

Financial implications of the Senedd and Elections (Wales) Bill

June 2019



The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

An electronic copy of this document can be found on the National Assembly website: **www.assembly.wales/SeneddFinance**

Copies of this document can also be obtained in accessible formats including Braille, large print, audio or hard copy from:

Finance Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Tel: **0300 200 6565**

Email: **SeneddFinance@assembly.wales**

Twitter: **[@SeneddFinance](https://twitter.com/SeneddFinance)**

© National Assembly for Wales Commission Copyright 2019

The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the National Assembly for Wales Commission and the title of the document specified.

Financial implications of the Senedd and Elections (Wales) Bill

June 2019



About the Committee

The Committee was established on 22 June 2016 to carry out the functions of the responsible committee set out in [Standing Orders](#) 18.10, 18.11, 19 and 20 of the National Assembly for Wales.

Under Standing Orders 19 and 20, the committee's responsibilities include considering any report or document laid before the Assembly concerning the use of resources, or expenditure from the Welsh Consolidated Fund. This includes undertaking [budget scrutiny of the bodies directly funded from the Welsh Consolidated Fund](#).

Under Standing Orders 18.10 and 18.11, the committee's responsibilities include [oversight of the governance of the Wales Audit Office](#), as set out in the [Public Audit \(Wales\) Act 2013](#).

The committee also considers any proposals for, and the progress of the [devolution of fiscal powers to Wales](#) as part of its responsibilities.

The committee may also [scrutinise legislation introduced to the Assembly](#).

Committee Chair:



Llyr Gruffydd AM
Plaid Cymru
Mid and West Wales

Current Committee membership:



Rhun ap Iorwerth AM
Plaid Cymru
Ynys Môn



Alun Davies AM
Welsh Labour
Blaenau Gwent



Mike Hedges AM
Welsh Labour
Swansea East



Rhianon Passmore AM
Welsh Labour
Islwyn



Nick Ramsay AM
Welsh Conservatives
Monmouth



Mark Reckless AM*
Brexit Party
South Wales East

The following Member was also a member of the Committee during this inquiry.



Neil Hamilton AM
UKIP Wales
Mid and West Wales

*Mark Reckless was not a Member of the Committee during consideration of evidence and agreement of the report

Contents

Conclusions and Recommendations	5
1. Introduction.....	9
Background to the Bill.....	10
Regulatory Impact Assessment.....	11
2. Part 2: Name of the National Assembly for Wales	12
Background.....	12
Evidence from witnesses.....	12
Committee view	14
3. Part 3: Elections	16
Background.....	16
Registering 16 and 17 year olds.....	16
Committee view	20
Electoral Management Systems (EMS) software.....	22
Committee view	23
Awareness raising.....	24
Evidence from witnesses.....	24
Committee view	27
4. Funding and oversight of the Electoral Commission.....	29
Background.....	29
Evidence from witnesses.....	30
Committee view	33
5. Implementation of the Law Commission’s Recommendations ..	36
Background.....	36
Evidence from witnesses.....	36
Committee view	37
6. Post-implementation review.....	39
Background.....	39

Evidence from witnesses 39

Committee view 40

Annex A: List of oral evidence session 41

Conclusions and Recommendations

Conclusion 1. The Committee believes the costs in relation to changing the name of the Assembly are generally proportionate and transparent and the most cost effective option is being pursued. Page 14

Conclusion 2. The Committee believes that consideration needs to be given to ensuring awareness raising is cost effective. For example schools, youth groups and other organisations could be given a key role in the design of voter outreach campaigns so that the lowering of the franchise becomes a national celebration. Page 28

Conclusion 3. Given the estimated costs to the Welsh Government for raising awareness of the extension to the franchise to 16 year olds was available prior to the introduction of the Bill and Explanatory Memorandum, the Committee is disappointed this information was not included in the Regulatory Impact Assessment. Page 28

Conclusion 4. The Committee believes that the financial and oversight arrangements for the Electoral Commission should have been more advanced prior to introduction of the Bill. The Committee is concerned the Commission has introduced a Bill with the intention of amending provisions at Stage 2. This approach reduces the Assembly’s ability to scrutinise and take a decision on the general principles of the Bill and this is not considered to be best practice. Page 35

Conclusion 5. As the oversight and funding arrangements for the Electoral Commission are unknown, the Committee is unable to form a view on the appropriateness of the establishment of a “Llywydd Committee” to scrutinise the Electoral Commission..... Page 35

Conclusion 6. It is disappointing that a Commission Bill was introduced that contains subordinate legislation provisions that are not able to be fully costed and subject to scrutiny, particularly as Assembly Committees have previously criticised this approach. Page 38

Conclusion 7. The Committee reiterates its previous recommendation that as full a picture as possible should be provided for the costs of subordinate legislation when proposing primary legislation. This is the expectations of all Bills introduced into the Assembly by the Welsh Government, Assembly Commission, an Assembly Committee or an individual Member. Page 38

Recommendation 1. Whilst recognising the cost benefits of not replacing signage immediately, the Committee is concerned this approach could lead to additional public confusion over the role of the Assembly and the Welsh Government. The Committee recommends the Llywydd and the Welsh Government work closely to ensure public awareness of the changes are clearly communicated..... Page 14

Recommendation 2. As the majority of costs for changes to the election franchise are estimated to fall on local authorities, the Committee recommends the Llywydd should undertake more research to validate or update these costs, or expand on how local authorities had endorsed the costs. This information should be included in the revised Regulatory Impact Assessment published following Stage 2 proceedings..... Page 21

Recommendation 3. The Committee recommends the Llywydd and the Welsh Government discuss the merits of introducing a single electoral register for Welsh local government and Assembly elections, since this might require less administrative workload for local authorities than maintaining 22 separate registers. The Llywydd and the Welsh Government should report back to the Finance Committee before the introduction of the proposed Local Government Bill..... Page 22

Recommendation 4. The Committee recommends that the potential cost savings for automatic registration are also explored by the Llywydd and the Welsh Government. The Llywydd and Welsh Government should report back to the Finance Committee before the introduction of the proposed Local Government Bill..... Page 22

Recommendation 5. The Committee recommends the Welsh Government should routinely and speedily publish the costs involved in administering Welsh local government elections and expects to see this covered in the forthcoming Regulatory Impact Assessment for the proposed Local Government Bill. Page 22

Recommendation 6. The Committee recommends the Welsh Government ensures that local authorities routinely and speedily publish the annual expenditure on compiling the electoral register to ensure greater transparency. Page 22

Recommendation 7. The Committee recommends this Bill should be amended to provide on the face of the Bill provisions to ensure that Assembly elections expenditure is published as soon as possible following Assembly elections and referendums..... Page 22

Recommendation 8. The Committee recommends the Welsh Government reviews the fees paid to Returning Officers as part of the Maximum Recoverable Allowance with a view to considering whether there are cost savings that could be made. The Committee expects to see this covered in the forthcoming Regulatory Impact Assessment for the proposed Local Government Bill..... Page 22

Recommendation 9. The Committee recommends that further work is undertaken to ensure the costs that will be incurred by local authorities in updating the Electoral Management System are robust. This information should be included in the revised Regulatory Impact Assessment published after Stage 2 proceedings and should detail the views of local authorities on the appropriateness of these costs..... Page 23

Recommendation 10. The Committee recommends that any future Assembly Commission proposed Bills include the most up-to date information available to ensure the Finance Committee is able to effectively scrutinise all costs associated with the proposals..... Page 28

