



Llywodraeth Cymru
Welsh Government

CLOSED CONSULTATION

Consultation on draft rules for local government (principal council) elections using the single transferable vote system

We are seeking your views on draft rules for the conduct of elections using the single transferable voting system.

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Introduction

The Senedd has legislated to allow local authorities in Wales to choose their electoral system, between First Past the Post (FPTP) or Single Transferable Vote (STV). This consultation seeks views on the Local Elections (Principal Areas) (Single Transferable Vote) (Wales) Rules 2023 (the draft STV Rules), which outline how an election using the STV system would operate.

At present, the FPTP system is used for principal council elections in all 22 local authority areas in Wales. In a poll which uses FPTP, if 1 representative is to be elected for a district, voters place a mark on the ballot paper (usually an X) next to the name of the candidate they wish to vote for. A candidate is elected if they receive 1 or more votes than the other candidates. In a multi member district, where more than 1 candidate is to be elected, voters place a mark next to the names of however many candidates are to be elected and the appropriate number who receive the most votes are elected.

In STV systems, more than 1 representative is elected in each area and voters rank candidates in order of preference. Voters will place “1” next to the name of their preferred candidate, “2” next to their second choice and so forth. They can make as many or as few choices as they wish.

STV is often considered to be a more proportional system than FPTP, meaning that the outcome of the election more accurately reflects the votes cast. Voters are able to rank the candidates, giving them more choice, and can choose within parties and between parties. As each voter has several individuals representing them in any 1 district or area, it is also sometimes argued that they have a wider choice in who they can speak to about their problems.

The Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) enables principal councils to opt to hold future elections using the STV system. These provisions came into effect from 6 May 2022. Principal councils will continue to

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use FPTP unless they decide to change in accordance with the procedure set out in sections 8 and 9 of the 2021 Act. The council would then need to pass a resolution before 15 November in the year 3 years before the next ordinary election is due. To change the system for the next local government elections in 2027, a resolution would have to be passed before 15 November 2024.

Principal councils must consult locally before exercising their power to change the voting system, and if they do change, they must use the new system for the next 2 rounds of ordinary elections. After this they could decide whether to continue or return to the previous voting system.

If a principal council exercises its power to change the voting system, they must also notify the Welsh Ministers and the Local Democracy and Boundary Commission of the change. After receiving a notification, the Welsh Ministers may direct the Local Democracy and Boundary Commission for Wales to conduct an initial review of the area of the council. Welsh Ministers must consult the Commission before such a direction, and persons representing principal councils as the Welsh Ministers consider appropriate.

Provisions for initial reviews as outlined above are set out in Schedule 1 of the 2021 Act, which requires that if a Council adopts STV, the number of councillors for each electoral ward is to be no less than 3, but no more than 6.

The Local Elections (Principal Areas) (Wales) Rules 2021 (“the 2021 Rules”) set out how elections to principal councils must be conducted only where FPTP (or simple majority system) is used. They do not make provision for the conduct of elections where the STV system is in use. The draft STV Rules have been drafted to address this.

The 2021 Rules will continue to make provision about FPTP for the conduct of elections in areas which have not decided to use the STV system. The draft STV Rules will amend the 2021 Rules so that they provide for the conduct of elections where the STV system is in use.

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The draft STV Rules have been informed by **research commissioned by the Welsh Government via the Government Research Service from experts in British Universities**. The fundamental aim of the research was to understand the relative merits of options for the design and application of a STV system in Wales with lessons learned from implementation in other countries and jurisdictions. The draft STV Rules prepared follow the recommendations of this research. We have made reference to this research throughout this consultation paper.

The draft STV Rules, as currently drafted are broadly similar to the election rules currently in force in Northern Ireland, where STV has been used for local elections for many years. We have engaged extensively colleagues in Northern Ireland during the development of the draft STV Rules.

