

# Electoral Reform NEWSLETTER



Llywodraeth Cymru  
Welsh Government

Issue 11

January 2021

## Message from Julie James MS, Minister for Housing and Local Government

I am aware that the work to prepare for the elections in May is already underway and proceeding at some pace and I wanted to take this opportunity to thank you for your huge efforts to prepare for May. I am confident the elections will, thanks to your experience, dedication and skill, be well run despite the challenging circumstances. These elections will be most unlike the many general and local elections Returning Officers and administrators have previously been responsible for, with public safety arrangements at the fore and newly enfranchised electors to support and I am very grateful to have such an experienced and helpful group to take them forward.

I also wanted to inform you that I have made available additional funding through the Electoral Reform Support Grant of £650,000, in total, for Wales to support EROs with the issuing of Household Notification Letters. I am grateful to you all for highlighting and understanding the vital importance of this communication in running the election this year, the purpose of which will be to take the opportunity to improve the accuracy of the electoral register in advance of the poll and ensure electors understand their absent voting options early on. The Local Government Democracy Division has already been in touch with all Electoral Registration Officers about the availability of this funding.

## The Latest on Legislation

**The Local Government and Elections (Wales) Act 2021** received Royal Assent and passed into law on the 20<sup>th</sup> January 2021.

**The Representation of the People (Amendment) (Wales) (Coronavirus) Regulations 2021** were laid in the Senedd on the 26<sup>th</sup> January.

This very short set of regulations ensure that the new emergency proxy arrangements introduced for postponed by-elections is available up to the 4<sup>th</sup> November 2021 (this is the last date when by-elections may be held prior to the ordinary local government elections in 2022). The intention is that the regulations will come into force on the 25<sup>th</sup> February 2021.

## The Welsh Elections (Coronavirus) Bill

- The Welsh Elections (Coronavirus) Bill was debated and passed in the Senedd on the 10<sup>th</sup> February 2021. Details of the Bill's passage through the Senedd can be found [here](#). In summary the Bill as passed:

### Shortens the Senedd's dissolution period from 21 working days to 7 calendar days

so that the Senedd can: (a) respond to the unfolding public health issues leading up to the election; and (b) resolve to fix a date for the poll for the ordinary general election if there is a need to postpone the election for a reason relating to coronavirus in the period up to 7 calendar days before the election (see below, third bullet point).

Protects the time for the first meeting of the new Senedd by requiring it to be within 21 calendar days rather than 14 working days after the day of the poll. This adds an extra day for the first meeting to take place if there a delay because of coronavirus. A longer extension is not desirable, as the requirement is to nominate a First Minister within the period of 28 calendar days from the day of the poll in the election (failing which an extraordinary general election is triggered).

Places a duty: on the First Minister to publish guidance on the exercise of functions by Ministers in the pre-election period; and on the Welsh Ministers to issue guidance on activities relating to election campaigning in the context of the coronavirus restrictions.

Provides a new power for the Llywydd to postpone the day of the poll to a date not later than 5 November 2021 for a reason relating to coronavirus. This is a contingency measure in case the prevalence of the pandemic is such it's not safe to hold the election. The power needs to be triggered by the FM, after consulting with the Chief Medical Officer, proposing a postponement to the Llywydd – reflecting the WGs responsibility for public health and elections. The criteria to be used by the First Minister for determining whether to propose a postponement must be published. The First Minister must also lay a statement before the Senedd not later than 24 March as to whether or not he intends to propose a postponement. A new date fixed for the election by the Llywydd must be approved by the Senedd by a majority of two-thirds of the total number of Senedd. As a further safeguard, the Bill proposes a role for the Electoral Commission in relation to postponement: if the Llywydd or the First Minister requests, the Electoral Commission must provide them with advice on the matter of postponement.

Places a duty on the Welsh Ministers to carry out reviews every three weeks of the preparations for the holding of the Senedd election (linking in to the review of the coronavirus restrictions).

### Ensures the Llywydd's existing power to vary the date of the poll continues.

Currently its one month either side of 6 May. If the poll is postponed for a reason relating to coronavirus and the need for a further variation arises for a different reason, this provisions enables that. The Llywydd must publish a statement of reasons why postponement is needed.

## The Welsh Elections (Coronavirus) Bill cont.

### Confers a regulation making power on the Welsh Ministers to provide for additional days of polling.

It will enable the Welsh Ministers to specify that polling for the 2021 election may take place on one or more specified days as well as on the day fixed for the election. Where exercised, those days must be within the 7 days immediately before the day fixed for the poll in the election. The regulations may require polling on additional days to take place at particular locations, or descriptions, or categories of locations specified in the regulations. The Electoral Commission must provide advice in relation to early voting if requested to do so by the Welsh Ministers. This power can only be used where the 2021 election has been postponed under section 5 of the Bill. Any regulations made by the Welsh Ministers under this power will have no effect if the Senedd general election and the Police and Crime Commissioner election is taken on the same day.

### Enables by-elections – to fill Senedd constituency vacancies and local government elections – to be postponed to a date not later than 5 November 2021.