Recommendation 11. The Committee recommends the Llywydd includes the Welsh Government’s costs in relation to raising awareness of the extension to the franchise to 16 year olds in the revised Regulatory Impact Assessment published following Stage 2 proceedings..... Page 28

Recommendation 12. The Committee recommends the Llywydd, the Welsh Government and the Electoral Commission ensure that civil society such as schools and youth organisations are included on the Wales Electoral Co-ordination Board, Welsh Government External Board of Advisors and any other collaborative boards that are working to promote voter awareness, to ensure they are able to input into the design of voter awareness material..... Page 28

Recommendation 13. The Committee recommends that in relation to changes to the oversight and funding arrangements of the Electoral Commission that prior to Stage 2 proceeding, draft amendments and their cost implications should be provided, to allow the Finance Committee an opportunity to fully scrutinise them before a Committee of the Whole Assembly is required to dispose of amendments..... Page 35

Recommendation 14. Based on the Welsh Government’s comments in regard to section 36, the Committee recommends the Llywydd considers amending the Bill to reflect the views of the Welsh Government..... Page 38

Recommendation 15. The Committee recommends a provision for post-implementation review is included in the revised Regulatory Impact Assessment following Stage 2 proceedings, to ensure the Bill has met its policy objectives and that value for money has been achieved..... Page 40

1. Introduction

1. The Senedd and Elections (Wales) Bill (the Bill) and Explanatory Memorandum (EM) were introduced by the Llywydd, Elin Jones AM on 12 February 2019.

2. The EM accompanying the Bill stated:

“On behalf of the Assembly, the Assembly Commission is leading a reform programme to make sure the Assembly is an accessible, forward-looking institution which serves the people of Wales effectively by:

- changing the name of the institution before the end of the Assembly term in 2021 to reflect its constitutional position as the primary democratic institution in Wales.
- ensuring that the Assembly has the appropriate number of Members it needs to carry out its work, and that robust and principled arrangements are in place for their election.
- reinvigorating the democratic process by lowering the minimum voting age for Assembly elections to 16, to enthuse and engage young people.
- ensuring that the legislative provisions underpinning the Assembly’s internal, organisational and procedural arrangements strike the right balance between robustness and the flexibility appropriate for a national legislature; and
- encouraging greater engagement between the Assembly and the public it serves, and achieving a better understanding among the public of the work of the Assembly and the Assembly Commission.”¹

3. The Finance Committee (the Committee) took evidence on the financial implications of the Bill from the following:

- Jeremy Miles AM, Counsel General for Wales;

¹ Explanatory Memorandum

- Professor Elan Closs Stephens CBE, Electoral Commissioner;
- Manon Antoniazzi, Chief Executive, National Assembly for Wales (Manon Antoniazzi attended the session in her role as Chief Accounting Officer of the Assembly Commission);
- Elin Jones AM, Llywydd (Member in Charge of the Bill).

4. The Committee appointed Dr Toby James, University of East Anglia as an Independent Expert Advisor to assist with the inquiry.

5. Policy scrutiny of the Bill was undertaken by the Constitutional and Legislative Affairs Committee.

Background to the Bill

6. The National Assembly for Wales (the Assembly) is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

7. The Assembly was originally established under the Government of Wales Act 1998 and has undergone significant changes to its structure and functions since its original establishment. Since 1998, the Government of Wales Act 2006, the Wales Act 2014 and the Wales Act 2017 have all altered the powers of the Assembly.

8. Following the Wales Act 2017, the Assembly now operates on the basis of a new reserved powers model. The Wales Act 2017 also gives the Assembly the power to make decisions in relation to the institution's size, name and how Members are elected as well as its internal arrangements.

9. The Bill contains six parts, including an overview in Part 1.

- Part 2 changes the name of the institution from the National Assembly for Wales / Cynulliad Cenedlaethol Cymru to the "Senedd", and makes consequential changes to relevant names, titles and descriptors.
- Part 3 reduces the minimum voting age in Assembly elections to 16 and implements reform of associated electoral registration arrangements.
- Part 4 makes changes to the law on disqualification from being an Assembly Member.

- Part 5 extends the deadline for the first meeting of the Assembly after an election and clarifies the Assembly Commission's powers to charge for goods and services.
- Part 6 contains general interpretation including the extent of the Bill and provision about when and how the Bill comes into force.

Regulatory Impact Assessment

10. A Regulatory Impact Assessment (RIA) has been included in the EM, outlining the financial implications of the Bill. The RIA is structured around each policy objective and compares the estimated costs of each option and provides calculations for arriving at these costs.

11. Based on the preferred option for each policy objective of the Bill, the total estimated cost arising from the Bill is £2.757 million over five years. The majority of the estimated costs (87.2 per cent) relate to the intention to reduce the voting age to 16 year olds.

12. Costs are anticipated to fall on local authorities, the Assembly Commission, the Welsh Government and the Electoral Commission. Nearly three-quarters, just over £2 million, of the costs fall on local authorities.

13. The RIA presents the cost estimates for all options as exact figures, rather than setting out a range of potential costs to reflect any uncertainties in the costings. In addition, the RIA does not include any sensitivity analysis to test the impact of changing any of the key assumptions used in the calculations.

2. Part 2: Name of the National Assembly for Wales

Background

14. Part 2 makes provision to change the name of the Assembly to “Senedd” and to make other associated changes. The Bill details that the Senedd may also be known as the Welsh Parliament.

15. The EM states:

“This will ensure the name of the institution reflects its constitutional position, and improve public understanding of the role and responsibilities of the legislature.”²

16. The Bill makes provision for the name change to come into force on 6 May 2020. The EM states:

“This is exactly 12 months from the scheduled date of the May 2021 Assembly election. The estimates are based on the assumption that the Remuneration Board would advise Members not to make name-change related signage claims before the 2021 election.”

17. The costs estimated in the RIA for the Assembly Commission in relation to the name change are £172,600 over five years: £170,700 transitional costs and £1,900 ongoing costs. Costs of £122,000 are estimated for other organisations such as local authorities and Welsh Government in updating websites and road signage.

Evidence from witnesses

18. The Chief Executive of the Assembly (the Chief Executive) said a robust exercise had taken place to assess the costs in relation to the name change and that “all parts of the organisation have looked at that and gone through the costs in detail”.³

² Explanatory Memorandum

³ RoP, paragraph 18, 4 April 2019

19. She added that opportunities had been taken “to reduce costs”, explaining the Commission had decided not to undertake a full rebranding exercise “so there will be no new logo to go along with the new name”.⁴

20. The Chief Executive said many of the changes in relation to the name change would happen immediately including updating letterheads, websites, and business cards “where there is quite a quick turnover and the stocks will be properly managed and they’re easily replenished”.⁵

21. In terms of replacing signage, the Chief Executive said:

“...it’s a matter for the remuneration board, ultimately, and it has been built into the costs that the signage will remain in place for a year, because, in some cases, the names will change, so it will be a way of reducing costs. If we can wait until the year 2021, then we will be able to start the sixth Assembly with a whole new collection of signage without cost to the public purse. But that will be a matter for individual Members to decide.”⁶

22. The Llywydd echoed the points made by the Chief Executive and said she had taken a prudent approach to the name change and had looked to be as effective as possible in terms of reducing costs. She added:

“...by doing things such as changing the name, not changing the logo and changing all the things relating to a full rebrand—so, quite a cautious element in terms of that spending.”⁷

