

# Senedd Reform: From Aspiration to Cold-Headed Reality?

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## Abstract

In May 2024, the Senedd Cymru (Members and Elections) Bill completed its legislative journey through the Senedd Cymru/Welsh Parliament. The bill marks the latest chapter in the Senedd's evolution from an assembly established with no formally separated executive branch and no primary legislative powers into a lawmaking and tax-raising parliament. It also marks the culmination of a long-running debate about the size of the Welsh legislature. For at least twenty years there had appeared to be a broad agreement that the Senedd was too small, its capacity too thinly spread and that a larger membership of at least eighty, but closer to ninety or 100, members was required. In those respects, the Senedd Cymru (Members and Elections) Bill can be seen as the culmination of that long-established consensus. However, as this article will explore, in one key area—the choice of electoral system—the bill marks a key point of departure.

**Keywords:** devolution, Welsh politics, constitutional reform, electoral reform, British politics, Senedd, Wales, Cymru, proportional representation, closed list system, single transferable vote

## Introduction

IN MAY 2024, the Senedd Cymru (Members and Elections) Bill concluded its legislative journey. The bill continues the process of the Senedd's transformation from the sixty-member, body corporate, secondary lawmaking assembly created in the Government of Wales Act 1998 into a primary lawmaking and tax-raising legislature known since 2020 as the Senedd Cymru/Welsh Parliament. This latest bill means that the Senedd elected after the 2026 election will be a ninety-six-member chamber, elected purely by proportional representation (PR). This is a significant moment in the story of Welsh devolution and marks the culmination of a debate that began before the Government of Wales Act 1998 had completed its parliamentary passage about the size and capacity of the Senedd.

## Backdrop: 1998–2021, a twenty-year drum beat for an expanded Senedd

Before the 1998 act had completed its legislative journey, there were concerns that the National Assembly for Wales would have insufficient capacity to fulfil its scrutiny functions, would

have enough Members to ensure that the committee system functioned effectively, as well as broader concerns about the limited proportionality that twenty list seats would offer vis-à-vis the outcome of the first past the post seats.<sup>1</sup> During the passage of what became the 1998 act, there were amendments tabled, for example, that would have expanded the number of list members from the twenty contained in the bill to thirty. According to the Welsh Liberal Democrat MP Richard Livsey, who moved said amendments, it would result in a more proportional assembly, but—more importantly—would address the fact that 'there need to be more members to service all the committees adequately.' While the government defended their decision to opt for an assembly of sixty members as an 'appropriate' number and argued that 'large, cumbersome committees' were not required—the amendments proposed by Richard Livsey were accordingly defeated—this did not draw a line under the issue.<sup>2</sup>

<sup>1</sup>R. Rawlings, 'The new model Wales', *Journal of Law and Society*, vol. 25, no. 4, 1998, pp. 475–476.

<sup>2</sup>House of Commons Debates, 21 January 1998, vol. 304, cols. 1020–1021, 1053.

The coalition government formed between Welsh Labour and the Welsh Liberal Democrats in the autumn of 2000 included a commitment to establish an independent commission to examine the assembly's powers and its electoral arrangements. This commission, chaired by the former leader of the House of Lords, Lord Richard, produced its final report in 2004.

The Richard commission proposed a fundamental rewiring of the Welsh devolution settlement, including a move to a reserved powers model, the abolition of the body corporate model in favour of a legal separation of powers between the executive and the assembly, and the devolution of primary lawmaking powers to Wales. True to the second limb of the commission's founding purpose, it also looked at the assembly's electoral arrangements. While the commission suggested that there may be ways of freeing up capacity within the assembly's existing membership—for example, by extending sitting weeks and changing the size of committees—the Richard Commission was clear that an increase in the assembly's competence would necessitate an expansion in its size from sixty to eighty members. Furthermore, it recommended that the electoral system should be changed from the additional member system (AMS) to the single transferable vote (STV) system if legislative powers were devolved and the assembly expanded. Unlike AMS, STV would ensure that all members had equal status, that more votes counted, that there were fewer safe seats and it would facilitate individuals running as independents or for smaller parties, as voters would rank individual candidates by preference.<sup>3</sup>