In drafting the STV Rules, a particular consideration was whether they should include provision regarding electronic as well as manual counting. Having engaged with colleagues in Scotland, and mindful of the lead-in time and cost associated with procuring and programming an electronic counting system, the decision was made to include manual counting only at this stage. The consultation seeks views on this issue. The rules cover those aspects of an STV election which differ from an election using FPTP, and it is therefore on these issues that the other consultation questions focus.

In addition to the issue of electronic counting, this consultation focuses on the following areas:

- ballot papers: the layout of the ballot paper and how this might affect the way people vote in a poll using STV
- changes to prescribed forms giving the voter instructions about how to cast their vote: whether these instructions are sufficiently clear
- quota: the method to be used when calculating the quota
- surplus transfer: how voters' preferences are transferred once a candidate with the fewest votes has been eliminated or has reached the quota and is

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elected

- exclusion of candidates: the rules which will apply when a candidate with the lowest number of votes is excluded
- non-transferable ballot papers: when ballot papers are to be considered non-transferable
- last vacancies: the provision for filling of last vacancies
- recounts: the provision made for candidates or election agents to request a recount of votes

Manual and electronic counting

The draft STV Rules include provisions for manual counting only. We are conscious that a manual STV count can be a lengthy process and experiences in areas of the UK where STV is used indicate that it is not unusual for counts to last 2 days. This means that count venues will need to be accessible for at least 2 days from when ballot boxes are open, with mitigations in place for longer. Appropriate staffing levels will also be key, particularly for the verification and the first stage of the count.

STV counts also require regular movement of large volumes of ballot papers and it is important to ensure that this can be done in a safe and transparent manner. Large spaces may be needed for the storage of first preference and transferred votes for each candidate. However, the research commissioned by the Welsh Government has highlighted the potentially high cost of electronic counting and we therefore consider manual counting to be the only viable option. If a large number of local authorities changed to STV and were then all subsequently to adopt electronic counting, there would potentially be economies of scale but, it would be prohibitively expensive for electronic counting to be introduced if only a few councils would be opting for STV initially. Experience of procuring electronic counting systems in other jurisdictions suggests that the complexity of procuring electronic counting systems would already be challenging in time for the 2027

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local elections.

A further consideration is the handling of ordinary community council elections that coincide and are invariably “combined” with ordinary principal council elections. The 2 sets of ordinary elections are combined because of the significant savings to community councils and the convenience of voters. The STV voting option in the 2021 Act does not apply to community councils, whose elections will continue to use FPTP. If a council opted for STV using electronic counting, this would mean operating a manual and an electronic count simultaneously for the community and principal council elections respectively which could add to the complexity of administering these (potentially) combined elections.

Therefore, the Welsh Government’s position is that manual counting should be adopted when opting for STV at this stage. However, we will consider including electronic counting in the future and are seeking stakeholders’ views on this matter as part of this consultation.

Ballot papers

The research commissioned by the Welsh Government cited findings from other academic research suggesting that there was a certain bias towards candidates at the top of a ballot paper among voters, particularly when confronted with multiple choices among candidates they were not familiar with. The bias was apparent in most elections, but more so in preferential systems like STV, when voters having indicated their first preference sometimes cast around for options for their subsequent preferences.

The researchers concluded that ballot papers should be designed in a way that does not induce any undue electoral advantage to a particular party or candidate over another. They considered 3 substantial alternative options to the current

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method used across UK elections of listing candidates alphabetically by surname: alphabetical ordering of candidates within party clusters; allowing parties to order the candidates in their party cluster; and a form of randomisation of candidate order. The research recommended the first 2 of these options but not randomisation of candidate order as it creates additional accessibility challenges and would require electronic counting.