23. The Llywydd highlighted the constitutional importance of the name change stating:

“...what we’re trying to achieve through this more generally is that the people of Wales become more familiar with the difference between what’s Parliament and what’s Government, and that we now call ourselves what we are and make that clear to the people of Wales and make sure that they better understand what is being delivered on their behalf in this place. We hope that this change will last for a century and

⁴ RoP, paragraph 18, 4 April 2019

⁵ RoP, paragraph 20, 4 April 2019

⁶ RoP, paragraph 20, 4 April 2019

⁷ RoP, paragraph 139, 4 April 2019

more, and is not something that Assemblies in five, 10 or 15 years' time will need to look at again.”⁸

24. In relation to the provision in the Bill for the name change to come into force on 6 May 2020 and the assumption in the RIA that signage would not be updated until the next election in 2021, the Llywydd said:

“It strikes me, in terms of being prudent with public funds, that there is an element of waste if someone either weren't to stand for the 2021 election but wished to change their sign for a year only, or someone who loses an election in 2021, and that sign would have to change at that point in any case. So, my view was that we should take that more prudent approach in that regard, but perhaps the remuneration board and your committee will take a different view.”⁹

Committee view

25. The Committee would like to have seen more detail on the arguments for the need to change the name on 6 May 2020, rather than May 2021. The Chief Executive indicated the Remuneration Board may issue guidance to Members on replacing signage but it might be left to individual Members' discretion. Given the assumptions in the RIA that some signage would not be updated until after the May 2021 elections, the Committee believes more direction should be given to Members to ensure signage is not unnecessarily updated.

26. However, whilst the Committee appreciates a prudent approach has been applied, Members consider the name change significant, given the aim is to reflect the institution's constitutional position and improve public understanding. Therefore, the Committee is concerned that not reflecting the new name change on all signage immediately could lead to confusion.

Conclusion 1. The Committee believes the costs in relation to changing the name of the Assembly are generally proportionate and transparent and the most cost effective option is being pursued.

Recommendation 1. Whilst recognising the cost benefits of not replacing signage immediately, the Committee is concerned this approach could lead to additional public confusion over the role of the Assembly and the Welsh Government. The Committee recommends the Llywydd and the Welsh

⁸ RoP, paragraph 139, 4 April 2019

⁹ RoP, paragraph 123, 4 April 2019

Government work closely to ensure public awareness of the changes are clearly communicated.

3. Part 3: Elections

Background

27. Part 3 makes provisions for lowering the voting age for 16 and 17 year olds at Assembly elections on or after 5 April 2021. Part 3 also implements reform of associated electoral registration arrangements.

28. The total estimated cost for Part 3 of the Bill, as set out in the RIA, is £2.404 million, with £1.924 million of this falling on local authorities (80 per cent).

Registering 16 and 17 year olds

29. The costs in the RIA for registering 16 and 17 year olds are based on the cost of electoral administration in Great Britain: Financial information surveys 2009-10 and 2010-11. The RIA states that “more up to date figures are not available”.¹⁰

30. The Counsel General said the figures in the financial information surveys report “provide the last fully comprehensive cost per elector”. However, he noted that forthcoming changes to the canvassing arrangements proposed by the UK Government may “change those figures”.¹¹

31. Dr James informed the committee that his research has shown that the costs of electoral registration increased substantially following the introduction of individual electoral registration.¹²

32. The Association of Electoral Administrators also had “significant concerns” regarding the use of the survey reports.¹³ It said:

“The Bill states that the costs used to calculate the average cost per voter as being taken from financial information surveys dated 2009-10 and 2010-11 plus inflation. However, these costs are significantly underestimated and out of date due to the introduction of [Individual

¹⁰ Explanatory Memorandum

¹¹ RoP, paragraph 58, 21 March 2019

¹² Toby S. James (2014) “The Spill-over and Displacement Effects of Implementing Election Administration Reforms: Introducing Individual Electoral Registration in Britain”, *Parliamentary Affairs*, 67 (2): 281-305.

Toby S. James (2019) *Comparative Electoral Management: Performance, Networks and Instruments* (Routledge: London and New York)

¹³ Association of Electoral Administrators

Electoral Registration] IER from 10 June 2014 through provisions in the Electoral Registration and Administration Act 2013.”¹⁴

33. The Association of Electoral Administrators explained that the IER introduced a two-stage registration process, with the completion of the Household Enquiry Form (HEF) by each household followed by the completion of an Invitation to Register (ITR) by each eligible applicant, plus reminders and follow up (including personal canvassing) as required for both processes.¹⁵ It continued:

“In addition, online registration, which was introduced at the same time as IER, makes registration easier and more accessible but has other implications such as increased volume of registrations, often immediately before election registration deadlines ahead of elections, and applications from existing electors, i.e. duplicates. The current true costs of registration therefore need to be identified. The UK Government’s Cabinet Office should be able to assist in providing the average cost per elector under IER.”¹⁶

34. The Llywydd’s official acknowledged that costs based on the financial information surveys reports would have dated considerably. However, she said it was the only report that included a broad range of electoral costs, and therefore believed this was the best basis for the RIA.¹⁷

35. The Counsel General noted “the highest element of the cost exposure as a consequence of the Bill” would apply to local authorities. He said:

“In terms of the funding of that additional, incremental cost, that’ll be just a matter that is taken into account in the local government settlement in the usual way.”¹⁸

36. The Association of Electoral Administrators had “significant concerns that local authorities are to be expected to meet the additional costs” at a time when their budgets have been significantly reduced and was “concerned that funding may not be available to meet these additional costs”.¹⁹ The Llywydd acknowledged

¹⁴ [Association of Electoral Administrators](#)

¹⁵ [Association of Electoral Administrators](#)

¹⁶ [Association of Electoral Administrators](#)

¹⁷ RoP, paragraph 107, 4 April 2019

¹⁸ RoP, paragraph 19, 21 March 2019

¹⁹ [Association of Electoral Administrators](#)

the main costs of the Bill would fall to local authorities as a result of extending the franchise to 16 and 17 year olds. Her official said:

“We’ve had conversations with the WLGA and with a number of individual local authorities. We’ve also had dialogue with [Society of Information Technology Management] Socitm, the society of all Wales’s local authorities’ directors of ICT, so that there’s been ongoing engagement with local authorities around their potential costings in the Bill.”²⁰

37. The Committee was keen to explore the ways in which the costs of running elections could be reduced and/or how expenditure could be more cost-effective.

38. The Counsel General confirmed the cost of the last Assembly election in 2016 was £7 million “a little over £3 million going to local government and a little under £4 million to the Royal Mail to pay for postal costs”.²¹

39. The Committee raised concerns about the substantial payments made to Returning Officers.²² The Committee asked the Counsel General whether any consideration had been given to whether Returning Officers should continue to be paid for their role in the future.

40. The Counsel General said:

“...those considerations are already ongoing. My rudimentary, ... understanding is some of the issues around this relate to the line of accountability, which comes from the source of payment, and the question of the independence of the returning officer from the local authority in the context of delivering the electoral functions.”²³

41. The Counsel General’s official added:

“We looked at it as part of the consultation on the local government Bill, so it’s under consideration whether or not returning officers would be

²⁰ RoP, paragraph 115, 4 April 2019

²¹ RoP, paragraph 34, 21 March 2019

²² Returning Officers are responsible for administering elections and receive payment for this role. At present only the Maximum Recoverable Allowance are published, which is the amount that Returning Officers can claim up to.