While the devolution settlement would be reformed after the Richard commission's report through the Government of Wales Act 2006, it is sufficient to note that, while it enhanced the assembly's legislative powers via a two-phase process towards full lawmaking powers, the 2006 act retained the assembly

as a sixty-member institution. The then UK government rejected the Richard commission's electoral reform proposals in full and legislated instead for what it claimed to be the main issue within the existing electoral system: the ability of individuals to run as a dual candidates in first past the post seats and on a party's regional list.<sup>4</sup>

Following the change in government in Westminster after the 2010 general election and the 2011 referendum in Wales, further powers were devolved which enabled the assembly to move to full primary lawmaking powers in the fields where responsibility was conferred to it under the Government of Wales Acts. A further constitutional commission was also established to examine Welsh devolution. Under the chairmanship of the former clerk of the National Assembly for Wales, Sir Paul Silk, the 'commission on devolution in Wales' (the Silk commission) published two reports: the first looking at the assembly's fiscal accountability and the scope for additional devolution in that area; the second looking at the assembly's wider legislative competence. The UK government had specifically excluded 'the structure of the National Assembly for Wales, including issues relating to the election of assembly members' from the commission's terms of reference. However, in its second report, published in 2014, the Silk commission nonetheless concluded that the assembly was 'at present too small' and that there was a 'real risk of the governance of Wales being impeded by insufficient capacity to scrutinise legislation and the Welsh government' and recommended that the assembly be given 'greater control over its own proceedings'. At the limit of how far it could stretch its terms of reference, the Silk commission noted that 'most analysis suggests that [the assembly] should comprise at least eighty members' and said that the practical implications, including the electoral arrangements, for such an expansion would 'need further consideration'.<sup>5</sup>

<sup>3</sup>I. Richard, et al., *Report of the Richard Commission, Commission on the Powers and Electoral Arrangements of the National Assembly for Wales*, The Stationery Office, 2004, pp. 80, 235–239, 257–260; <https://webarchive.nationalarchives.gov.uk/ukgwa/20090807222148/http://www.richardcommission.gov.uk/content/template.asp?ID=/content/finalreport/index-e.asp>.

<sup>4</sup>*Better Governance for Wales*, UK Government, 2005, pp. 28–29; <https://www.gov.uk/government/publications/better-governance-for-wales>.

<sup>5</sup>*Empowerment and Responsibility: Legislative Powers to Strengthen Wales*, UK Government, 2014, pp. 148–163; <https://www.gov.uk/government/publications/empowerment-and-responsibility-legislative-powers-to-strengthen-wales>.

As part of the wider processes of constitutional reform triggered by Scotland's vote to remain part of the United Kingdom in the 2014 Scottish independence referendum, talks progressed on further devolution to Wales. These cross-party discussions resulted in the publication of the UK government white paper *Powers for a Purpose: Towards a Lasting Devolution Settlement for Wales* in February 2015. It noted that there was cross-party consensus in support of the Silk commission's recommendation that the assembly's size should be increased and, as a result of that and in recognition of the recommendations made for further devolution in Scotland, the UK government agreed that control over the assembly's composition and electoral system should be devolved, subject to any changes of major constitutional importance—like name, size and electoral system—being dependent on a supermajority of assembly members.<sup>6</sup> These changes were eventually implemented as part of the Wales Act 2017. From that point onwards, the assembly could rechristen itself, change its electoral system and expand its size, and therefore had the destiny of assembly reform within its own grasp.

In January 2015, prior to the white paper and the Wales Act 2017 beginning its legislative passage through parliament, the assembly commission—the body, chaired by the presiding officer, which oversees the corporate management of the assembly—published a report, *The Future of the Assembly: Ensuring its Capacity to Deliver for Wales*. The assembly commission concluded that the assembly was 'under-powered' and 'over-stretched' and that members were 'thinly spread'. Indeed, the commission claimed that even if expanded to eighty members, 'significant capacity constraints would continue.' The commission suggested that 'an increase to 100 members would bring the assembly closer to the European norm and to the ideal position where every member would be able to develop specialist expertise and concentrate solely on their principal role, be that as office holder, spokesperson or committee member'. They therefore recommended that

<sup>6</sup>*Powers for a Purpose: Towards a Lasting Devolution Settlement for Wales*, UK Government, 2015, pp. 17–21; <https://www.gov.uk/government/publications/powers-for-a-purpose-towards-a-lasting-devolution-settlement-for-wales>.