We note the researchers' recommendations and acknowledge the evidence they cite. However, we consider that the issue is not peculiar to STV ballot papers; the same considerations apply at any elections where parties are able to run more than 1 candidate, including multi-member FPTP wards. We are not convinced that ordering candidates within party clusters, with the clusters ordered alphabetically on the ballot paper is necessarily the answer. This is used in Malta, and it effectively means that the parties themselves appear in the same order on every ballot paper, with independents, who comprise a large proportion of candidates at local elections in Wales, following at the bottom. We believe more work could usefully be undertaken on this issue but believe that a definitive solution may have to wait for the advent of electronic counting

No provision has been made in the draft STV Rules to change the current requirements that candidates be ordered alphabetically by surname; therefore, the way candidates are ordered would be consistent between elections held under FPTP and STV. The Welsh Government will, however, look further into this issue in the event that electronic counting is introduced.

Changes to prescribed forms giving the voter instructions about how to cast their vote

Part 3 of the 2021 Rules currently refers to a number of prescribed forms, including the ballot paper and postal ballot paper. These would not be suitable for elections using the STV system because they contain instructions to voters to

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mark a cross [X] against the name of the candidate they are voting for (or each of the candidates they are voting for if there is more than 1 councillor to be elected).

The draft STV Rules provide for alternative forms to be used at elections using the STV system. They also make alternative provision for the content of notices inside each voting compartment so that, instead of being instructed to mark a cross, voters are given information about how to mark their first, second and third preferences etc.). It will be the first time that voters in local authorities that adopt the STV system use preferential voting in this way, and we are keen that the guidance enables them to successfully cast their vote.

Quota

A key exercise in the counting of votes under STV is the calculation of the “quota,” which is the threshold of votes required for the election of a candidate. The research we commissioned focused on the use of two quota variations: the “Hare quota” and the “Droop quota,” which each use the number of ballot papers cast that are valid and the number of seats available to be filled to calculate the quota, shown below.

Droop quota

$$\text{votes needed to win seat} = \frac{\text{number of valid ballot papers}}{\text{number of seats} + 1} + 1$$

Hare quota

$$\text{Votes needed to win seat} = \frac{\text{number of valid ballot papers}}{\text{number of seats}}$$

The Droop quota produces a lower threshold for candidates to meet compared with the Hare quota. The Droop quota is now used in most STV electoral systems, and has universally replaced the Hare quota. This is largely because the Hare quota has the disadvantage that at least some members in larger wards are usually elected without achieving the quota, which can confuse voters. The lower threshold with Droop means this happens much more infrequently.

The Droop quota is used for all STV elections in Northern Ireland and for principal council elections in Scotland. Simulations done by the research team found almost no substantive difference in electoral outcomes when either quota is used. Given its use in elections in the UK already and noting the issue about the thresholds, the research team recommended the adoption of the Droop quota.

The draft STV Rules provide for the use of the Droop quota whenever principal council elections are conducted using STV in Wales. Rules 60H and 64L sets out how the quota is calculated.

Surplus transfer

Because the STV process invites voters to express their preference in ranked order, ballots can be transferred to the next preferred candidate, for example if a candidate is eliminated or has votes in excess of what was needed for the quota. The transfer method refers to the way voters' preferences are transferred. In the case of one who has reached the quota, the transfer is based on the number of votes the candidate received above the number needed to achieve the quota (i.e., their "surplus").

The researchers undertaking the research commissioned by the Welsh Government explored the use of 4 transfer systems: a random transfer method as used in the Republic of Ireland, the inclusive gregory method used in several Australian elections, the simple gregory method used in Northern Ireland, and the weighted inclusive gregory method, which is used in Scottish local elections.

Having rejected 2 of the transfer systems (the random transfer method and the inclusive gregory method), the researchers recommended the other 2 methods as being suitable for use in local elections in Wales, depending on the circumstances:

1. The researchers reported that the weighted inclusive gregory method was identified by interviewees and in existing literature as the optimal method. Here, all preferences from an elected candidate's surplus are transferred but at a fraction of their original value. Preferences are also weighted to prevent ballots increasing in value as the count progresses. It is considered to produce the 'fairest' electoral outcomes. However, the calculations required are complex (in Scotland they go to 5 decimal places) which means that it is entirely dependent on the use of computer assisted counting. It certainly is not suitable for manual counting.
2. The researchers reported that the simple gregory method was recommended by interviewees as an alternative to the weighted inclusive

gregory method if manual counting were adopted. This method only transfers the most recently received ballots on an elected candidate's pile, but at a fraction of their original value. The calculations are done to 2 decimal places so are more manageable for manual counting. In simulations done by the researchers, it produced fewer idiosyncrasies than the random transfer method and the inclusive gregory method, but more than the weighted inclusive gregory.