²³ RoP, paragraph 39, 21 March 2019

continued to be paid fees as part of their role in the future, and that might be a part of the forthcoming local government Bill.”²⁴

42. The Committee also considered the potential cost savings and improved efficiencies of automatically registering 16-year olds when they are issued their National Insurance number.

43. The Counsel General agreed this would be an easier and more cost-effective solution than the current registration process.²⁵ His official said:

“We’re looking into it and we’ve certainly been looking into it around the local government Bill. There are complexities around when a person would go on the register, if we linked it directly to when they received their national insurance number, and ensuring that every single person who is eligible to vote on voting day was on the register, so there are things around real-time updating of the register. The indicative costs that we’ve got at the moment show that implementing that will be a very costly exercise, but in the long run, it probably will see cost savings through automatic registration.”²⁶

44. The Counsel General’s official added:

“we’re hoping that the provision, if it’s agreed—we could look at an enabling power in the local government Bill that would allow local authorities to do that if they wanted to after the next set of local government elections.”²⁷

45. The Electoral Commission said initiatives such as a central register for Wales and aspects of automatic registration would help “in illuminating some of the wastage we currently see around things like duplication” in terms of people registering who are already registered to vote.²⁸

46. The Llywydd’s official said the “Electoral Commission have recommended in the past” that automatic registering should be explored.²⁹ However, the Llywydd

²⁴ RoP, paragraph 40, 21 March 2019

²⁵ RoP, paragraph 62, 21 March 2019

²⁶ RoP, paragraph 63, 21 March 2019

²⁷ RoP, paragraph 65, 21 March 2019

²⁸ RoP, paragraph 90, 27 March 2019

²⁹ RoP, paragraph 148, 4 April 2019

said the registration process was “a matter for Welsh Government not for us to undertake in this piece of legislation”.³⁰

Committee view

47. The Committee acknowledges that the Llywydd has worked with the Electoral Commission and Welsh Government in terms of the costs of lowering the voting age. However, the Committee notes the main costs associated with this change will fall to local authorities and whilst the Llywydd has stated there have been discussions with the Welsh Local Government Association (WLGA) and individual local authorities, this has not been clearly identified in the RIA.

48. The Committee refers to a previous recommendation it has made in its report on the [Financial estimates accompanying legislation, October 2017](#):

“Recommendation 9. The Committee recommends the Welsh Government ensures that relevant stakeholders are engaged with the process when it creates costings and that stakeholders are able to comment and input on those costings and confirm whether they’re in agreement.”

49. The Committee believes the principle of this recommendation should be applied to all Bills not just Welsh Government legislation, and is disappointed that the RIA does not fully detail how local authorities and representative organisations have input and commented on the costs.

50. The Committee notes that the cost estimates for administering the electoral register relied on dated information from the Great Britain: Financial information surveys 2009-10 and 2010-11. The Committee is disappointed that more up to date information has not been sought from local authorities and the UK Government’s Cabinet Office in relation to the average cost per elector under Individual Electoral Registration.

51. The Committee believes there is merit in further consideration of automatic registration of 16 year olds to vote upon receipt of their National Insurance number. Whilst appreciating that implementation costs are likely to be high, the Committee believes there could be long term cost savings to be made through preventing local authorities spending time and effort registering people who could be automatically registered using other data sources.

³⁰ RoP, paragraph 147, 4 April 2019

- 52.** If automatic registration is not introduced or cannot be achieved immediately, the Committee considers an interim measure could be to inform 16 year olds of their right to vote in the letter they receive from the Department for Work and Pensions when they are issued their National Insurance number. This letter could include a link to the registration website and instructions of use.
- 53.** The Committee is concerned by the Welsh Government's intention that an enabling power may be included in a future Local Government Bill to allow for automatic registration for local government elections. The Committee believes this could lead to the 22 local authorities choosing to operate different systems, which may not be cost effective and may result in confusion for the electorate.
- 54.** The Committee believes it is essential that the purpose of this Bill and the Welsh Government's proposed Local Government Bill should be to streamline the system and not to reinforce the existing complex system.
- 55.** The Committee believes the Welsh Government and the Llywydd should discuss and make progress towards the introduction of a single electoral register for Welsh local government and Assembly elections. The Committee believes the main advantage of having a single electoral register is that it would be likely to avoid duplicate entries and could improve accuracy.
- 56.** The Committee welcomes the information provided by the Counsel General on the costs involved in administering the last Assembly election in 2016. The Committee believes that local authorities should also publish the costs involved in compiling the electoral register.
- 57.** The Committee notes the difficulties that have arisen in estimating the costs of the Bill due to the lack of published data as the last study of funding of elections undertaken by the Electoral Commission was in 2011. The Committee believes the Electoral Commission should collect and publish this information with regular reports.
- 58.** The Committee notes that as part of the Welsh Government's consultation on the proposed forthcoming Local Government Bill, the payments of Returning Officers was considered. The Committee believes that a review of the fees paid to Returning Officers as part of the Maximum Recoverable Allowance should be undertaken with a view to considering whether there are cost savings that could be made.

Recommendation 2. As the majority of costs for changes to the election franchise are estimated to fall on local authorities, the Committee recommends the Llywydd should undertake more research to validate or update these costs,

or expand on how local authorities had endorsed the costs. This information should be included in the revised Regulatory Impact Assessment published following Stage 2 proceedings.

Recommendation 3. The Committee recommends the Llywydd and the Welsh Government discuss the merits of introducing a single electoral register for Welsh local government and Assembly elections, since this might require less administrative workload for local authorities than maintaining 22 separate registers. The Llywydd and the Welsh Government should report back to the Finance Committee before the introduction of the proposed Local Government Bill.

Recommendation 4. The Committee recommends that the potential cost savings for automatic registration are also explored by the Llywydd and the Welsh Government. The Llywydd and Welsh Government should report back to the Finance Committee before the introduction of the proposed Local Government Bill.

Recommendation 5. The Committee recommends the Welsh Government should routinely and speedily publish the costs involved in administering Welsh local government elections and expects to see this covered in the forthcoming Regulatory Impact Assessment for the proposed Local Government Bill.

Recommendation 6. The Committee recommends the Welsh Government ensures that local authorities routinely and speedily publish the annual expenditure on compiling the electoral register to ensure greater transparency.

Recommendation 7. The Committee recommends this Bill should be amended to provide on the face of the Bill provisions to ensure that Assembly elections expenditure is published as soon as possible following Assembly elections and referendums.

Recommendation 8. The Committee recommends the Welsh Government reviews the fees paid to Returning Officers as part of the Maximum Recoverable Allowance with a view to considering whether there are cost savings that could be made. The Committee expects to see this covered in the forthcoming Regulatory Impact Assessment for the proposed Local Government Bill.

Electoral Management Systems (EMS) software

59. The EM estimates £636,300 to update the Electoral Management System. This is based on the [Explanatory Notes](#) prepared by the Scottish Government for the [Scottish Elections \(Reduction of Voting Age\) Act 2015 Explanatory notes](#).

60. However, the Bill in Scotland was “accelerated” and the Scottish Finance Committee did not undertake financial scrutiny on this Bill. The Scottish Finance Committee wrote to the lead Committee stating:

“... given these truncated timescales it will not be possible for the Finance Committee to meaningfully scrutinise the FM [Financial Memorandums]. I am therefore writing to confirm that the Finance Committee does not intend to submit any views on the FM to your committee. I have also written to the Deputy First Minister to inform him.”