the assembly needed to have 'between eighty and 100 members if it is properly to hold the Welsh government to account or to scrutinise the growing volume of policy and legislation for which the institution is responsible'.<sup>7</sup>

By February 2017, with further powers over the assembly's composition due to come online, the Llywydd (presiding officer) and commission announced the establishment of an 'expert panel on assembly electoral reform' that would report by November 2017. The expert panel concluded that there was 'a compelling case ... that the size of the assembly needs to increase' and that the size should be 'at least eighty members, and preferably closer to ninety members'. The expert panel recommended that either STV or a flexible list system of PR (where voters can vote for a specific individual on a party's list) should be adopted for assembly elections.<sup>8</sup>

In the autumn of 2019, the assembly established a 'committee on assembly electoral reform'. The committee reported in 2020 and recommended that legislation be 'introduced early in the Sixth Senedd (the Assembly having been legally rechristened to the Senedd Cymru/Welsh Parliament) to increase the size of the Senedd to between eighty and ninety members with effect from the 2026 election'. In terms of how an expanded Senedd should be elected, the committee recommended that legislation be introduced in the following Senedd for the STV system to be adopted for 2026 onwards. The committee also looked at gender equality, considering the expert panel's recommendation that quotas should be integrated into Senedd reform legislation. The committee expressed their strong support for the principle of a gender-balanced Senedd; however it expressed concern about the Senedd's legislative competence in relation to gender quotas. As a result, the committee

<sup>7</sup>*The Future of the Assembly: Ensuring its Capacity to Deliver for Wales*, National Assembly for Wales Assembly Commission, 2015, p. 13; [https://senedd.wales/NAfW%20Documents/About%20the%20Assembly%20section%20documents/Other\\_Publications/The\\_Future\\_of\\_the\\_Assembly-E.pdf](https://senedd.wales/NAfW%20Documents/About%20the%20Assembly%20section%20documents/Other_Publications/The_Future_of_the_Assembly-E.pdf).

<sup>8</sup>*A Parliament that Works for Wales*, Expert Panel on Assembly Electoral Reform, Welsh Parliament, 2017, pp. 7, 28, 89, 102; <https://senedd.wales/how-we-work/our-role/future-senedd-reform/expert-panel-on-electoral-reform/>.

recommended that the member in charge of a future Senedd reform bill should ‘consider the extent to which any such provisions would be within the Senedd’s legislative competence, the risks associated with including such provisions if considerations in respect of legislative competence were not clear-cut and any potential implications for the overall legislative timescales’.<sup>9</sup> The report marked, in retrospect, a key juncture in the history of the debates about Senedd reform: it was agreed on the back of Labour and Plaid support, with the Conservatives having boycotted the committee. The Brexit Party MS who had served on the committee withdrew from it following a disagreement with the committee chair. The Labour-Plaid motor for reform would become critical in the next Senedd.

By the time that the fifth Senedd was dissolved for the 2021 elections, there appeared to be a well-established series of principles about Senedd reform which commanded broad, albeit not unanimous, support:

- With sixty members, of which only around forty were not on the government payroll or senior frontbenchers, the Senedd was too small to fulfil its role as a primary legislative and scrutiny body effectively.
- The Senedd should be increased to at least eighty seats, but with a preference among many of the reviews for this total to be closer to ninety.
- The go-to preference for a new electoral system for an expanded Senedd was the STV system. Indeed, STV had been endorsed by every review which had looked at an increased Senedd since the Richard commission.
- There was also an emerging view that Senedd reform should be an opportunity for a more gender-balanced Senedd. The 2017 expert panel and the committee on Senedd electoral reform both expressed support for this. However, there were also clear concerns about whether, even with the Wales Act 2017, the Senedd had competence to enact mandatory gender quotas.

<sup>9</sup>*Senedd Reform: The Next Steps*, Welsh Parliament Committee on Senedd Electoral Reform, 2020, pp. 38, 55, 134; <https://senedd.wales/laid%20documents/cr-ld13452/cr-ld13452%20-e.pdf>.

## The sixth Senedd: Senedd reform becomes reality

Shortly after the May 2021 Senedd election—when Labour was returned once again as the largest single party in the chamber, with exactly half the seats in the Senedd—the then-first minister, Mark Drakeford, gave his backing to an enlarged and reformed Senedd.<sup>10</sup> Once again, the next step was the establishment of a committee to look further at the issue.

