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Counsel General and Minister for Delivery



Llywodraeth Cymru  
Welsh Government

Mike Hedges  
Chair, Legislation, Justice and Constitution Committee

9 January 2026

Dear Mike

### **Senedd Cymru (Member Accountability and Elections) Bill**

Thank you for the Legislation, Justice and Constitution Committee's report in relation to the Senedd Cymru (Member Accountability and Elections) Bill published on 23 December 2025. Please see my responses to the set of recommendations within the report at Annex 1.

I am providing a written response to the Stage 1 Committee reports in advance of the general principles debate, which is also in line with Committees recommendation 1 that set out that the Welsh Government should respond at least two working days before the debate.

I would like to express my thanks to the Committee for scrutinising the Bill and it's supporting documentation. I look forward to continuing to work with Members as the Bill progresses through the Senedd process.

I am copying this letter to the Chair of the Member Accountability Bill Committee and the Chair of the Finance Committee for information.

Yours sincerely,

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

## Annex 1

<b>Committees Recommendation</b>	<b>Welsh Government Response</b>
<p><b>Recommendation 1.</b> The Counsel General should respond to the conclusions and recommendations we make in this report at least two working days before the Stage 1 general principles debate takes place.</p>	<p><b>Noted</b></p> <p>As recommended by the Committee, I am providing this written response two working days in advance of the general principles debate.</p>
<p><b>Recommendation 2.</b> Subject to recommendation 3, the Counsel General should write to the Committee in the first week of February 2026 providing an update on the position regarding the consent required for section 4 of the Bill.</p>	<p><b>Noted</b></p> <p>I am happy to write to the Committee in the first week of February with an update on the process to obtain the necessary Minister of the Crown consents. Members will be aware that the recommendation to remove Section 4 of the Bill - the notification requirements on the Courts of England and Wales - has implications for the requirement to obtain consent for that provision.</p>
<p><b>Recommendation 3.</b> The Counsel General should table an amendment to remove section 4 from the Bill.</p>	<p><b>Noted</b></p> <p>Whilst the Welsh Government remains of the view that a notification system for the Courts in England and Wales is appropriate in relation to recall trigger event A, I acknowledge that the Committee has concluded that consistency between the consequences of a criminal conviction in the Courts of England &amp; Wales, and the Courts of Scotland and Northern Ireland is of greater importance than creating notification requirements on courts where it is within the competence of the Senedd. Therefore, I will give further consideration to this issue.</p>
<p><b>Recommendation 4.</b> An amendment should be tabled to section 5(1) of the Bill to place a duty on the Standards of Conduct Committee to produce recall guidance within a specified timeframe.</p>	<p><b>Accept</b></p> <p>Noting that the Member Accountability Bill Committee has taken evidence on this issue and given both this Committee and the Bill Committee has concluded that some indication of a timeframe for the Standards of Conduct Committee to produce the guidelines is wanted, I will prepare an amendment to place a requirement on the Standards of Conduct Committee to lay recall guidance before the Senedd. Members will note that this differs slightly from the recommendation that the Standards of Conduct Committee should be under an obligation to issue recall guidance. This is because the approval of the Senedd is required to issue guidance, and therefore a duty to</p>

	<p>issue guidance is not one which can be exercised entirely within the gift of the Standards of Conduct Committee. A duty to lay draft guidance is therefore considered more appropriate, as it delivers on the spirit of the recommendation by ensuring the draft guidance is brought forward without affecting the discretion of the Senedd to approve (or not) the draft guidance.</p>
<p><b>Recommendation 5.</b> The Counsel General should table an amendment to remove section 5(7)(b) from the Bill.</p>	<p><b>Accept</b></p> <p>I am happy to be led by this Committee's view as well as the same view expressed by the Member Accountability Bill Committee as to what the threshold for agreeing recall guidance should be. While the Bill as introduced aligned with the two-thirds threshold to approve changes to Standing Orders, I recognise that the Code of Conduct and standards procedure only require a simple majority to be amended. Therefore, I will prepare an amendment that would lower the threshold for the Senedd to agree the guidance to a simple majority.</p>
<p><b>Recommendation 6.</b> The Counsel General should table an amendment or amendments to the Bill to require that a recall poll may not be triggered until any appeals made by the Member against the relevant conviction have been determined or otherwise disposed of.</p>	<p><b>Reject</b></p> <p>In developing the provisions in relation to Trigger Event A, I sought to strike a balance between the competing tensions of maintaining fairness towards the Member in question, whilst ensuring that the recall system is workable and effective. I concluded that preventing recall processes from taking place until appeal avenues have been exhausted would create a real risk that the purpose behind the creation of a system of recall is frustrated.</p> <p>The Committee will be aware that the Member Accountability Bill Committee, having taken significant evidence on this point, concluded that the current provisions in the Bill are most appropriate. Therefore, I do not propose to prepare amendments on this basis.</p>
<p><b>Recommendation 7.</b> The Counsel General should table an amendment to the Bill to require the Welsh Ministers to make regulations under section 11(1) within a specified timeframe.</p>	<p><b>Reject</b></p> <p>I recognise the importance of the regulations to be made under section 11 to the implementation of the recall system. However, I consider that "may" in section 11(1) is not a true discretion as if no regulations are made, the Act, if passed can never be implemented which would amount to a frustration of the will of the Senedd. Furthermore, as the regulations are subject to the Senedd approval procedure, placing the Welsh Ministers under a duty to "make" the regulations may create</p>

