
A new future for broadcasting and communications in Wales

Report of the Expert Panel on a Shadow Broadcasting and Communications Authority for Wales

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Executive Summary

The landscape of broadcasting and communications is rapidly changing. The next 10 years will be a critical period for the sector, with the current ITV licensing arrangements expiring in 2024, and the BBC Charter coming to an end at the end of 2027. Both milestones will have specific impacts for Wales, including the future funding position of S4C.

Viewing habits have changed dramatically and there's uncertainty over the funding of public service broadcasters.

Against this backdrop, the Expert Panel was tasked with providing recommendations and options to help strengthen Wales' media, and support the development of plans for an effective and fit for purpose regulatory framework for Wales.

Key themes have emerged from the evidence we heard, and these are set out in detail at Section 3 of this report.

Despite the significant complexity across the governance landscape, we believe some action can be taken quickly, and within the existing scope of the Welsh Government's powers.

Our central recommendation is the establishment of a Shadow Broadcasting and Communications Authority for Wales.

We believe it is fundamentally important that the Welsh Government has a body in Wales to turn to for guidance on navigating the changes on the horizon. That body would strengthen regulation and accountability and bring that accountability closer to home.

Throughout this report, we have recommended a Shadow Authority should be built on principles of collaboration, participation, equity, diversity, inclusion and belonging, bringing people and stakeholders together and gathering evidence to inform action.

We have set out suggested key principles for the Shadow Authority at Section 5.

We recommend that a working group is established to set up the Shadow Authority and to gather further data, research and evidence. We have set out recommended areas of focus and some key deliverables from section 7 onwards, including consideration of the body's composition, funding requirements, and governance arrangements.

Devolution of the powers to regulate, oversee, and drive accountability for broadcasting and communications within Wales may be undertaken in a range of different ways, and we advise at section 7 that further technical advice is needed, as a key element of the Shadow Authority's work plan, before progressing.

After 12 months we believe the Shadow Authority should become a fully operational Authority.

Co-Chairs' Statement

Over the last ten months we have realised that the next ten years will be critical to the future of broadcasting and communications in Wales. We are living through a period of such rapid and extensive change, particularly in the digital landscape, that something must be done to protect public broadcasting, to safeguard democracy and to work together towards improving the overall media environment for the people of Wales.

The decision by Dawn Bowden MS, the Deputy Minister for Arts and Sport and the Designated Member Cefin Campbell MS to set up an Expert Panel to explore the creation of a Shadow Broadcasting and Communications Authority for Wales could not have been more timely.

The task we faced was challenging. We started from a base where there was a lack of data and information about significant aspects of media provision and consumption, without a clear delineation between broadcasting, communications and the media as well as complexities over devolved and reserved powers.

The Expert Panel used its wealth of experience across broadcasting, communications, journalism, language, policy, governance and Welsh culture to examine the current issues facing the sector and what the future may look like, always focussing on people and audiences.

It became clear, following our widespread evidence gathering, including commissioned research that policy, regulation and accountability all need to be strengthened.

We came to the conclusion that this vital sector needs an independent body of expertise – a Shadow Broadcasting and Communications Authority – to increase transparency and visibility at a Welsh level. This body would advise the Welsh Government on future trends, support and protect the industry in Wales so it can continue to adapt and improve, and create a voice for the people of Wales.

We learnt a great deal from our research into other countries – especially those facing similar issues around reserved and devolved powers and the importance of supporting bilingualism and minority languages. These resonated with our situation here in Wales and the pressures to maintain and develop good services in both Welsh and English.

We met with leaders across the sector, and those involved at grass roots with programme making and content delivery, all of whom are passionate and committed to serving the public. There was a clear desire for more independence and responsibility for decision making, including financial control, to be made here in Wales.

We detected an element of nervousness about change, understandably so in this period of uncertainty. Some felt the status quo was the safest place. The panel felt that was not an option.

We concluded that governance issues could be strengthened with a clearer and more rigorous, yet cooperative line of accountability directly with the Senedd leading to more decision making, cooperation and scrutiny here in Wales.

We heard concerns about the future: fears that people in Wales could lose opportunities to view sporting events which are considered to be an important part of our heritage and culture, and issues over the unregulated content that children are easily accessing.

We also met with the Wales Public Interest Journalism Working Group and heard how vulnerable journalism is and how we share many of the same challenges. As a result, we believe journalism should come under the same new body as broadcasting and communications.

We heard how with the huge digital platforms now dominating the way we consume and gather our news and information there's a real danger that Welsh content may become invisible or even lost.

We should be proud of our broadcasting in Wales and should enable and support ambitions to create more content made in Wales for the people of Wales.

