



Clive Betts MP
Levelling Up, Housing and Communities Committee,
House of Commons,
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Dear Clive,

Thank you for your invitation to share the Welsh Government's views on the UK Government's draft Strategy and Policy Statement for the Electoral Commission. I will not provide detailed commentary on the draft SPS, beyond the fact that reviewing it in draft reinforces my view that it is not necessary, warranted, or helpful.

As you will note, the draft SPS does not apply to the Commission's functions in respect of elections where responsibility has been devolved to the Senedd. There was widespread opposition to the principle of the SPS in the Senedd when we considered the then Elections Bill. Like the vast majority of the Bill's provisions, the legislature did not consent to the provisions on the SPS applying to devolved elections.

The draft SPS makes frequent reference to the Commission's statutory responsibilities. Consolidating the Commission's functions, set out in various parts of the statute book, is unnecessary: the Electoral Commission clearly understands and can articulate its role and work. A quick look at its website would assure the reader of this point. Currently, there is no question of whether the Commission is acting in a certain way because the UK Government asked it to do so. While the prioritised functions and principles for the Commission may appear innocuous, it would not be difficult to infer an implicit criticism from them. They will raise uncertainty of whether the Commission is acting in a certain way because of the UK Government's preferences. Creating this ambiguity, and a formal link between the UK Government and the Commission, risks lowering the level of trust in the Commission and the electoral system more broadly to that of trust in government – sadly lower in the United Kingdom than the OECD average.

To illustrate this with a specific example: the Commission has had to undertake investigations into the funding of parties and campaigns in recent years. This has been high-profile and contentious, but the Commission's impartiality has not been questioned in any meaningful or serious way. It is vital for our democracy that these investigations carry no perception of showing fear or favour. I would be concerned if the existence of the SPS undermines this or clouds perceptions of the Commission's reputation or motives.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Turning to Wales specifically, I have been impressed by the Electoral Commission's adaptation to the devolution of electoral policy, and it takes better account of the realities of the modern United Kingdom with multiple legislatures than the UK Government often does. They have developed clear internal arrangements to ensure appropriate accountability and oversight to devolved legislatures and auditors, without creating internal silos. Their evaluation earlier this year of advanced voting pilots held in Wales showed this – with Wales-based staff supporting the evaluation function exercised corporately. The Commission does not treat Wales as an add-on or a deviation to reserved policies that must be adapted to – the Commission serves the reality of decentralised responsibilities and governance in the United Kingdom.

While the draft SPS makes mention of the Commission's UK-wide responsibilities at paragraph 23, this is one of many principles set out for the Commission. In the future, the Commission having regard to the five core priorities at paragraph 4 of the draft SPS will inevitably determine its planning, its allocation of resources and how it accounts for the use of resources. This threatens to replace the current differentiation, which allows effective accountability, with centring the Commission's corporate planning around these 'core priorities', specifically as they apply to reserved or English elections. Anchoring priorities to reserved policies in this way, or taking reserved matters as the default, will undermine the Commission's successful adaptation to devolution. Devolved matters will likely become something to adapt to or require inefficient duplication of functions. This will adversely impact how the Commission can support devolved functions and represent a backward step for the Commission and wider governance of the UK.

In short, I am not aware of concerns that the Commission is not paying due heed to its statutory responsibilities, nor that it is not exercising its functions properly. I have confidence in the ability of the Commission and its leadership to determine and fulfil its responsibilities, without government interference. I am concerned the SPS will undermine the Commission's ability to operate according to its own judgement and, more worryingly, its status and reputation.

If this SPS is adopted, I fear its clearest impact will not be seen in the way the Commission operates, but in the way it is perceived. This is fundamentally detrimental to our democracy in all parts of the United Kingdom.

Yours sincerely,



Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution