# SENEDD CYMRU (MEMBER ACCOUNTABILITY AND ELECTIONS) BILL

*Transparency International UK's submission of written evidence to the Member Accountability Bill Committee, November 2025*

## INTRODUCTION

As an anti-corruption organisation focusing on improving political integrity and having previously provided evidence to the Senedd's Standards of Conduct Committee's inquiry into Individual Member Accountability, Transparency International UK (TI-UK) welcomes this opportunity to provide additional views on the draft Member Accountability and Elections Bill.

We would preface our remarks with a reflection that this draft Bill introduces or amends three important aspects of the standards and accountability landscape at the Senedd which each deserve fulsome scrutiny. The pace therefore of the planned passage of the Bill is disappointing.

Additionally, whilst we welcome the intention of the reforms, overall, we find the draft Bill places far too much of the detail of the proposals to be dealt with into secondary legislation. Often referred to as 'Henry VIII clauses', these powers grant sweeping powers to Welsh Ministers to add detail to the bones of the draft Bill at some later date, risking a lower level of parliamentary scrutiny. We suggest this undermines the policy objectives of the Bill which is meant to enhance accountability. It also risks prompting further decline in public trust in politics and political institutions. Finally, without further detail, prospective members of the Senedd will not know what they are signing up for in running for election in May 2026. Any subsequent party-political capture of the process of passing secondary legislation could have dramatic and unforeseen consequences.

Stuart Wallace, Associate Professor at the University of Leeds has written:

> *Firstly, these powers should return to being an exceptional measure. Where they are proposed, the government should be required to give a full and clear explanation and justification for their use and if one is not forthcoming, they should be rejected by the parliament. Secondly, Henry VIII powers are frequently used in lieu of concrete policy decisions, they are a blank cheque to the executive from the legislature. When such powers are requested, the legislature should push back on the executive to provide more detail e.g. in the form of draft secondary legislation accompanying the Bill, before approving the creation of the powers. Parliament is often unable to scrutinise the secondary legislation that follows on the heels of Bills presented to them and is therefore prevented from doing their job of holding the government to account.*[1]

Essentially, these policy proposals would change the accountability mechanisms in the Senedd and introduce new, potentially criminal, offences. They must be adequately consulted upon and scrutinised and detailed provisions with clear parameters as to the impact on Members of the Senedd understood and agreed to. Public perceptions of what is changing must also be considered. We would express grave concerns at the level of detail currently in the draft Bill and would be alarmed at the detail of the reforms being left to secondary legislation. We would recommend at the least a requirement for an enhanced scrutiny process for the regulations made possible by the draft Bill and preferably for the pace of this legislation to be reconsidered.

[1] https://consoc.org.uk/henry-viii-powers-weaken-democracy/ [accessed 20 November 2025]

## ANALYSIS OF PART 1 RECALL OF MEMBERS OF THE SENEDD

### *Overview*

In our submission to the Standards of Conduct Committee Inquiry into Individual Member Accountability we stated that recall petitions have the potential to act as a deterrent against impropriety and enable the public to hold elected representatives to account between elections. We pointed out that the Westminster system has shown that in some instances, those who would be subject to a recall petition have resigned before this process has started. However, there are others where a recall petition was triggered yet the Member who committed an egregious breach of parliamentary rules still remains in office. We believe this highlights the tension between seeking a democratic mandate for removing a member from Parliament and providing a firm deterrent against serious misconduct. We remain mindful that there may be some forms of impropriety that are so egregious that they merit expulsion without recourse to recall. We would suggest breaches which cause harm to others, which would include bullying or harassment, be among those considered to be in this category. The draft Bill does not address this issue.

We also remain concerned that the draft Bill does not resolve the problem of any vacancy being filled by the next available candidate on the closed party list. We do not believe that a simple replace with the next listed candidate from the same party will help restore trust in politics. Nor do we think that the public will accept a 'like for like' party selected replacement as serving justice or accountability. The fact that three quarters of contested recall inspired byelections have seen the seat change party hands suggests the public see a link between the behaviour of the individual and the party they represent.

It is also the case that in some instances the behaviour that has led to the recall process being triggered is something which the party has allowed to occur, either through a culture of overlooking impropriety or active support for a Member despite the judgement of the Standards Committee. The Owen Paterson case at Westminster and the Michael Matheson case in Holyrood illustrate this dilemma. It should not therefore be possible for a party to simply parachute in the next available candidate without the public determining if they consider a change of party as important as a change of representative.

We stand by our position that if recall is to be introduced in Wales, the choice to select an alternative party as well as a new representative should be possible.