We believe the setting up of a Shadow Broadcasting and Communications Authority and a considered approach to further devolution will give the sector the support it deserves.

But this is just a start, a catalyst for a new way forward for broadcasting and communications in Wales; one which we hope will create a more co-operative form of working, a more secure environment for broadcasters and content creators, and one which will encourage change, innovation and greater accountability.

We would like to thank the Expert Panel who gave up a huge amount of their time and contributed their expertise and knowledge. We are extremely grateful to the team at Creative Wales led by Deputy Director Gerwyn Evans for their input and secretariat skills and to consultant Rebecca Woolley. Most of all we would like to thank everyone who met with us and engaged with us in this process. Your input was invaluable.

Section 1: The Expert Panel

1. The Expert Panel on a Shadow Broadcasting and Communications Authority for Wales was established in 2022 as part of the Co-operation Agreement between the Welsh Government and Plaid Cymru. The Co-operation Agreement (2021) agrees to¹:

“Explore the creation of a shadow Broadcasting and Communications Authority for Wales, to address our concerns about the current fragility in the media and attacks on its independence. This body would support the use of the Welsh language, particularly in digital, and encourage media plurality. We believe broadcasting and communication powers should be devolved to Wales.”

2. The Panel was appointed through an open call and members selected on the basis of their knowledge and expertise. Members: Mel Doel and Professor Elin Haf Gruffydd Jones (Co-Chairs), Carwyn Donovan, Nia Ceidiog, Clare Hudson, Dr Llion Iwan, Ceri Jackson, Shirish Kulkarni, Richard Martin, Arwel Ellis Owen, Dr Ed Gareth Poole and Geoff Williams.
3. The Panel is ultimately accountable to the Welsh Government², reporting to the Deputy Minister and the Designated Plaid Cymru Member. Its remit is to provide recommendations and options to help strengthen Wales’ media, support the development of plans for an effective and fit for purpose regulatory framework for Wales, and to support the work of delivering on the commitment to explore the creation of a shadow broadcasting and communications authority for Wales³.
4. From June 2022, the Panel held meetings, commissioned specific research and invited oral and written evidence from a range of stakeholders. The Panel’s deliberations were held bilingually, and its work was supported by Welsh Government officials with assistance from an external consultant.
5. In the oral sessions, key players were invited to present their views on the focus of the Panel’s remit as set out in the Terms of Reference, including: the remit, scope and arrangements for a Shadow Broadcasting and Communications Authority; the possible impacts of the devolution of broadcasting and communications; the suitability of existing regulatory frameworks and funding arrangements; and the challenges and opportunities for broadcasting and communications with particular reference to Wales. Between October 2022 and March 2023, the Panel met with:
 - BBC Cymru Wales, ITV Cymru Wales, S4C
 - Ofcom
 - Teledwyr Annibynnol Cymru (TAC)
 - Wales Federation of Entertainment Unions (with representatives from BECTU, NUJ, Writers’ Guild of Great Britain, Equity and Musicians’ Union)
 - AM Cymru
 - Netflix and Channel 4 were invited to meet with the Panel

¹ Welsh Government (2021) ‘The Co-operation Agreement’. Available at: <https://www.gov.wales/sites/default/files/publications/2021-11/cooperation-agreement-2021.pdf>

² <https://www.gov.wales/expert-panel-on-a-shadow-broadcasting-and-communications-authority-for-wales/terms-reference>

³ <https://www.gov.wales/expert-panel-devolution-broadcasting-announced>

- 6.** During the same period, the Panel invited oral contributions from the following individuals and organisations:
 - Alan Esslemont (CEO of TG4, Ireland)
 - Andrew Jeffreys (Treasury, Welsh Government)
 - The Institute of Welsh Affairs
 - Wales Governance Centre (Cardiff University)
 - The Wales Public Interest Journalism Working Group
- 7.** The Panel commissioned specific research work to enhance its evidence base:
 - Broadcasting Trends - Prepared for the Expert Panel on the Devolution of Broadcasting (Enders Analysis)
 - Review of the broadcasting powers and responsibilities in selected countries (Cardiff University)
 - Children's media in 2023 and the need for regulation (Kids Industries)
- 8.** In early 2023, the Panel invited written evidence through a Welsh Government online survey and received responses from the following organizations:
 - Arqiva
 - National Communications Council
 - National Union of Journalists
 - Race Council Cymru
 - Channel 4
 - Netflix
 - ITV Cymru Wales
 - TAC
 - Ofcom
 - Cymdeithas yr Iaith
- 9.** The Panel also consulted a wide range of published reports and further evidence available in the public domain.

