

Briefing on Special Purpose Committee report

June 2022

We welcome the report of the Senedd's Special Purpose Committee on Senedd Reform and the recent deal on Senedd reform between Welsh Labour and Plaid Cymru. The Special Purpose Committee report includes the delivery of a larger Senedd, which is something ERS Cymru has long campaigned for. This will deliver a better Senedd for voters, ensuring a stronger parliament, fit to scrutinise key legislation and budgets.

Yet, we also believe there is room to strengthen the recommendations around voting systems, ensuring that this too delivers a good deal for voters both now and for years to come.

Below we have outlined our position on the particular policy instructions developed by the committee, including how these should be evolved from the current recommendations.

More MSs

The increase to the size of the Senedd to 96 members is a significant move to improve the capacity of our parliament and deliver better outcomes to the people it represents. The role of scrutinising over £17bn of spending every year, significant legislation and undertaking inquiries into issues that matter requires a properly resourced Senedd that is fit to do its job both now and into the future.

ERS Cymru's 'Size Matters' report in 2014 analysed the size of institutions across the world and concluded around 100 members would be appropriate for a Welsh parliament.¹ The move to 96 members delivers this and we welcome the Special Purpose Committee's recommendation on this, alongside the deal reached between Welsh Labour and Plaid Cymru.

This is a case of levelling up the Senedd so it is fit for the modern, confident, self-governing Wales of today.

Voting systems

Closed list systems

The Committee's report has recommended the closed list system be used for elections to the Senedd, following the deal struck between Welsh Labour and Plaid Cymru. While we welcome the move to a system at least as proportional as the current one, we do not believe the closed list system is the best available for the Senedd.

A closed list system is the version which puts least power in the hands of the voters. Each party publishes a list of candidates for each constituency. Voters mark a cross next to the party they support. Seats are filled depending on the listed order of the candidates chosen in advance by the parties.

¹ <https://www.electoral-reform.org.uk/latest-news-and-research/publications/size-matters/#sub-section-16>

This was the form of list PR that was used in Britain for elections to the European Parliament. This system was rejected by the Expert Panel on Assembly Electoral Reform who said it left “No choice for voters between individual candidates” and “No accountability for individual members directly to voters”. This is consistent with the findings of The Power Inquiry in 2006. Recommendation 13 of the inquiry was “The closed party list system should have no place in modern elections”.

Alternative types of list systems

We favour the Single Transferable Vote (STV) for electing the Senedd, a view that was initially held by two members of the Special Purpose Committee, and is still party policy of both Plaid Cymru and the Welsh Liberal Democrats. Indeed, in their responses to the Special Purpose Committee report, both reaffirmed this commitment, with Jane Dodds MS stating, “A Senedd elected by STV would be fairer, less complicated, more proportional, and gives voters more choice. I do not believe that a compelling case has been made for moving away from the earlier recommendations.”² and Rhys ab Owen MS stating “STV remains Plaid Cymru’s party policy. We also recognise that no one party in the Senedd has the two-thirds majority required to deliver reform.”³

2 https://www.welshlibdems.wales/jane_dodds_responds_to_senedd_reform_report

3 Plaid Cymru, 30th May 2022, “A huge boost to Welsh democracy” - Plaid welcome key report on Senedd reform as stronger Senedd moves step closer [Press release].

However, the committee also considered other types of list system, which would also deliver more choice to voters compared with the closed list system that has been recommended.

Open List

On the ballot paper, each party has a list of candidates.

An open list system allows voters to vote for a particular candidate on a party’s list and thereby have an opportunity to indicate their support for a candidate, not just a party. The more votes a candidate gets, the more likely it is that they will be elected, if their party receives enough votes to elect any of their candidates. A vote for a candidate is counted as a vote for their party when it is decided how many seats each party should receive. In some countries, a voter can just vote for a party and leave the ordering of the candidates up to the votes of others.

Flexible List

In a flexible list voters are presented with a ballot with the option to vote for a candidate or a party.

Unlike in an open list, voting for a party is taken as an endorsement of the order of candidates chosen by the party. With enough individual votes, candidates can still move up the ordering.