On 6 October 2021, the Senedd voted to establish a ‘special purpose committee on Senedd reform.’ The special purpose committee (SPC) was tasked with two objectives: first, to consider the conclusions previously reached by the committee on Senedd electoral reform in the fifth Senedd; and second, to make recommendations for policy instructions for a Welsh government bill on Senedd reform by 31 May 2022. The committee produced its final report on 30 May 2022. The committee’s membership was drawn predominantly from Welsh Labour and Plaid Cymru, including the Llywydd who sat as an ordinary member of the committee, as well as the sole Welsh Liberal Democrat. The Welsh Conservatives were represented on the committee for most of its evidence gathering, although their member withdrew from its membership prior to the committee’s conclusion.

In December 2021, while the work of the SPC was underway, the minority Welsh Labour government and Plaid Cymru signed a cooperation agreement committing the two parties to work together to deliver a range of policies. One of those was Senedd reform, with Labour and Plaid pledging to work together to ‘support plans to reform the Senedd, based on eighty to 100 members’. The expanded Senedd would be elected by a voting system ‘as proportional—or more—than the current one and have gender quotas in law.’<sup>11</sup> The agreement confirmed that Labour and Plaid—two parties which together commanded sufficient support to trigger the supermajority

<sup>10</sup>‘Mark Drakeford backs call for bigger Welsh parliament’, *BBC News*, 19 May 2021; <https://www.bbc.co.uk/news/uk-wales-politics-57116856>.

<sup>11</sup>*The Co-operation Agreement*, Welsh Government, 2021, p. 7; <https://www.gov.wales/co-operation-agreement>.



provisions in the Wales Act 2017—would continue to act, as they had in the fifth Senedd, as the motors of Senedd reform. Indeed, this would be visibly demonstrated in May 2022, as the SPC's work was ending, when the two parties submitted a position paper outlining their proposals for Senedd reform. Labour and Plaid Cymru's joint position on Senedd reform was as follows:

- The Senedd should have ninety-six members.
- It should be elected using closed proportional lists with integrated statutory gender quotas and mandatory zipping.
- The 2026 Senedd election should use the final thirty-two UK parliamentary constituencies proposed by the Boundary Commission for Wales once it has concluded its 2023 parliamentary review.
- These constituencies should be paired to create sixteen Senedd constituencies. Each constituency should elect six members.

Crucially, they also proposed that the Senedd should be elected via the party list system, with seats allocated via the D'Hondt formula.<sup>12</sup> The decision by the two cooperation agreement parties to endorse the closed list system can be explained by the internal politics of the Labour Party and the decision taken by Plaid Cymru to cede STV in order to secure an enlarged Senedd and a reformed electoral system.

As the party which has dominated elections in Wales since it supplanted the Liberals in 1922, it is perhaps unsurprising that there has been a long history of wariness within Welsh Labour about the idea of PR being used for elections. The AMS system contained in the Government of Wales Act 1998 was only secured after years of internal debate and considerable pressure from the UK party machinery, including an intervention from the UK party leader, Tony Blair. Even then, the AMS variant used in Wales was decidedly less proportional—with only a third of members elected through the list system—than that found in the Scottish Parliament or the London Assembly, ensuring that Labour's traditional dominance in first

past the post constituencies would only be marginally mitigated against by the proportional element of the system.<sup>13</sup>

Fast forward to 2022 and it appeared that these longstanding concerns about proportionality and power continued to play an integral role in explaining Labour's approach to the electoral system. While there were those within the Welsh Labour Senedd group who publicly supported the adoption of a more proportional and open system (in terms of voters ranking candidates by preference) such as STV, these voices did not represent the full range of opinions within Welsh Labour. As opposed to STV, closed-list PR offered a compromise which offered some proportionality in a way that was more party friendly. Instead of STV, where voters rank candidates by preference and can therefore flit between the candidates of various parties, under the closed list system voters have just one choice—a choice that is between the lists pre-selected by the respective political parties. Furthermore, by proposing that each constituency would only return six members, the result is a system which will only produce—according to Professor Laura McAllister who chaired the expert panel on assembly electoral reform in 2017—a 'marginally more proportional' Senedd than the current system, favouring the larger, more established parties given that the threshold needed to secure a seat in these constituencies will likely be around 10 per cent of the vote. For these reasons, Professor McAllister suggested that 'the obvious attraction [of this system] to Labour needs little explanation.'<sup>14</sup> Securing a supermajority required obtaining support within Labour as well as between Labour and Plaid Cymru and it appears that adopting closed list PR was the realpolitik, pragmatic compromise that could ensure the support of Welsh Labour and was thus acceptable, albeit unloved, to Plaid

<sup>12</sup>A *Way Forward for Senedd Reform*, Welsh Government, 10 May 2022; <https://www.gov.wales/a-way-forward-for-senedd-reform>.