61. The Llywydd confirmed the most significant cost for local authorities would be updating the software. Her official added:

“some of the Scottish cost estimates used were based on actual quotes received from suppliers in Scotland, so I’m thinking here of things like the electoral management system. Although such costs weren’t, therefore, scrutinised at the time, they were robustly calculated.”

62. The Llywydd’s official said the Scottish costs had been updated for Wales and where possible verified with stakeholders.³¹

Committee view

63. The Committee is concerned that the RIA relies on information from the Scottish Elections (Reduction of Voting Age) Act 2015 Explanatory notes. The Committee accepts this is a reasonable approach and information has been updated for inflation. However, the Committee is concerned that there was limited scrutiny of the costs in the Scottish Bill.

Recommendation 9. The Committee recommends that further work is undertaken to ensure the costs that will be incurred by local authorities in updating the Electoral Management System are robust. This information should be included in the revised Regulatory Impact Assessment published after Stage 2 proceedings and should detail the views of local authorities on the appropriateness of these costs.

³¹ RoP, paragraph 172, 4 April 2019

Awareness raising

64. The EM estimates the following costs for organisations in relation to promoting awareness of the change in voting age over a five-year period:

- National Assembly for Wales £150,000;
- Local authorities £866,200;
- Electoral Commission £75,900;
- Welsh Government (costs have not been quantified).

65. The RIA assumes the same cost of £39,400 for each of the 22 local authorities for awareness raising. Therefore, the total cost of awareness for all 22 local authorities is estimated to be £866,200 (31.4 per cent of the Bill's total cost).

66. The RIA says the Bill does not place any duties or obligations on the Welsh Government to undertake awareness raising activities in relation to the extension of the franchise to 16 year olds.

67. However, it states the Assembly Commission “believes that awareness raising is important to support the legislative changes” and therefore the Assembly Commission and Welsh Government have been involved in discussions on working collaboratively on developing a range of resources to support this.

68. The RIA continues:

“The Welsh Government’s intention is to undertake a three year campaign which will encompass both the Assembly and local government elections. This will include the extension of the local government franchise to include foreign nationals, in addition to 16- and 17-year olds. The proportion of the overall cost to the Welsh Government of developing awareness raising resources that will specifically relate to the extension of the Assembly franchise is currently unknown. As such, the potential Welsh Government cost of awareness raising in relation to extending the Assembly franchise to 16 year olds is treated in this RIA as being unknown.”

Evidence from witnesses

69. The Chief Executive said the figure of £150,000 for the Assembly Commission’s awareness raising was based on what had previously been spent on campaigns leading up to elections. The Chief Executive confirmed that £75,000

was spent before the last election, but said this time the Assembly Commission would “need to create specific materials and target young audiences particularly”.³²

70. The Chief Executive confirmed the Assembly Commission would be contributing to an awareness campaign undertaken by a number of stakeholders, including the Welsh Government and Electoral Commission and they would work closely “in order to make sure that there’s no duplication”.³³

71. The Counsel General said that the Welsh Government would be looking to work with youth organisations that work directly with young people “to ensure that we not only reach people who are still in school, but also those who are outside school but have the right to vote”.³⁴

72. The Electoral Commissioner also confirmed the Electoral Commission was working with a number of partner agencies that are experienced in working with young people “to ensure that the messages that we have that we all want to put to this new group are introduced effectively and in a proper way in terms of costs”.³⁵

73. The Electoral Commissioner said a Wales Electoral Co-ordination Board had been established and one of the reasons for setting up the board was to ensure local authorities could “learn best practice from each other”. The terms of reference of the Board state:

“The Wales Electoral Co-ordination Board will fulfil a key role in co-ordinating the planning of all-Wales electoral events, activity and electoral modernisation and reform. The work programme of the Board will mainly cover elections, referendums, electoral registration and electoral modernisation.

The Board will facilitate greater collaboration between Returning Officers, Electoral Registration Officers and key partners in Wales.”³⁶

74. The RIA contained no costs for the Welsh Government in relation to awareness raising, these costs were stated as “unknown” and shown as zero. However, on 4 April 2019 the Constitutional and Legislative Affairs Committee

³² RoP, paragraph 34, 4 April 2019

³³ RoP, paragraph 33 & 34, 4 April 2019

³⁴ RoP, paragraph 32, 21 March 2019

³⁵ RoP, paragraph 73, 27 March 2019

³⁶ [Terms of Reference: Wales Electoral Co-ordination Board](#)

published a number of correspondences in relation to the Bill, including a joint letter from Julie James AM, Minister for Housing and Local Government, and Kirsty Williams AM, Minister for Education, to the Llywydd dated 30 January 2019.

75. The letter outlines Welsh Government’s costs for producing educational material for delivery in schools at around £895,000 – £945,000 over three years commencing in 2019-20. The letter also referred to the establishment of a “Welsh Government External Board of advisors” to assist with this work.

76. As this information was available prior to the introduction of the Bill and EM, the Committee asked the Llywydd if there was not sufficient time to include this information in the RIA. The Llywydd said “that assumption is correct”.³⁷

77. The Llywydd’s official clarified the Welsh Government’s costs of £895,000 – £945,000 also included activity to raise awareness amongst non-EU and non-Commonwealth citizens, reflecting the Welsh Government’s intention to also extend the franchise to foreign nationals for local government elections.³⁸

78. The Counsel General said:

“You mentioned awareness raising in general. The figures are some £215,000 to £250,000 or £260,000. They appear to be in the right ballpark, but in addition to that, resources will need to be provided in schools and in terms of engaging with people outside the education system who will have the right to vote. I think that involved a budget of around £600,000. In terms of ensuring that there is no duplication, we are working with a panel of external consultants to ensure that we devise a plan that ensures that we reach people without that overlap that you mentioned. The housing and education Ministers have agreed to work closely with the Commission to ensure that this happens in an efficient way.”³⁹

79. The Committee highlighted that when Scotland extended the franchise to 16 and 17 year olds, awareness raising was helped by the more high profile independence referendum, associated media coverage and appetite for engagement from 16 and 17 year olds.

³⁷ RoP, paragraph 206, 4 April 2019

³⁸ RoP, paragraph 207, 4 April 2019

³⁹ RoP, paragraph 28, 21 March 2019

80. On this point the Llywydd referred to the report of the Expert Panel on Assembly Electoral Reform stating:

“that particular panel mentioned that introducing the change to the franchise in the Assembly election first, rather than in a local government election, was also a means of ensuring that the election that generates most attention nationally and has a higher status, possibly—I think ‘higher salience’ was the term used in the expert panel report—was a means of ensuring that the awareness level would be higher than it would be if it was first introduced for local government elections.”⁴⁰

Committee view

81. The Committee is concerned that significant costs to the Welsh Government of £895,000 – £945,000 came to light during evidence for producing educational material for delivery in schools. It is also not clear to the Committee how much of this is specifically in relation to extending the franchise to 16 and 17 year olds in Assembly elections or for extending the franchise for foreign nationals for local government elections. The Committee is disappointed this information was not included in the RIA given the estimated costs were known prior to the introduction of the Bill and EM.

82. The Committee is concerned there is a risk that many organisations including the Assembly Commission, Welsh Government, Electoral Commission and the 22 separate local authorities might duplicate efforts and expenditure in trying to raise awareness of the change in the voting age and Assembly elections in general. The Committee believes this could result in mixed messages and would not be cost effective.

