

Elin Jones AM

Llywydd

27 June 2019

Dear Llywydd,

Senedd and Elections (Wales) Bill

I write further to your letter to the Chair of the Constitutional and Legislative Affairs (CLA) Committee on 13 June 2019, in which you shared more detailed information about the policy direction relating to the financing and accountability of the Electoral Commission in relation to devolved elections in Wales.

I understand that your preferred option is:

- to establish a 'Llywydd's Committee', to be chaired by a politically impartial 'non-party representative', to which the Electoral Commission will be accountable to; and
- for the Electoral Commission to be funded directly from the Welsh Consolidated Fund (WCF).

We discussed the issue of funding and accountability of the Electoral Commission with you on 4 April 2019, at which time you had not reached a decision. As the Committee has already discussed and agreed its report, we do not feel there is adequate time remaining for us to fully consider these issues prior to the Stage 1 reporting deadline of 28 June 2019. Additionally, we are yet to see any detailed information that we can fully scrutinise, as such I am writing to request further information.

Funding from the Welsh Consolidated Fund

In your previous letter of 7 May 2019, you indicated that provisions within an Act of the Assembly which would entitle the Electoral Commission to receive funding directly from the WCF would not be within the Assembly's legislative competence unless the UK Government provides consent.

Your letter of 13 June 2019 details that your officials remain in discussions with the Welsh Government, Electoral Commission and the Wales Audit Office regarding the development of policy in this area. I also note from the Counsel General and Brexit Minister's letter to the CLA Committee of 25 June 2019, that discussions are continuing between the Welsh Government and the UK Treasury in regard to funding mechanisms and that two options



are under consideration, both of which assume that funding transfers from the UK Consolidated Fund to the WCF.

I would be grateful to receive a substantive update on this issue, particularly in view of the possible competence issues, when you are in a position to do so, preferably before any amendments are tabled.

On a practical issue, under Standing Order 26.6 (xi) if a Bill contains any provision charging expenditure on the WCF, the Explanatory Memorandum accompanying the Bill must incorporate a report of the Auditor General setting out his or her views on whether the charge is appropriate. This is a requirement on introduction of a Bill, however, the same provision does not apply to amendments tabled at a later stage, which may contain a charge on the WCF. As Chair of the Business Committee, you may wish to consider this discrepancy in Standing Orders.

In light of this, I would urge you to give consideration to discussing the issue with the Auditor General, to ensure that best practice is followed, and that any amendment tabled at Stage 2 or 3 (should the Bill proceed) containing a provision charging expenditure on the WCF is accompanied by the Auditor General's report.

Llywydd's Committee

During evidence to the Committee on 4 April 2019, in relation to the Electoral Commission's suggestion that it should be accountable to a 'Llywydd's Committee', you stated that you were yet to make a final decision on this issue and would welcome the Finance Committee's view on what would be "most appropriate".

As such, our report reflects your view at that time and we concluded that we were not able to reach a decision on a Llywydd's Committee until we had confirmation of how the Electoral Commission would be funded.

However, you have now indicated that a Llywydd's Committee is your preferred option, with the Electoral Commission funded directly from the WCF. Whilst the Committee notes this is a model similar to the Speaker's Committee on the Electoral Commission in the UK Parliament, we are concerned about the role of the Finance Committee in relation to its scrutiny work on budgets. I understand this matter will be considered in Scotland shortly and I would be grateful for information on the proposed approach to this matter in Scotland and how this compares to the proposed approach in Wales.

In your letter of 13 June 2019, you suggest that the Electoral Commission's budget and audit report would be scrutinised by the Llywydd's Committee, and "there would be no overlap with the remit of the Finance Committee in respect of the Assembly Commission's budget".



However, as you will be aware, the Finance Committee currently has oversight of all the bodies directly funded from the WCF. The Committee has also recently consulted and agreed with these bodies a Statement of Principles that the Finance Committee expects them to have regard to when making budget proposals.

Whilst the Electoral Commission could agree to the same principles, it will be difficult for the Finance Committee to maintain an overview of all directly funded bodies if the Electoral Commission's budget is considered by a Llywydd's Committee. The Finance Committee believes it is important that budget requests are set in the context of the budget constraints in the Welsh public sector.

It would be useful if you could provide further information on how you envisage the role of the Finance Committee in your proposed approach, and why the Electoral Commission should not be subject to the same Committee scrutiny as the other bodies. The Wales Audit Office, Public Services Ombudsman for Wales and the Assembly Commission are all directly funded from the WCF to ensure independence from the Welsh Government, but are all still subject to Finance Committee scrutiny.

Financial Resolution

The Stage 1 debate on the general principles of the Bill is scheduled to take place on Wednesday, 10 July 2019. I note that the motion to approve the Financial Resolution has yet to be scheduled. However, I would urge you, in discussion with the Welsh Government, to consider not seeking the Assembly's approval of a Financial Resolution until the information requested in this letter is provided and detail is available on the financial arrangements for the Electoral Commission. This will ensure the Assembly is able to make an informed decision in relation to committing resources.

I am copying this letter to the Counsel General and the Chair of the CLA Committee.

Yours sincerely,



Llyr Gruffydd AM
Chair of the Finance Committee