### *Specific provisions in the draft Bill*

**Remove or retain** Whilst we appreciate the intent of the remove or retain proposal, we are concerned that providing for an indication of support risks an influx of money and other malign influences to seek to impact the recall campaign. This would seem to be a particular risk in the context of rising hostility towards politicians and candidates and considering the potential heat generated by the events leading to a recall poll. We say more about the financial provisions below.

**Section 1 (4)** As mentioned above we are concerned that using the procedure as in the section 11 of the Government of Wales Act in the event of a successful recall petition will not satisfy the demand of the public for due accountability in the recall process.

**Trigger Event A** We are concerned that there are inconsistencies and a lack of clarity in how Trigger Event A (sentencing followed by imprisonment or detention) is described. In Section 2 (2) the conviction is 'in the United Kingdom' whereas Section 4 (1) applies when 'a Member of the Senedd, is convicted of an offence in England and Wales'.

**Trigger Event B** Section 5 provides no detail on what 'recall guidance' might consist of. The Bill Committee may wish to consider if some basic principles should be included in primary legislation, for instance that sanctions guidelines should be graduated to reflect the seriousness of the breach, or that a defined period of suspension should trigger a recall event. We note that the Recall of MPs Act 2015 is explicit in stating that recall can only be triggered if the House votes for a Member to be suspended for a defined period of time following a report from the Standards Committee.[2]

[2] Section 1, subsections (4) to (8)

**Section 11** appears to provide for a wide-ranging number of regulations to be made by Welsh Ministers. Whilst subsection (8) indicates approval of such regulations are subject to the Senedd approval process, the Bill Committee may wish to consider if provision for more extensive consultation and scrutiny of the use of these powers should be placed on the face of the Bill.

**Section 11(6)** suggests that Welsh Ministers would not be required to seek the consent of the Electoral Commission before making changes to recall poll campaign expenses or donations if these were seen to be meeting changes due to inflation. Given political finance operates its own economy (as demonstrated by the rapid increase in Welsh Labour leadership election spending as Vaughn Gething MS raised sums substantially greater than his predecessors) we would counsel against Ministers having the exceptional right to set limits to donations and spending based on inflation.

We also note that the Recall of MPs Act 2015 sets a limit of £10,000 for accredited campaigners' expenditure around recall petitions. We would suggest the Committee review Schedule 3 of the Recall of MPs Act and consider how this might best be applied in Wales.

## RECOMMENDATIONS (PART 1)

Whilst we maintain concerns about how the recall process would work, we are here limiting our comments to what should change in order for the process to meet minimum standards of probity and clarity of intent.

Overall, we would caution against the use of such wide-ranging powers being allocated to secondary legislation.

**In Part 1**, the Committee should seek to work with the Welsh Government to amend the draft Bill to ensure that the parameters of the recall triggers are clear.

We would specifically suggest that the Committee consider whether:

- The jurisdiction of where a criminal offence would trigger recall should be clarified
- Clarity should be added on the status of Trigger A in relation to the course of any appeal process[3]
- The length of a sentence which triggers recall should be quantified[4]
- Basic parameters of Trigger B should be included in primary legislation
- Alongside any recall guidance there should be a clear list of potential offences and sanctions
- Such recall guidance and sanctions list should be included in the Bill
- The limits to spending and donations on recall polls should be set and only changed with the consent of the Electoral Commission
- A requirement for an enhanced level of parliamentary scrutiny should be added to the Bill to ensure adequate consultation and consideration of the impact of any regulations made under the provisions in the Bill

## ANALYSIS OF PART 2 STANDARDS OF CONDUCT OF MEMBERS OF THE SENEDD

In the context of low levels of trust in politics in Wales and declining trust in the wider UK Government, we welcome the proposed changes to introduce more independence to the Standards of Conduct Committee. In our evidence to the Standards of Conduct Committee we were in favour of similar proposals.

### *Specific provisions in the draft Bill*

**Section 18 Standards of Conduct Committee** In Section 18, we welcome the following:

- New Section 30A which will put the Committee on a statutory footing. This is a vital safeguard against executive whim or disregard for standards processes and one that will help to future proof the standards system.

[3] We note that Section 1(3) of the Recall of MPs Act 2015 includes at (3)(b) provision for the appeal process as well as additional detail in Section 3

[4] Section 1(5) of the Recall of MPs Act 2015 provides this detail

- New Section 30B which introduces lay members to the Committee. Including elected, political members of the Committee is important to give it a democratic mandate and also the working experience of political life. However, the introduction of lay members will bolster the overall credibility of the committee, as they will bring an additional layer of independence, not being aligned to a particular party. Their introduction would also counter any claims that the committee would be 'marking its own homework'.
- Additionally, we recognise the importance of Schedule 1B which exempts lay members that have been members of the Senedd previously or held other political offices. We would agree with the Commissioner for Standards that a two-year gap between holding a disqualifying office is too short. We would note that disqualification from serving as a lay member of the House of Commons Standards Committee extends to anyone who 'is or has been a Member of the House of Commons or a Member of the House of Lords' with no time limit.
- We also agree with the bill's intention to ensure that lay members do not reside over policy and legislative decisions as outlined in the parameters of their role.