	<p>a tension between the need for Ministers to comply with the duty and the discretion of the Senedd to approve (or not) the draft regulations laid before it. As indicated by the supporting documentation to the Bill, including the Regulatory Impact Assessment, I would anticipate that if the Bill is passed by the Senedd the regulations would be prepared, consulted on, finalised and presented to the Senedd in 2026-27. However, there would be considerable risk in determining what the appropriate specified timeframe would be. Therefore, I do not consider it necessary or appropriate to amend the existing power to a duty or to apply a specified timeframe.</p>
<p><b>Recommendation 8.</b> The Counsel General should explain what the amendment of section 13 of the 2006 Act by section 22 of the Bill would enable regulations under section 11(1) to include that would not be possible if section 22 did not form part the Bill.</p>	<p><b>Accept</b></p> <p>In my response to recommendation 2, I have committed to writing to the Committee in the first week of February to provide an update on the process to obtain UK Government Ministerial consents. As part of that correspondence, I will also address the Committee's query set out in this recommendation.</p>
<p><b>Recommendation 9.</b> The Counsel General should state whether the power contained in section 11(3)(a)(ii) of the Bill could be used to apply the prohibition of the making or publishing of false or misleading statements of fact to recall polls and whether that is the intention.</p>	<p><b>Accept</b></p> <p>In my response to recommendation 2, I have committed to writing to the Committee in the first week of February to provide an update on the process to obtain UK Government Ministerial consents. As part of that correspondence, I will also address the Committee's query set out in this recommendation.</p>
<p><b>Recommendation 10.</b> The Counsel General should table an amendment to the Bill to include on its face any new criminal offences that would apply in relation to recall polls.</p>	<p><b>Reject</b></p> <p>The conduct of a recall poll - including any criminal offence in respect of such a poll - will be set out in regulations made under Section 11 of the Bill. This is consistent with the approach taken to the regulation of Senedd general elections, via the "Conduct Order", made under s13 of the Government of Wales Act 2006.</p> <p>Furthermore, establishing precisely which criminal offences it will be necessary to apply to recall poll is a significant task, and it is appropriate that a comprehensive review of those offences that apply at a Senedd General election is undertaken in advance of establishing them via the s11 regulations.</p>
<p><b>Recommendation 11.</b> If the intention is not to create new criminal offences the Counsel General should table an amendment to</p>	<p><b>Reject</b></p>