In the case of local government elections, the Welsh Ministers have the power under the Coronavirus Act 2020 to postpone to not later than 6 May 2021, so this provision extends the period.

### Introduces flexibility to the conduct of the election in line with Elections Planning Group recommendations.

*In respect of proxy voters, the flexibilities will:*

- enable a person to apply for an emergency proxy vote for the next Senedd election for a reason connected with coronavirus, and for them, or a person already voting by proxy in the election, to change their appointee, again for a reason connected with coronavirus; and
- to enable a person voting by proxy for a particular or an indefinite period to change their appointee for a reason connected with coronavirus that prevents the appointee acting on the person's behalf.

*In respect of nominations, the flexibilities:*

- are around the time in each day for the delivery of nomination papers (9.00am to 5.00pm instead of 10.00am to 4.00pm);
- allow nomination papers to be delivered on a candidate's behalf by a person nominated by the candidate for that purpose by providing the person's name and address to the returning officer in writing or electronically before or at the time the nomination paper is delivered;
- allow candidates to deliver their respective consent to nomination in the time specified for delivery of nomination papers either in writing at the place for delivery of those papers or electronically to an electronic address for that purpose, with no requirement for a candidate's consent to nomination to be attested by a witness.

Modifies the time at which a person becomes a candidate in the election to decouple that from the dissolution period so a person will become a candidate at the Senedd election at the same time as they would have done had not the Bill proposed to shorten the dissolution period to 7 calendar days.

## The Welsh Elections (Coronavirus) Bill cont.

Confers a regulation making power on the Welsh Ministers to make any incidental, supplementary, consequential, transitional, transitory or saving provisions that they consider appropriate for the purposes of, or in connection with, giving full effect to the Act. The procedure for regulations made under the Bill will be “made affirmative”, i.e. requiring the Senedd to approve them by resolution, where they amend or modify primary legislation and otherwise the procedure will be “negative”; i.e. subject to annulment rather than approval by the Senedd.

Provides that regulations that may need to be made making temporary changes to the National Assembly for Wales (Representation of the People) Order 2007 for the 2021 Senedd election only are able to come into force on the day they are made to ensure that any changes can be implemented as soon as possible ahead of the election.

The Bill will come into force on the day after it receives Royal Assent, expected to be on 18 February.

### Contact Details

In the coming months it will be important that Welsh Government is able to contact administrators and Returning Officers and with that in mind that we are checking and updating our contact details database. We would be very grateful if Returning Officers and Electoral Administrators would share with us your up to date contact details by return to the Elections Mailbox.



### Resources to Support Engagement

There are a number of education resources now online to support the engagement of young people in school and out of school settings. The Electoral Commission, Senedd Commission and Welsh Government resources are all available [here](#).

Communications resources from the Welsh Government will soon be available with our national campaign launching next month. The campaign will highlight the upcoming elections within the wider context of taking part in democracy. A stakeholder toolkit will be available and we will distribute a link to this as soon as it's available.

The Welsh Government will be supporting the Senedd Commission's Votes at 16 week commencing on 22<sup>nd</sup> February. A number of different organisations will be carrying out activities during this week and we will continue to publicise our educational resources. For more information please visit: <https://senedd.wales/visit/education-and-youth-engagement/vote-16-week/>

## Your Questions Answered

A number of queries were raised by administrators during the recent weeks. You may like to see the answers provided to those questions here.

### **Q. Is there a possibility that by-elections may be postponed again?**

A. The situation remains under constant review by Ministers and we will communicate any decisions effecting elections to administrators and Returning Officers as soon as possible should that be necessary. At this point in time, we have no plans to further postpone, and the window for by-elections remains as 1 March to 6 May. Should the Covid-19 situation escalate it is not impossible that further action to postpone might need to be taken, but that is not the intention at present.

### **Q. Will there be guidance available to candidates and Returning Officers on the collection of subscriber signatures for the postponed local by-elections?**

The [Welsh Government Covid FAQs](#) on the Welsh Government website now contains a specific section relating to elections. Further information will be added over the coming weeks.

## Principal and Town and Community By-elections

Following email communications on the 21<sup>st</sup> December, further Regulations came into force on the 29<sup>th</sup> January, moving the period within which postponed by-elections may be held to the period beginning on the 1<sup>st</sup> March and ending on the 6<sup>th</sup> May.

The final date for any by-election, the 6<sup>th</sup> May, is the limit to postponement available in primary legislation. Further powers to postpone by-elections beyond the 6<sup>th</sup> May 2021 are being sought in Welsh Elections (Coronavirus) Bill introduced to the Senedd on the 27<sup>th</sup> January 2021. The power is sought only to use if absolutely necessary and in a deteriorating public health situation. We will keep you informed as the Bill progresses through the Senedd.

Welsh Ministers' intention in setting a period within which by-elections may be held is to provide Returning Officers with some flexibility in order that decisions can be taken which incorporate local intelligence on the public health environment in the particular area at that time. Returning Officers will want to carefully consider the date when it may be right to hold the by-election. There is no provision included in the Regulations for Returning Officers to further postpone the by-election once the notice of election has issued.