<sup>13</sup>R. Wyn Jones and R. Scully, *Wales Says Yes*, Cardiff, University of Wales Press, 2012, pp. 41–42; H. Rawlings, 'Senedd reform: progress (of a sort)', *The Constitution Society*, 3 June 2022, p. 3; [https://consoc.org.uk/publication\\_author/hugh-h-lawlings/](https://consoc.org.uk/publication_author/hugh-h-lawlings/).

<sup>14</sup>L. McAllister, 'Wales needs a larger Senedd, but a closed list system is not the best way to achieve it', *Constitution Unit*, 29 June 2022; <https://constitutionunit.com/2022/06/29/wales-needs-a-larger-senedd-but-a-closed-list-system-is-not-the-best-way-to-achieve-it/>.

as a means of securing the greater goal of an enlarged Senedd.

In one fell swoop, the Labour-Plaid position paper had effectively killed off what had appeared to be an eighteen-year consensus—at least among commissions and committees examining this area—that STV should be adopted as the electoral system of an enlarged Senedd. With the cooperation agreement parties having forty-two members once the Llywydd is excluded, they met the supermajority threshold required to implement Senedd reform. Theirs was a significant intervention and one which effectively determined the outcome of the SPC's work.

The SPC reported on 22 May 2022. Noting the work of the previous bodies which have looked at assembly/Senedd reform and their respective recommendations in favour of a Senedd of around eighty to ninety members, the SPC argued that a number of 'changes in the political landscape now make it more appropriate to consider a chamber larger than that proposed by the expert panel in 2017'. These changes included the increased responsibilities for the devolved institutions following Brexit, the Covid-19 pandemic and the confirmation that Wales's Westminster parliamentary representation would be reduced from forty MPs to thirty-two at the next UK general election. Accordingly, the SPC concluded that 'an increase beyond ninety is essential to future-proof the Senedd's capacity to scrutinise the Welsh government's increasing powers and responsibilities'. The SPC recommended that the Senedd's size be increased to ninety-six members, as Labour and Plaid had proposed. Such a figure, it acknowledged, was 'beyond the range originally recommended by the expert panel', but the committee stressed that it would be a 'proportionate adjustment' and that it would 'still put the Senedd below the size of many of its international comparators'. The proposed increase in members would, in their opinion, 'future proof and mitigate against debates about the appropriate devolution of powers being curtailed by the limits of the Senedd's capacity'.<sup>15</sup>

<sup>15</sup> *Reforming our Senedd: A Stronger Voice for the People of Wales*, Welsh Parliament Special Purpose Committee on Senedd Reform, 2022, pp. 19–21; <https://senedd.wales/media/5mta1oyk/cr-ld15130-e.pdf>.

The most interesting aspect of the committee's deliberations came in relation to the electoral system. The SPC reported that it had looked at several electoral systems which had met the principles outlined by the expert panel on assembly reform. These systems were mixed member proportional (MMP), STV and flexible list proportional representation. However—and in recognition of the public and last-minute submission from Labour and Plaid—the committee also noted that they had 'decided to consider the feasibility of a closed list proportional representation system'. While they noted that a closed-list system had not been recommended previously, they felt it offered 'a number of potential benefits.'

The first system they discuss—and dispense with—is MMP, also known as AMS, the current electoral system used for Senedd and Scottish parliamentary elections. The committee judged that it was 'not a viable system for a Senedd of more than eighty members without either increasing the number of constituencies, or having a larger number of regional members than constituency members'. They felt that neither of those eventualities was 'desirable', that the current system of dual ballots creates 'undesirable complexity' and that the significant first past the post element within the system failed to facilitate proportionality. They therefore 'unanimously concluded that if the size of the Senedd was to increase, it would be desirable to change the current system.'

The committee then moved on to discuss STV. Ever since the Richard commission in 2004, STV had been the go-to choice of successive commissions and committees examining assembly/Senedd reform. The SPC acknowledged that STV was, for example, the 'expert panel's preferred electoral system' and was indeed the 'only electoral system recommended by the CSER [committee on Senedd electoral reform]'. Despite quoting evidence supportive of STV and including a table in which the many purported benefits of STV outweighed the suggested limitations of the system, the writing had been on the wall ever since the Labour-Plaid joint paper was sent to the committee. Of the committee's members, only a minority—Jane Dodds, the sole Liberal Democrat, and Plaid Cymru's Sian Gwenllian—expressed their support for STV. Dodds made clear that 'she did not believe that a compelling case had been made for moving away from the recommendations of the expert panel and CSER

in favour of STV.’ Gwennlian’s views, as recorded by the SPC’s report, were that she favoured STV but, ‘in the spirit of achieving the supermajority required to deliver Senedd reform, including the transformative measure of an expanded and more proportional Senedd in time for the 2026 Senedd election, she considered that a proportional list system would also have acceptable merits.’ And there’s the rub: while STV may have been recommended by more theoretical exercises in contemplating Senedd reform, this was now a practical exercise in politics and one where more partisan and realpolitik interests would dominate. With a supermajority required and a substantial minority having made their opposition clear by refusing to participate fully in the Senedd’s own committees on reform—the Conservatives having boycotted the CSER and withdrawing themselves from the SPC—any reform had to be driven by what Labour and Plaid could themselves agree upon.

It was already clear from the Labour-Plaid position paper that STV did not command the support across these parties that would carry the supermajority across the line. The SPC report noted that a majority of its members did not support STV and drew attention to concerns that preferential voting was ‘an unfamiliar system in Wales’, with the system for converting votes into seats under STV being ‘complex and difficult to explain.’ Importantly, the majority also ruled out STV on the somewhat intriguing grounds that, ‘because the public would be able to make nuanced preferences between candidates, under STV the public could potentially favour candidates of one gender over another’. Voters, given a free choice and the ability to vote according to their preferences, might do so in a way that did not align with the policy goal of gender quotas.

The SPC then looked at different list systems. Recall that the Labour-Plaid position paper had committed the supermajority to support a list system elected via D’Hondt. The expert panel had identified flexible lists as a viable alternative to STV; however the SPC decided to examine an option which the expert panel had rejected: closed party lists. There were again two minority voices on the committee. Jane Dodds opposed the adoption of closed lists, while Sian Gwennlian favoured a flexible list system. However, once again, Gwennlian decided, ‘in the spirit of achieving a negotiated set of outcomes on the

supermajority required to deliver Senedd reform’, that a closed list system could be ‘acceptable’ and would ‘facilitate the introduction of statutory integrated gender quotas’.

And so, the SPC reported that ‘a majority on our committee, representing a legislative supermajority within the Senedd, favoured a closed list proportional system.’ The majority argued that it would be familiar to voters (closed lists are currently used for the regional list component of AMS) and would ‘facilitate strong, cohesive political parties’. One of the main public-facing justifications of the system was that it would facilitate legislative gender quotas ‘and facilitate parties in putting forward a more diverse list of candidates on a broader basis’. In short, if STV might frustrate gender quotas by giving voters choice, a closed list system puts the choice in the hands of the political parties so that they can order candidates in such a way that produces a more diverse Senedd. The majority acknowledged that closed lists ‘will not provide for the public to directly elect individual members’, although they stressed that members would still be accountable to voters in that poor performance may reduce their respective parties’ vote shares at subsequent elections.

After all this—and again considering the Labour-Plaid position paper—it is not surprising that the SPC’s report waded into the world of gender quotas. The committee endorsed the adoption of gender quotas and recommended that ‘legislative integrated gender quotas and mandatory zipping should be developed as part of the new list system’. However, returning to the concerns of the CSER report from the fifth Senedd, the SPC also noted that this may be out of their competence and recommended that the broader goals of Senedd reform should be treated sufficiently separately so that they were themselves not at risk of legal challenge.<sup>16</sup>

## Conclusion: the Senedd Cymru (Members and Elections) Bill

On 18 September 2023, the Welsh government tabled the Senedd Cymru (Members and Elections) Bill before the Senedd. Nearly twenty years after the publication of the Richard commission report, the long-running debate about

<sup>16</sup>*Reforming our Senedd*, pp. 26, 28–31, 34, 43.

the Senedd's capacity was finally moving into the policy implementation phase.