<p>section 11 of the Bill to limit the offences referred to in section 11(3)(c) to criminal offences that already exist in legislation.</p>	<p>As the Committee notes, it is the intention of the Government to seek to apply - as far as is appropriate - the offences that take effect at a Senedd General election, to a recall poll. The detailed work developing the rules that will regulate a recall poll is yet to be undertaken. In light of that, it is not possible to say with certainty that there will not be any bespoke criminal offences that are required in respect of a recall poll only. For example, in the UK Parliamentary recall system, there is a specific "accredited campaigner" regime that applies only in respect of recall, and includes particular criminal offences in respect of that regime. Whilst decisions in respect of the oversight of expenses at a recall poll have yet to be taken, it is important to ensure that the Government has the ability to make regulations that can appropriately govern the conduct of a recall poll.</p>
<p><b>Recommendation 12.</b> If the Counsel General rejects recommendations 10 and 11, she should provide a detailed explanation of why she believes it is not possible to place new criminal offences on the face of the Bill in respect of recall polls.</p>	<p><b>Accept</b></p> <p>I have set out my rationale for the rejection of recommendations 10 and 11 in the responses above.</p>
<p><b>Recommendation 13.</b> The Counsel General should table an amendment to the Bill to make it a requirement for there to be a public consultation before making regulations under section 11.</p>	<p><b>Reject</b></p> <p>Section 11 of the Bill includes a statutory duty on the Welsh Ministers to consult with the Electoral Commission on any regulations relating to the conduct rules for a recall poll. There is also legitimate public expectation that the Welsh Government will consult with the public more widely on regulations such as these. The Welsh Government has a long-standing commitment on this, as shown recently when we consulted on The Senedd Cymru (Representation of the People) Order 2025, ahead of it being approved by the Senedd last summer. On this basis I do not consider it to be necessary to amend the Bill to require the Welsh Ministers to conduct such a consultation.</p>
<p><b>Recommendation 14.</b> The Counsel General should table amendments to section 18 of the Bill such that it only makes provision for:</p> <ul style="list-style-type: none"> <li>• there to be a committee with responsibility for standards of conduct of Senedd Members;</li> <li>• non-Members of the Senedd to be appointed to the Standards of Conduct</li> </ul>	<p><b>Accept in principle</b></p> <p>The Committee will be aware that the Member Accountability Bill Committee has taken evidence on the provisions in Section 18 of the Bill and has made a recommendation setting out that the Bill should be less prescriptive as to how the Senedd should set out its own arrangements. My officials will consider further the level of prescription that is wanted on the face of the Bill and will prepare amendments to remove elements of specificity where appropriate.</p>

<p>Committee (or a sub-committee of that Committee).</p>	
<p><b>Recommendation 15.</b> Subject to recommendation 14, the Counsel General should ensure the equivalence of the English and Welsh texts of the Bill.</p>	<p><b>Accept</b></p> <p>My officials will prepare amendments to correct the terminology in the Welsh language version of the Bill.</p>
<p><b>Recommendation 16.</b> We recommend that the Counsel General tables an amendment to remove section 22 from the Bill and instead sets the prohibition on the making or publishing of false or misleading statements of fact before or during a Senedd election on the face of the Bill by amendment at Stage 2 proceedings.</p>	<p><b>Noted</b></p> <p>I have been clear throughout Stage 1 that the creation of a new offence is a novel and complex issue and is not something that should be rushed. As the committee notes, in the development of any offence, it is imperative that a full assessment of the impacts on the justice system, human rights considerations, wider electoral law is undertaken, alongside comprehensive consultation. I will consider the feasibility and implications of undertaking that work in such time as to insert an offence into the Bill as a Stage 2 amendment.</p> <p>I am grateful to the Standards of Conduct Committee for their work on this topic, and their recommendations set out in their report published in February 2025 and noted by the Senedd in April 2025. It was important that the work of the government took into account the evidence gathered as well as the deliberations and conclusions of that Committee. In light of the Senedd election in 2026, the provision at section 22(3) was designed to ensure the work to establish the offence would be continued by the next Welsh Government.</p>
<p><b>Recommendation 17.</b> We recommend that in drafting an amendment to place the prohibition on the face of the Bill the Welsh Government must:</p> <ul style="list-style-type: none"> <li>• consult the police, the Crown Prosecution Service, the Ministry of Justice, and other relevant stakeholders, and make a statement setting out the responses received from these organisations and summarising the outcomes of any consultation undertaken alongside amendments tabled; and</li> <li>• complete and publish a human rights impact assessment and a justice impact assessment on the new provisions in a revised Explanatory Memorandum.</li> </ul>	<p><b>Noted</b></p> <p>The steps outlined in the recommendation are inherently sensible and will of course be undertaken by the Government during the development of any offence.</p>

<p><b>Recommendation 18.</b> If the Counsel General does not accept recommendations 16 and 17, a majority of the Committee believe that section 22 should be removed from the Bill.</p>	<p><b>Noted</b></p> <p>I note that the Committee has been unable to reach a consensus as to the proper course of action if the Government does not believe that it is possible or appropriate to insert such an offence at Stage 2. As stated in response to recommendation 16, I will consider the feasibility and implications of undertaking the work necessary to insert an offence into the Bill as a Stage 2 amendment.</p>