The researchers' preference and their primary recommendation was to adopt the weighted inclusive gregory method (i.e., as in Scotland). However, they acknowledged that the need for electronic counting would make it a costly option, particularly if only one or two councils adopted STV. Accordingly, they made a secondary recommendation that if electronic counting is not adopted and a council had to rely on manual counting, the simple gregory method (i.e., as in Northern Ireland) should be used.

As previously stated, the draft STV Rules do not provide for electronic counting and therefore the simple gregory method has been used. The transfer of votes where first preference votes exceed the quota is provided for in Rules 60J and 64N of the draft STV rules. The successful candidate's ballot papers are examined to see whether the voter has expressed a "next available preference" for a candidate who is still in the race (that is, who has been neither treated as elected nor excluded). Ballot papers expressing a next available preference are transferred to the candidate for whom the preference is given. The vote on each transferred ballot paper has a value which is calculated by taking the candidate's surplus and dividing it by the total number of ballot papers being transferred.

Rules 60K and 64O of the draft STV rules provides for the transfer of surplus votes in other circumstances such as where a candidate has a surplus following the transfer of first preference votes. In this case only the ballot papers that were last transferred to the successful candidate are examined to see whether the voter has expressed a next available preference. Each ballot paper expressing a next available preference is transferred to the candidate for whom the

preference is given. The vote on each transferred ballot paper has a value calculated by dividing the candidate's surplus by the total number of ballot papers being transferred.

There is then an additional step to ensure that the value is not greater than the value of the vote on the ballot paper when it was received by the candidate from whom it is now being transferred. If the number is less than or the same as the value of the vote on the ballot paper when it was received by that candidate, that number is the transfer value. If the number is greater than the value of the vote on the ballot paper when it was received by that candidate, the value of the vote when that candidate received it is the transfer value.

The returning officer must continue to make transfers until no candidate who is treated as elected has a surplus, or all the vacancies have been filled.

If, at any stage of the count, 2 or more candidates have surpluses, the transferable papers of the candidate with the largest surplus must be transferred first. If 2 or more candidates have surpluses which are equal, the transferable papers of the candidate who had the highest number of votes at the earliest stage of the count at which they had unequal votes must be transferred first.

If the votes credited to 2 or more candidates were equal at all stages of the count, the returning officer must decide between those candidates by lot.

To avoid redundant transfers, Rules 60L and 64P provide that transferable papers are not to be transferred where transferring 1 set of surpluses cannot make any material difference to the prospects of the candidate with the lowest number of votes. In other words, transferable papers will not be transferred where a surplus is less than the difference between the number of votes then credited to the candidate with the lowest number of votes, and the number of votes then credited to the candidate who is next above that candidate. At this point, the candidate with the lowest number of votes can be eliminated without a transfer.

Exclusion of candidates

If vacancies remain to be filled after all transfers of surpluses have taken place, the rules provide for the candidate with the lowest number of votes to be excluded. The excluded candidate's votes are then redistributed. This takes place in stages. The proposed process described below is in line with those used in other parts of the UK where STV is used.

The first stage involves the transfer of the excluded candidate's first preference votes. The returning officer examines the ballot papers on which those votes were given to see whether the voter has expressed a next available preference. Each ballot paper expressing a next available preference is transferred to the candidate for whom the preference is given, at a transfer value of 1.