Within Europe, flexible lists are the norm⁴ – though the exact thresholds (see example below) vary from the fairly open systems of Sweden and the Netherlands⁵ to the practically closed system of Norway.⁶ Fully open systems are relatively rare, but Finland and Latvia are two examples of countries who use fully open lists to elect their national parliaments.

The Expert Panel said that if their preferred option of STV with integrated gender quotas was unable to be implemented, then a flexible list system would be their next preference.⁷ The form of flexible list they recommended used an electoral ‘threshold’, with them stating:

“Under this system, parties determine the order in which candidates’ names appear on the ballot paper. If no candidate receives sufficient personal votes to meet a specified candidate threshold, the party’s preferred order is the order in which candidates take up any seats won by the party. If a candidate’s personal votes pass the threshold, she or he moves to the top of the list. If several candidates pass the threshold, they are ordered by the number of votes they have each received. For example, in Sweden, candidates receiving 5 per cent or more of the votes received by the party list move to the top of the list.”

4 <https://www.electoral-reform.org.uk/which-european-countries-use-proportional-representation/>

5 <https://www.electoral-reform.org.uk/the-netherlands-is-going-to-the-polls-but-how-do-dutch-elections-work/>

6 <https://www.electoral-reform.org.uk/how-do-elections-work-in-norway/>

7 <https://senedd.wales/media/eqbesxl2/a-parliament-that-works-for-wales.pdf>, p102.

ERS Cymru believes this Flexible List system would be more suited to Senedd elections than the proposed Closed List system, offering a balance where parties could manage their lists well but voters also have a choice.

Allocating seats - D'Hondt versus Sainte-Laguë

The committee report has recommended the use of the D'Hondt system of allocating seats under list PR. However, other electoral formulas are available and widely used, such as the Sainte-Laguë method.

The D'Hondt method usually produces less proportional results than the Sainte-Laguë method due to the electoral formula normally favouring larger parties over smaller parties. Whichever method is used, seats are allocated in rounds to the party with the highest quotient, and each party's quotient is recalculated every time they win a seat. While the Special Purpose Committee has recommended the use of the D'Hondt method of calculating votes, the Expert Panel recommended that a Sainte-Laguë formula should be adopted in the event the Senedd moved to list PR, which we would endorse. Two of the Special Purpose Committee members also initially preferred this formula, with discussion in Committee reflecting this and one member referring to the Expert Panel's findings in its modelling "that the D'Hondt electoral formula generally produces outcomes which are less proportional than those using the Sainte-Laguë formula, and sometimes less proportional than the current electoral system".⁸

⁸ <https://senedd.wales/media/5mta1oyk/cr-ld15130-e.pdf>, p37.

$$D'Hondt\ Quotient = \frac{Votes}{Seats + 1}$$

$$Sainte - Laguë\ Quotient = \frac{Votes}{(2 \times Seats) + 1}$$

Boundaries

We are pleased to see a commitment to a boundary review included in the Special Purpose Committee report to be implemented following the 2026 elections. We believe the pairing of the proposed Westminster boundaries is a stop gap, and it is important to develop a system that works effectively for the Senedd itself. As was suggested in the Expert Panel report, the local authority boundaries could be a good starting point for this. While the committee has recommended the number and size of constituencies be included in primary legislation, we would warn against the legislation being too constrictive ahead of a full boundary review.

As well as committing to a review of boundaries, to take place prior to the 2026 election, the legislation on Senedd reform should also commit to reviewing the effectiveness of the voting system and the effectiveness of diversity measures at some point following implementation, within the framework of the Expert Panel's principles.

Diversity measures

ERS Cymru is supportive of quotas and measures to improve diversity in the Senedd. We want to see a diverse Senedd properly reflective of the population of Wales, in terms of gender, race and ethnicity, disability, the LGBTQ+ community and in terms of age and economic status.

We support the measures outlined in the report, including the integration of gender quotas, zipping, further work on quotas on a larger range of protected characteristics and the provision of better data on diversity.

The implementation of these measures is key. It is vitally important that the legislation does not have unintended consequences that could actually see backsliding on diversity