83. The Committee notes that raising awareness of lowering the voting age is anticipated to cost local authorities £866,200 (31.4 per cent of the Bill’s total cost). The Committee is concerned that these costs might be overestimated as some local authorities may already undertake outreach work. The Committee considers that there is an opportunity for the Welsh Government and local authorities to explore working collaboratively on awareness raising with the Electoral Commission to generate cost savings and ensure value for money.

84. However, the Committee notes the Welsh Government’s intention to establish an external board of advisors to assist with awareness raising work and

⁴⁰ RoP, paragraph 174, 4 April 2019

the work undertaken by the Wales Electoral Co-ordination Board. The Committee believes collaborative channels such as these must be used to deliver a single, cost effective campaign rather than multiple campaigns.

Conclusion 2. The Committee believes that consideration needs to be given to ensuring awareness raising is cost effective. For example schools, youth groups and other organisations could be given a key role in the design of voter outreach campaigns so that the lowering of the franchise becomes a national celebration.

Conclusion 3. Given the estimated costs to the Welsh Government for raising awareness of the extension to the franchise to 16 year olds was available prior to the introduction of the Bill and Explanatory Memorandum, the Committee is disappointed this information was not included in the Regulatory Impact Assessment.

Recommendation 10. The Committee recommends that any future Assembly Commission proposed Bills include the most up-to date information available to ensure the Finance Committee is able to effectively scrutinise all costs associated with the proposals.

Recommendation 11. The Committee recommends the Llywydd includes the Welsh Government's costs in relation to raising awareness of the extension to the franchise to 16 year olds in the revised Regulatory Impact Assessment published following Stage 2 proceedings.

Recommendation 12. The Committee recommends the Llywydd, the Welsh Government and the Electoral Commission ensure that civil society such as schools and youth organisations are included on the Wales Electoral Co-ordination Board, Welsh Government External Board of Advisors and any other collaborative boards that are working to promote voter awareness, to ensure they are able to input into the design of voter awareness material.

4. Funding and oversight of the Electoral Commission

Background

85. Currently, the Electoral Commission is accountable to the UK Parliament, specifically the Speaker's Committee, which has general oversight of the Electoral Commission's work.

86. The Electoral Commission also receives its funding from the Speaker's Committee rather than directly through HM Treasury.

87. Section 27 of the Bill places a duty on the Assembly to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums. However, the Bill does not include details as to how the Assembly should consider these oversight arrangements. The EM states:

“...it is not considered appropriate to dictate how this exercise should be carried out. Rather the Bill specifies that the Senedd may make provision within its Standing Orders on how the duty should be carried out.”

88. On 15 February 2019, the Llywydd wrote to the Chair of the Finance Committee, stating:

“The Bill therefore places a duty on the Senedd to consider whether the Electoral Commission should be financed by the Assembly for its work in relation to devolved Welsh elections and become accountable to the Assembly for such work.

This provision is intended primarily to signal a policy intention (during Stage 1 of the Bill) to address the financing and accountability of the Electoral Commission through amendments to the Bill.

If the Assembly recommends support for such a move, I anticipate that amendments would be introduced at Stage 2 to establish arrangements for the Electoral Commission to be financed by, and to be accountable to, the Assembly.”

89. The RIA assumes that a “Senedd Committee” will undertake two inquiries, each of six hours, within a five-year period. The estimated cost in the RIA for the Assembly is £19,600 and £9,800 for the Electoral Commission.

90. The RIA does not include any further estimates on other impacts of changes to funding and oversight arrangements, which have the potential to be far more significant.

Evidence from witnesses

91. The Chief Executive⁴¹ and the Electoral Commission⁴² both agreed that the costs within the Bill were reasonable estimates in relation to their respective organisations.

92. The Llywydd said the discussions with the Electoral Commission and Welsh Government in relation to the oversight and financial arrangements of the Electoral Commission were held “quite late in the day to be included in this Bill” but agreed the provisions should have been included “from the very outset”.

93. The Llywydd confirmed that in bringing forward Stage 2 amendments “the financial assessment will also have to be introduced in full”.⁴³

94. The Electoral Commission has suggested it should be accountable to a “Llywydd’s Committee” to be chaired by the Llywydd or Deputy Presiding Officer. Citing this as a similar model to the Speaker’s Committee in the UK Parliament.⁴⁴

95. The Electoral Commissioner suggested this approach would be “a two-way process—not just reporting, but having objectives set by the committee”.⁴⁵

96. The Llywydd said she was yet to make a final decision on this issue and would welcome the Committee’s view on what it considers “will be most appropriate” given the Committee’s experience of “scrutiny work on certain bodies”.⁴⁶

97. The Chief Executive said if the arrangements work similarly to that of the Speaker’s Committee, she didn’t “anticipate additional costs that couldn’t be

⁴¹ RoP, paragraph 76, 4 April 2019

⁴² RoP, paragraph 28, 27 March 2019

⁴³ RoP, paragraph 218, 4 April 2019

⁴⁴ ~~FJN(5)-09-19 – Paper J – Electoral Commission paper on SEB~~

⁴⁵ RoP, paragraph 21, 27 March 2019

⁴⁶ RoP, paragraph 235, 4 April 2019

included in the day-to-day running costs of the [Assembly] Commission”. However, she noted it was difficult to comment “without knowing what the proposals are”.⁴⁷

98. The Chief Executive said the Assembly Commission would “provide financial information in relation to any amendments” and if the Committee wishes “to scrutinise anything further in the course of the legislation, we will do our best to facilitate that”.⁴⁸

99. The Counsel General agreed “there will be a requirement to evaluate the costs and implications” of any amendments tabled and “update the impact assessment at that point”.⁴⁹

100. In relation to funding of the Electoral Commission, the Counsel General said:

“...there have been discussions between officials, actually, and the Commission and the Treasury, with the objective of transferring the budget that is currently held within the Speaker’s Committee on the Electoral Commission fund into the Welsh block, which would then have the effect of devolving that funding to Wales. Those discussions are ongoing.”⁵⁰

101. During evidence to the Constitutional and Legislative Affairs Committee, the Chief Executive said:

“There are costs of funding the Electoral Commission’s activities and then there are costs relating to the oversight and scrutiny of the Electoral Commission’s activities and facilitating the oversight of the Electoral Commission’s work. I understand that there are discussions ongoing between the Welsh Government, the Electoral Commission and the Treasury with regard to the possibility of transferring money to the Welsh consolidated fund to pay for the former, to pay for the work itself, and I know you’ll have been advised by the Electoral Commission that they estimate those costs to be anywhere between £600,000 and £1.7 million in the year.”⁵¹

⁴⁷ RoP, paragraph 85, 4 April 2019

⁴⁸ RoP, paragraph 82, 4 April 2019

⁴⁹ RoP, paragraph 93, 21 March 2019

⁵⁰ RoP, paragraph 84, 21 March 2019

⁵¹ Constitutional and Legislative Affairs Committee RoP, paragraph 322, 29 April 2019

102. The Committee asked whether it was the Llywydd's intention for the Electoral Commission to be funded through the Assembly Commission's budget or as a direct charge on the Welsh Consolidated Fund (WCF).

103. The Llywydd said she was currently considering the matter but that direct funding from the WCF "is not possible".⁵² Her official added:

"We don't have the ability to legislate for them to receive money directly from the consolidated fund. So, the money will have to come through Commission funding, as part of that."⁵³

104. The Committee subsequently wrote to the Llywydd on 17 April 2019 to seek further clarity on the comment made that the Assembly did not have the "ability to legislate" for the Electoral Commission to receive funding directly from the Welsh Consolidated Fund, and whether this referred to legislative competence or some other restriction.