If vacancies remain following this, the returning officer then sorts the excluded candidate's other ballot papers into groups according to the transfer value at which the votes were received by the excluded candidate. Beginning with the group of the highest value, the returning officer examines the ballot papers to see whether the voter has expressed a next available preference. Each ballot paper expressing a next available preference is transferred to the candidate for whom the preference is given, at the value that the vote on the paper had when it was received by the excluded candidate.

Where more than 1 candidate has the lowest number of votes, the returning officer must exclude whichever of the candidates had the lowest number of votes at the earliest stage of the count at which they had an unequal number of votes. If the candidates in question were credited with an equal number of votes at all stages, the returning officer must decide between the candidates by lot.

Non-transferable ballot papers

Rules 60N and 64R of the draft STV rules provide that a ballot paper becomes non-transferable at the stage where the returning officer considers that it indicates that the next preference has been given to 2 or more candidates, or where the next preference does not follow consecutively after the preference immediately before it. As examples, if a voter was to rank candidates in the following order: 1, 2, 3, 4, 4, 5 or 1, 2, 3, 5, 6, the ballot papers in question would be transferable up to the number 3 but non-transferrable thereafter. A ballot paper would also be non-transferable if it is unclear to the returning officer for any other reason which candidate is next in the order of preference.

Last vacancies

The draft STV Rules include provision for filling of last vacancies. This is intended to ensure that the returning officer is not required to continue counting when it would be pointless to do so. For example, the rule provides that where the number of candidates still in the race is equal to the number of vacancies remaining unfilled, those candidates are treated as elected. This rule enables a candidate to be elected without achieving the quota, but only in the circumstances described. The alternative would be that 1 or more seats would be unfilled. Again, our proposals are in line with other areas of the UK where STV is used.

Recounts

A crucial difference between the 2021 Rules and the draft STV Rules is the provision made for candidates or election agents to request a recount of votes.

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The 2021 rules provide that a candidate or the candidate's election agent may, if present when the count is completed, request that the returning officer re-count the votes. Rules 60T and 64X of the draft STV rules enables a candidate or election agent to request, at the end of each stage of the count, a re-count of that stage of the count. Having to re-count the entirety of the vote, meaning repeating every single stage, would be unreasonable, particularly at advanced stages of the count. Therefore, where an election is conducted using STV, the provision is for a recount of that stage of the count only.

Consultation questions

Question 1a

Do you agree that the draft STV Rules should only include the option of manual counting, omitting the option of electronic counting?

Question 1b

Should rules that allow for electronic counting be prepared for future elections, in time for local elections held after 2027?

Question 2

Do you agree that the current requirement to list candidates alphabetically by surname should not be changed?

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Question 3

Do you agree that the guidance to voters explains clearly how they should mark the ballot paper in an election under STV? If no, please suggest improvements.

Question 4a

Do you agree with our choice of the Droop quota?

Question 4b

Do you agree that the steps for calculating the quota as set out in Rule 60H and 64L sufficiently clear?

Question 5

Do you agree that the rules about the transfer of surplus votes are sufficiently clear?

Question 6

Do you agree the transfer of surplus votes should not take place where it cannot make any material difference to the prospects of the continuing candidate with the lowest number of votes?

Question 7

Do you agree that the rules about the exclusion of candidates and the subsequent transfer of votes are sufficiently clear?

Question 8

Do you agree that the draft STV Rules are sufficiently clear about the circumstances under which a ballot paper becomes non-transferable?

Question 9

Do you agree that the draft STV Rules are sufficiently clear about the provision for filling last vacancies?

Question 10

Do you agree that in elections conducted using STV, a re-count may be requested in respect of the last completed stage of the count only?

Question 11

We would like to know your views on the effects that the draft STV rules would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 12

Please also explain how you believe the rules could be changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language.

Question 13

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

How to respond

Submit your comments by **7 April 2023**, in any of the following ways:

- complete our [online form](#)
- download, complete our [response form](#) and email STVConsultation@gov.wales
- download, complete our [response form](#) and post to:

Elections Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

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The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data. In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do

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not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation. If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

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