**Section 19 Senedd Commissioner for Standards** In Section 19, we welcome the following:

- New Section 10A introducing the ability for the Commissioner to initiate their own investigations into breaches without the need for a complaint from an external source. Following the appropriate procedures for dealing with complaints against Members, the Commissioner is well placed to open investigations into breaches of the Code considering their familiarity and experience of process. Allowing the Commissioner to open investigations also enables another layer of monitoring and accountability to the standards of Members.

## RECOMMENDATIONS (PART 2)

The Bill Committee may wish to consider:

- In terms of the disqualifying period, whether this should be extended, and if so, whether different categories of disqualifying office might merit different disqualifying periods
- While new Section 30B(1) imposes a limit (no more lay members than MS members), there is no minimum number of lay members required. To cement independence, a statutory minimum proportion of lay members (e.g., at least one-third) should be mandated

## ANALYSIS OF PART 3 CONDUCT OF SENEDD CYMRU ELECTIONS

We remain concerned about the unintended consequences of criminalising deception in political speech. As we stated in our original submission to the Standards of Conduct Committee and re-iterated in our oral evidence:

At TI-UK we believe that the declining trust in politics and politicians is directly linked to failures of integrity and a perceived lack of accountability. We support strengthening accountability systems, improving the transparency of how decisions are made, and how politicians are held to account, and work to expose failures to live up to those standards of integrity in public life. We wholeheartedly support the Nolan Principles and believe that wilful dishonesty undermines political discourse.

Outlawing deception would present practical problems of proving intent, would not succeed in improving trust in politicians, and if justiciable could risk malicious use akin to Strategic Litigation against Public Participation (SLAPPs). We consider outlawing the problem to be an insufficient theory of change in a complex environment where there is more to address than just individual dishonesty.

We are also mindful that bringing the courts into regulating the business of Parliament, including how standards rules are upheld raises issues of the constitutional principle of the autonomy of Parliament. This was reaffirmed in the European Court of Human Rights ruling in the Owen Paterson case.

A large part of the problem of declining trust is that people think the system is rigged in favour of some over others, that rules are not applied equally, and that rule-breakers are not held to account. Introducing an offence that would be hard to prove and difficult to prosecute risks simply adding another mechanism where the public see no accountability for the perceived or alleged offence.

We welcome the limited scope of the powers to prohibit false and misleading statements being confined to 'before or during an election for the purpose of affecting the return of any candidate'. However, we continue to be concerned about the implementation and impact of such an offence.

We would be concerned that the use of the word 'must' in new subsection (2A) risks binding a future government and parliament.

As with Part 1, we are concerned that Part 3 would place power with Welsh Ministers to introduce a wide range of possible provisions under secondary legislation without full understanding of the implications of these provisions.

This does not provide any clarity as to what might be an offence under this section, what the sanctions might be, or how accountability will be provided. If this were to go ahead, the detail would be of utmost importance in order to achieve the intended objective of improving public trust in politicians. We would suggest this detail should not be something that could be decided in secondary legislation and should instead be open to a wide consultation and tested with the public

Specifically, **Section 4** grants extensive powers which we would consider lack provision for adequate parliamentary oversight. We would suggest including on the face of the draft Bill a requirement for extended consultation on any draft statutory instrument under Part 3. This consultation should take full evidence about the potential impact of any reform, bearing in mind this substantial change has only thus far had limited consultation.

## RECOMMENDATIONS (PART 3)

The Bill Committee may wish to consider whether:

- The use of the word 'must' in Section 22(3) – new Section (2A) is appropriate
- **In Part 3**, **Section 22** of the Bill a stipulation that the amended Section 13 of the Governent of Wales Act 2006 should include that the new **Section 2A** should be subject to an enhanced period of consultation and scrutiny

## ABOUT US

Transparency International (TI) is the world's leading non-governmental anti-corruption organisation. With more than 100 chapters worldwide, TI has extensive global expertise and understanding of corruption.

Transparency International UK (TI-UK) is the UK chapter of TI. We raise awareness about corruption; advocate legal and regulatory reform at local, national and international levels; design practical tools for institutions, individuals and companies wishing to combat corruption; and act as a leading centre of anti-corruption expertise in the UK. We are independent, non-political, and base our advocacy on robust research.

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