105. The Llywydd replied on 7 May 2019 stating:

"The issue here relates to the Assembly's legislative competence.

The provisions relating to the Welsh Consolidated Fund (WCF) are set out in Part 5 of the Government of Wales Act 2006 (GoWA). Section 124 deals with payments out of the WCF and in subsection (3) specifies the relevant persons to whom sums may be paid out of the WCF as:

"(a) the Welsh Ministers, the First Minister and the Counsel General,
(b) the Assembly Commission,
(c) the Wales Audit Office, and
(d) the Public Services Ombudsman for Wales.

... The Assembly does not have the competence to add bodies or office-holders to that list, as section 124 of the GoWA is one of the provisions which cannot be modified, within competence, by virtue of paragraph 7 of Schedule 7B to the GoWA."

106. The Llywydd said she was currently exploring funding options for the Electoral Commission's budget relating to devolved elections in Wales, including the legal and constitutional issues associated with these options. The Llywydd added:

⁵² RoP, paragraph 221, 4 April 2019

⁵³ RoP, paragraph 223, 4 April 2019

“Section 124 does allow other payments to be made out of the WCF, if they are for ‘meeting expenditure payable pursuant to a relevant enactment’. A relevant enactment is an enactment which provides for payment out of the WCF. Therefore such a provision could, in principle, be included in the Senedd and Elections (Wales) Bill, by way of amendment. However, the Electoral Commission is a ‘reserved authority’ under Schedule 7B of GoWA and the Assembly is subject to a number of constraints in how it can affect reserved authorities, unless the UK Government consents to such (paragraphs 8 10). The Electoral Commission is an exception from some of those constraints, but an Act of the Assembly would nevertheless need UK Government consent in order to modify its ‘constitution..., including modifications relating to its assets and liabilities, and its funding and receipts’.”⁵⁴

Committee view

107. The Committee considers the costs set out in the RIA for a “Senedd Committee” to undertake two inquiries within a five-year period seem reasonable in terms of providing Commission resource to support the Committee.

108. However, the Committee is concerned that the Llywydd has made announcements highlighting intended changes at Stage 2 to the oversight and funding arrangements of the Electoral Commission, so soon after the Bill was introduced. The Committee believes these changes could have significant cost implications. This approach reduces the Committee’s ability to consider the overall costs of the legislation proposed, particularly as the opportunity for financial scrutiny of these changes is more limited.

109. It is also not clear to the Committee why the Explanatory Memorandum states it is not appropriate for the Bill to dictate how the financial and oversight arrangements will be carried out, rather these will be set out in Standing Orders. Yet the [Llywydd’s letter of 15 February 2019](#) indicates that arrangements for the Electoral Commission to be financed and accountable to the Assembly may be made through amendments at Stage 2.

110. The Committee’s report on [Financial estimates accompanying legislation, October 2017](#) considered concerns in relation to the reduced opportunity for scrutiny of the financial implications of amendments made after Stage 1. The report recommended:

⁵⁴ [Letter from the Llywydd, 7 May 2019](#)

“Recommendation 7. The Committee recommends that where there are changes to RIAs after Stage 2, that the Member in charge should provide the Finance Committee and the relevant scrutiny committee with a summary of these changes, including the financial implications.”

111. The Committee notes the suggestion that the Electoral Commission should be accountable to a “Llywydd’s Committee”. Whilst this may be a similar model to the Speaker’s Committee in the UK Parliament, it was not clear in evidence whether the changes to the financial arrangements of the Electoral Commission in Wales will be funded from the Assembly Commission’s budget or as a direct charge on the WCF.

112. As such, whilst the Committee recognises the benefits of a Llywydd’s Committee, the Committee is concerned there is a risk that this approach could result in the Welsh tax-payer paying considerably more towards the funding of the Electoral Commission if it ceases to be funded via the Speaker’s Committee.

113. The Llywydd wrote to the Committee on 7 May 2019, and the letter did not provide clarity as to how the Electoral Commission would be funded. The complexities detailed in this letter around these funding options mean that the Committee is still not clear how the Electoral Commission can be accountable in Wales.

114. As currently drafted, the Assembly’s Standing Orders 19 and 20 require the Finance Committee to consider the use of resources or expenditure from the WCF. Therefore, if the Electoral Commission is directly funded from the WCF, it would fall under the Finance Committee’s remit and the Committee believes this is appropriate. It is essential that one Committee has responsibility for the strategic oversight of all charges on the WCF. However, until clarity has been provided, the Committee is unable to form a view on whether the creation of a Llywydd’s committee for oversight of the Electoral Commission is appropriate.

115. On 13 June 2019, the Llywydd wrote to the CLA Committee providing more information about the proposed policy direction relating to the financing and accountability of the Electoral Commission in relation to devolved elections in Wales.

116. The letter detailed the Llywydd’s preferred options for the Electoral Commission to be funded directly from the WCF and to be accountable to a “Llywydd’s Committee”. However, no detailed information was provided as to how these options would be implemented.

117. Further to this, on 25 June 2019, the Counsel General and Brexit Minister also wrote to the CLA Committee providing further information on the Welsh Government's proposals in respect of financing and accountability of the Electoral Commission.

118. Following receipt of the letters there was not sufficient time to explore the issues before the deadline to report of 28 June 2019. Therefore, the Committee has published this report and has written to the Llywydd requesting further information prior to the Stage 1 debate.

Conclusion 4. The Committee believes that the financial and oversight arrangements for the Electoral Commission should have been more advanced prior to introduction of the Bill. The Committee is concerned the Commission has introduced a Bill with the intention of amending provisions at Stage 2. This approach reduces the Assembly's ability to scrutinise and take a decision on the general principles of the Bill and this is not considered to be best practice.

Conclusion 5. As the oversight and funding arrangements for the Electoral Commission are unknown, the Committee is unable to form a view on the appropriateness of the establishment of a "Llywydd Committee" to scrutinise the Electoral Commission.

Recommendation 13. The Committee recommends that in relation to changes to the oversight and funding arrangements of the Electoral Commission that prior to Stage 2 proceeding, draft amendments and their cost implications should be provided, to allow the Finance Committee an opportunity to fully scrutinise them before a Committee of the Whole Assembly is required to dispose of amendments.

5. Implementation of the Law Commission's Recommendations

Background

119. The Electoral Law Reform Project originated in the Law Commission for England and Wales' Eleventh Programme of Law Reform. Its scope, determined in 2012, extends to electoral administration law, offences and legal challenges. In February 2016, an interim report was published by the Law Commission and the purpose of the recommendations was to simplify the administrative arrangements relating to elections and to standardise those arrangements across the four parts of the UK.⁵⁵

120. The EM states:

“Following the publication of the interim report, the Law Commission's intention was to produce a final report and draft legislation to give effect to their final recommendations. However, the UK Government has not, to date, formally responded to the report. The UK Government stated in late 2016 that there was insufficient parliamentary capacity for an electoral bill to take forward the recommendations. It remains unclear whether the Law Commission will publish revised recommendations within a final report on its electoral law reform project.”

121. As a final Law Commission report has not been published, section 36 of the Bill gives Welsh Ministers enabling powers to make subordinate legislation. This aims to ensure that elections in Wales are administered in a way that is compliant with any recommendations the Law Commission may make in the future.

122. The RIA refers to an impact assessment by the Law Commission of their 25 recommendations. The impact assessment states that costs are unknown as assessments would be made along with subordinate legislation, so there are no costs outlined for the Welsh Government.

