affect the outcome of an election, is one of our primary concerns. To substantiate such serious allegations, we heard from legal experts that the demand for proof must be robust and the process that follows could be lengthy and complex. Without clear, well-defined mechanisms in place to investigate and subsequently provide timely resolutions, there is a risk of further undermining public confidence in the system. We are concerned that the unintended consequences that could arise as a result of a lack of detailed consideration of these proposals, would have the opposite effect to the aims of this Bill, which at its heart is attempting to build trust into our political system.

461. When we questioned why the Counsel General was seeking to introduce this provision without having conducted any public consultation, she replied “because we were asked”. However, as noted in Chapter 3, the Standards Committee agreed to broaden its inquiry into Individual Member Accountability at the request of the then Counsel General, as a result of an agreement sought by the Welsh Government during Stage 3 of the 2024 EEB Act.

462. While we accept the Bill was drafted after the Standards Committee had completed its inquiry in order to incorporate its recommendations, the Welsh Government first made a commitment to legislate in this area 18 months ago.

Conclusion 14. We are concerned that the Welsh Government is asking the Senedd to give its endorsement to the creation of a new serious criminal offence which is undefined and could have "life-defining" repercussions, limiting speech during an election without careful consideration. The approach taken is not appropriate from a practical or a constitutional point of view.

Conclusion 15. We are disappointed that the Welsh Government has not used the interim period between the passing of the 2024 EEB Act and the introduction of this Bill to conduct the work required to bring forward a new criminal offence. By this point, we would have expected far more details on the face of the Bill that could be meaningfully examined, as well as a degree of consultation and detailed impact assessments. Had this been made available at introduction, we believe that it could have been practicable for the Committee to properly scrutinise, and make recommendations to strengthen, the Bill.

Conclusion 16. We recognise, and agree, with the intentions behind section 22 of the Bill, to ensure that elections are safeguarded against bad actors. However, we believe such offences should be in primary legislation and without sufficient detail on the face of the Bill, we cannot confidently give our endorsement to section 22 as currently drafted.

Conclusion 17. A majority of the Committee believes that, unless the Welsh Government is able to set the proposed offence out fully on the face of the Bill and provide details of the work that has gone in to preparing the offence, section 22 should be removed from the Bill.

Conclusion 18. We believe that Parts 1 and 2 of the Bill have merit and would enhance the accountability of Members of the Senedd. However, as we highlight in Chapter 3, we are concerned that, unless section 22 is redrafted in line with what we have set out in recommendation 11 (or section 22 is removed from the Bill), it risks the Bill in its entirety falling at the final hurdle.

Recommendation 11. The Welsh Government should:

- draft detailed provisions for the proposed offence, to be included on the face of the Bill, which prohibit the making or publishing of false or misleading statements of fact before or during an election for the purpose of affecting the return of any candidate;

- consult on those provisions, including comprehensive engagement with the police, the Crown Prosecution Service and the Ministry of Justice, and publish details of those consultation responses;
- conduct and publish justice and human rights impact assessments; and subsequently
- table the relevant amendments at Stage 2 that would place the full details of the offence on the face of the Bill.

If these changes cannot be done in time for Stage 2 proceedings, or the amendments tabled at Stage 2 are deemed insufficient and are therefore not supported, the majority of the Committee recommend that section 22 of the Bill should be removed to allow for further work on the issue to be taken forward in future primary legislation. Sioned Williams believes that section 22 can be further amended to further define the scope of the power.

463. Sam Rowlands MS is of the view that section 22 of the Bill is not fit for purpose and believes it should be removed from the Bill, particularly given its continued inclusion in the Bill may not receive support from a majority of Senedd Members and there is therefore a risk to Parts 1 and 2 of the Bill proceeding into law.

Annex 1: List of oral evidence sessions

The following witnesses provided oral evidence to the committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the Committee's website.

Date	Name and Organisation
11 November 2025	**Hannah Blythyn MS,** Chair of Standards of Conduct Committee, Senedd Cymru **Meriel Singleton,** Clerk, Standards of Conduct Committee, Senedd Commission **Huw Williams,** Chief Legal Adviser, Senedd Commission **Douglas Bain,** Senedd Commissioner for Standards **Jonathan Thomas,** Office of the Senedd Commissioner for Standards
18 November 2025	**Tom Hawthorn,** Head of Policy, The Electoral Commission **Clare Sim,** Head of Member Support, Association of Electoral Administrators **Eifion Evans,** Deputy Chair, Electoral Management Board **Mark Pascoe,** Secretary, Electoral Management Board
25 November 2025	**Daniel Greenberg CB,** Parliamentary Commissioner for Standards
27 November 2025	**Alberto Costa MP,** Chair of the House of Commons Committee on Standards **Dr David Stirling,** House of Commons Committee on Standards Lay Member

Date	Name and Organisation
	Alexander Greenwood, Criminal Bar Association **Jonathan Elystan Rees KC,** Criminal Bar Association
2 December 2025	**Julie James MS**, Counsel General and Minister for Delivery, Welsh Government **Will Whiteley,** Deputy Director, Senedd Reform, Welsh Government **Ryan Price,** Head of Senedd Policy, Welsh Government **Anna Hind,** Senior Lawyer, Legal Services, Welsh Government

Annex 2: List of written evidence

The following people and organisations provided written evidence to the Committee. All Consultation responses and additional written information can be viewed on the Committee's website.

Reference	Organisation
MAB 01	Professor Jeremy Horder
MAB 02	Dr Ben Stanford
MAB 03	Cathy Mason MLA, Chairperson of the Committee on Standards and Privileges, Northern Ireland Assembly
MAB 04	Professor Alistair Clark
MAB 05	Quakers in Wales
MAB 06	One Voice Wales
MAB 07	The Electoral Reform Society Cymru
MAB 08	Unlock Democracy
MAB 09	Chief Executive and Clerk of the Senedd, Senedd Cymru
MAB 10	Paul Evans and Sir Paul Silk
MAB 11	Transparency International (UK)
MAB 12	Public and Commercial Services Union Wales
MAB 13	Keith Bush KC
MAB 14	Rt. Hon. Elin Jones, Llywydd, Welsh Parliament
MAB 15	The Electoral Commission
MAB 16	Elkan Abrahamson
MAB 17	Cymdeithas yr Iaith
MAB 18	Jonathan Elystan Rees KC and Alexander Greenwood
MAB 19	Lord Thomas of Cwmgiedd

Additional Information

Title	Date
Letter from the Electoral Management Board for Wales	4 December 2025