For twenty years, there had appeared to be a broad consensus—at least among the commissions and committees looking at the subject—that the Senedd was too small, its capacity too thinly spread, that a larger membership of at least eighty but closer to ninety or 100 members was required, and that those members should be elected via the STV system of PR. In those respects, the Senedd bill can be seen as the culmination of that long-established consensus. As a result of the bill, from the 2026 election onwards, there will be a ninety-six-member Senedd, elected from sixteen six-member constituencies, using a system of PR.

However, the electoral system used will be the closed list and not STV. The SPC's endorsement of the system in 2022 had marked a significant departure from what had hitherto appeared to be a near twenty-year consensus that an enlarged Senedd should be elected via STV. That the SPC had made this move away from STV was a clear consequence of the realpolitik and bargaining that had entered the reform debate once the ability to make change was in the Senedd's hands and was, for the first time, politically feasible. To secure the supermajority required by the Wales Act 2017 for Senedd reform, compromise was going to be needed—and that compromise was always going to have to be between and within the Labour and Plaid groups (given the solid bloc of opposition to reform of the Conservative group and the decline of the Liberal Democrats since 2016).

The use of the closed list system has not been without controversy. The tension between the intellectual debate regarding Senedd reform and political reality was evident at various points in the bill's stage one proceedings in the Senedd. Stage one typically includes a committee examining the general principles of a bill. In this case, the Senedd Cymru (Members and Elections) Bill was referred to a reform bill committee which had been established to scrutinise any Senedd reform legislation. The reform bill committee reported its findings on the bill in January 2024.<sup>17</sup>

<sup>17</sup>Reform Bill Committee, *Senedd Cymru (Members and Elections) Bill: Stage 1 report*, Welsh Parliament, 19 January 2024; <https://senedd.wales/committees/reform-bill-committee/senedd-cymru-members-and-elections-bill-report-stage-one/?culture=en-GB>.

As the committee acknowledged in its report, most witnesses it heard from 'expressed reservations and concerns' about a closed list electoral system. Those concerns included the impact on voter choice (voters will have less choice than under the AMS model where they currently have two votes or under STV where they rank candidates in order of preference), the increased control that the system would give to political parties, and the associated potential impact on the Senedd's ability to conduct scrutiny if MSs were more beholden to their political parties. For their own part, the committee said it was 'unanimous in our concerns about the proposed closed list electoral system which is included in the bill, its impact on voter choice, and the extent to which it will contribute to a healthy democracy in Wales.' The committee urged MSs 'to work together to ensure the electoral system in the bill provides greater voter choice and improved accountability for future members to their electorates.'<sup>18</sup>

It was clear from the Welsh government's evidence given to the reform bill committee—and during the subsequent debates—that the political reality of the situation would continue to be the decisive factor, even when pitched against wide ranging and strongly held objections to the proposed electoral system. Both the counsel general (the member responsible for the bill) and the then-first minister reinforced the need for any proposal to command a supermajority of support in the Senedd and expressed their confidence that closed lists commanded such a majority, whereas no other system did. As if to prove the Welsh government's point, the reform bill committee was itself unable to reach 'a committee view on which electoral system should be used to elect members of the Senedd', despite expressing its concerns about closed lists and calling for work to find a supermajority behind an alternative.<sup>19</sup> In the absence of a clear alternative that commanded support across the Labour-Plaid supermajority, the closed list system survived notwithstanding the committee's unease.

From 2026, the Senedd will have considerably greater capacity than ever before. However, that it will do so at the potential cost of

<sup>18</sup>*Ibid.*, pp. 7–8, 93–99.

<sup>19</sup>*Ibid.*, pp. 35–36, 100–101, 119–120.



voter choice and the capability of individual members to act independently—for fear of potentially being relegated to the bottom of their local party list at subsequent elections—is a consequence of Senedd reform shifting from being what seemed to be often a theoretical debate to a matter of achievable politics. Such politics that—thanks to the

supermajority required by the Wales Act 2017—necessitated building a resilient coalition within Labour as well as between Labour and Plaid Cymru.

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