Evidence from witnesses

123. In relation to these enabling powers, the Counsel General said he did not feel it was “appropriate for these powers to be exercised by Welsh Ministers”. He said

⁵⁵ Explanatory Memorandum

the Welsh Government's preferred option "is for these to be dealt with as primary legislation" and scrutinised by the Assembly "on the basis of an expedited procedure, which often happens in relation to Law Commission legislation".⁵⁶

124. The Llywydd was asked what reassurances she could give that if the Welsh Ministers are given enabling power to make such subordinate legislation there will be sufficient scrutiny of any financial implications given that the RIA does not quantify the associated costs.

125. The Llywydd replied:

"...they are interim recommendations at this point and they could change, so that when they actually become final recommendations, there may well be costs outlined by the Law Commission at that point. But the costs, if Welsh Government want to use their subordinate legislation powers to introduce any of those changes, then they do so with the expected impact assessments and costings that would be associated with any subordinate legislation."⁵⁷

126. The Chief Executive said that costs of the provisions contained within the Bill relating to the implementation of the recommendations "are clearly small". She added:

"If the Bill is passed as currently drafted and these powers are implemented, then it will be a matter for Government Ministers, and responding to any such developments will again be part of the core costs of the Assembly. It will be a matter of business as usual, and responding to additional scrutiny costs for the future."⁵⁸

Committee view

127. The Committee recognises the Law Commission's interim report provides a useful framework for improving the functioning of elections, which might deliver some cost savings. Dr James advised the committee that complex and voluminous law can be time consuming for electoral officials and make errors more likely.⁵⁹ However, the Committee believes that giving power to Welsh Ministers to make changes to electoral law through subordinate legislation risks

⁵⁶ RoP, paragraph 99, 21 March 2019

⁵⁷ RoP, paragraph 231, 4 April 2019

⁵⁸ RoP, paragraph 97, 4 April 2019

⁵⁹ Toby S. James (2014) "Electoral Management in Britain" in Pippa Norris, Richard Frank and Ferran Martinez I Coma (eds) *Advancing Electoral Integrity* (New York: Oxford University Press)

reforms being made without sufficient scrutiny. The Committee also notes the Welsh Government has expressed no desire for Welsh Ministers to have this enabling power in this legislation.

128. The Committee agrees with the Welsh Government's view that these changes would be afforded more appropriate financial scrutiny if they were to be implemented through primary rather than secondary legislation.

129. In light of the Welsh Government's view that it is not appropriate for these powers to be exercised by Welsh Ministers and the absence of financial detail within the impact assessment, the Committee believes, as currently drafted, section 36 of the Bill should be removed. However, the Bill could be amended to provide an opportunity to introduce some small changes to Welsh Assembly elections, that harmonise with general and local elections, which could save election officials time".

130. The Committee is concerned that the RIA does not set out any costs or evidence of the financial impact of section 36. The Committee has previously recommended in its report on the [Financial estimates accompanying legislation, October 2017](#):

"Recommendation 13. The Committee recommends that the Welsh Government commit to providing as full a picture of the costs of subordinate legislation as possible when proposing primary legislation."

Conclusion 6. It is disappointing that a Commission Bill was introduced that contains subordinate legislation provisions that are not able to be fully costed and subject to scrutiny, particularly as Assembly Committees have previously criticised this approach.

Conclusion 7. The Committee reiterates its previous recommendation that as full a picture as possible should be provided for the costs of subordinate legislation when proposing primary legislation. This is the expectations of all Bills introduced into the Assembly by the Welsh Government, Assembly Commission, an Assembly Committee or an individual Member.

Recommendation 14. Based on the Welsh Government's comments in regard to section 36, the Committee recommends the Llywydd considers amending the Bill to reflect the views of the Welsh Government.

6. Post-implementation review

Background

131. Chapter 6 of the [Welsh Government’s Legislation Handbook on Assembly Bills](#) states the “final chapter of the RIA should set out the planned approach for monitoring, reviewing and evaluating the policy”.

132. The Finance Committee’s [report into financial estimates accompanying legislation, October 2017](#), sought to understand the reliability of financial information provided with a Bill. The report sets out its findings in respect of the post-implementation review of costs. It noted the importance of post-legislative scrutiny in improving the overall costing process and information at the legislative stage. The Committee recommended:

“...that future RIAs set-out a clear process for post-implementation review of the financial estimates, including when and what will be assessed.”⁶⁰

133. The RIA for this Bill does not set out any information in respect of the post implementation review of the Bill, including any process for evaluating its financial implications.

Evidence from witnesses

134. The Counsel General said “it’s good to ensure that we have a review of legislation as a matter of course”. However, given the nature and the scale of the costs in the Bill “it’s not, perhaps, as pressing as it is in other pieces of legislation, but it’s certainly a reflection”.⁶¹

135. The Chief Executive said:

“Part of the approach that we’ve adopted to the costs, as they’ve been set out in the explanatory memorandum, is to facilitate post-legislative scrutiny, and carrying out that kind of review. I would welcome and expect that. Obviously, in terms of Commission cost, we will be reporting on those in the usual manner, and they will be scrutinised by the Public Accounts Committee. Therefore, we will be able to look back

⁶⁰ Finance Committee Report: [Inquiry into the financial estimates accompanying legislation, October 2017](#)

⁶¹ RoP, paragraph 109, 21 March 2019

at those costs in the course of business and also, in the longer term, in looking at the effect of the legislation on our constitutional and electoral arrangements. That will be something that can be looked at in the longer term. But in the Commission we will do everything we can to facilitate that kind of exercise.”⁶²

136. The Llywydd said she had “no opposition in principle to post-legislative scrutiny” but considered the costs in this Bill to be “quite a bit lower” than other legislation considered by the Assembly. She said consideration should be given to whether it would be proportionate given the “content of this particular Bill”.⁶³

Committee view

137. The Committee notes the estimates of costs included within the RIA are not substantial in comparison to other Bills that have been considered by the Assembly. However, the Committee believes it is important to carry out post-implementation reviews to ensure the objectives of legislation are being delivered in line with expectations. Whilst costs for this Bill may be relatively low, it is vital to assess whether the Bill has achieved its stated goals and whether value for money has been achieved.

138. In line with the Finance Committee’s previous recommendation and good practice, Members believe the Bill should include some form of post-implementation assessment of the impact of the Bill.

Recommendation 15. The Committee recommends a provision for post-implementation review is included in the revised Regulatory Impact Assessment following Stage 2 proceedings, to ensure the Bill has met its policy objectives and that value for money has been achieved.

⁶² RoP, paragraph 94, 4 April 2019

⁶³ RoP, paragraph 238, 4 April 2019

Annex A: List of oral evidence session

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
21 March 2019	Jeremy Miles AM, Counsel General and Brexit Minister Christopher Warner, Deputy Director, Constitution and Justice, Welsh Government Angharad Thomas-Richards, Electoral Reform Programme Adviser, Welsh Government
27 March 2019	Elan Closs Stephens, Electoral Commissioner, Wales Kieran Rix, UK Director of Finance and Corporate Services, Electoral Commission Rhydian Thomas, Head of Electoral Commission, Wales
4 April 2019	Manon Antoniazzi, Chief Executive and Clerk to the Assembly Nia Morgan, Director of Finance, National Assembly for Wales
4 April 2019	Elin Jones AM, Llywydd, Member in Charge of the Bill Anna Daniel, Head of Strategic Transformation, National Assembly for Wales Tom Jackson, Bill Manager, National Assembly for Wales