Section 2: The current state of play

10. The landscape of broadcasting and communications has been rapidly changing here in Wales, across the UK and internationally. Digitalisation and technology have transformed the foundations of our media systems; social media are now an integral part of our daily lives; markets have become more globalised; local media and journalism models have been disrupted and many complex challenges face the public service media and public service broadcasting. The content and outputs of media sectors, traditionally separated in regulatory requirements, are converging across digital platforms, and the boundaries between producers and consumers or citizens have also become blurred. At the same time, there continues to be concerns regarding plurality within the media and the need for a more equitable sector that can better reflect and represent societal diversity. The rollout of superfast broadband and 4G and 5G mobile signal has enabled the widespread distribution of content over the internet, yet speeds and coverage, availability and accessibility are still patchy for many of our communities.
11. Two decades after the beginning of devolution, the case to strengthen the relationship between Welsh democracy, broadcasting and communications continues to be made, and both media and digital technology are clearly marked in the strategic themes of ‘Cymraeg 2050’.
12. The term ‘broadcasting’ could fail to encompass the complexity of online video, audio and other content on the frontier of social media. Legacy TV and radio are often unable to compete with elements of its power and influence. There are many positives of the tech revolution to democracy - the dissemination of important and, at times, complex information and opinion - but there are many dangers; the corrosive impact of ‘fake news’ and a lack of prominent and robust contrast, balance and diversity of content on these platforms to challenge minority voices manipulating and unduly influencing and shaping the conversation, political and otherwise.
13. The definition of ‘broadcasting’ in our remit does not specifically include journalism and we are aware that an expert panel on public interest journalism is running in parallel with our work. However, in order to align with our terms of reference to protect and embolden the interests of democracy and healthy political discourse, it is imperative that ensuring the impact and visibility of responsible and regulated journalism is included.
14. The Media Bill, published by the UK Government in March 2023, recognises the evolution of terminology and makes increased reference to ‘audiovisual services’, ‘audiovisual content’, ‘public service remit’, ‘public service broadcaster’, ‘internet programme services’, where in previous legislation the term ‘broadcasting’ had been used to define the audiovisual role and activity of the BBC, S4C, C3, C4 and C5. Similarly, the recent letter to Ofcom from the UK Government Secretary of State for Culture Media and Sport refers to **“a new online prominence framework so that public service content is made available, and given prominence, across major online TV platforms.”**

⁴ Welsh Government (2017) ‘Cymraeg 2050: A Million Welsh Speakers’

⁵ <https://www.gov.uk/government/publications/dcms-secretary-of-state-letter-to-ofcom-on-the-renewal-of-the-channel-3-and-channel-5-licences/letter-from-dcms-secretary-of-state-to-ofcom-on-the-renewal-of-the-channel-3-and-channel-5-licences>

- 15.** Viewing habits have shifted, with linear TV viewing falling by 37% since 2010, and even faster over the past 2 years. These changes are particularly marked in the younger age groups who watch around 75-80% less TV than their counterparts just a decade ago.⁶ According to Media Nations: Wales 2022, people in Wales spent just over 3 hours per day watching broadcast TV on the TV set in 2021, more than the UK average, but the time spent watching TV from broadcasters in Wales fell by 12.6% compared to 2020, the largest proportional decrease of any UK nation¹.
- 16.** Domestic broadcasters have video on-demand platforms for their content alongside global Subscription Video on-Demand services (SVODs) such as Netflix, Amazon Prime etc. Domestic broadcasters are also making some of their content available on online video platforms and social media sites (such as YouTube, Facebook, Instagram, and TikTok) and on SVODs.
- 17.** In a converged digital, global and multi-platform media environment, the visibility and ability to find content connected to Wales, including content in the Welsh language has become increasingly challenging. Geo-based technology and algorithms can make this content more - or less - accessible to people living in Wales.
- 18.** The production of Welsh-language media content is highly dependent on the public service broadcasting environment, as is the case for many minority language communities across Europe. Plurality of content and of content providers in the Welsh language is an important factor in serving the needs of a diverse speaker community.
- 19.** The broadcasting sector plays a central role in contributing to the vitality of the Welsh language in the digital sphere. In a changing landscape, additional opportunities are needed in order to strengthen and enhance the presence and use of the language across a range of platforms and to connect its speakers to diverse digital content in the language.
- 20.** Over the next few years, these broad trends are set to continue, with broadcaster produced TV forecast to make up just half of all video viewing in 2027. However, these top-line statistics obscure a huge variation by age group. By 2027, it is predicted that 15-24 year olds will spend just 12% of their video time engaging with broadcaster commissioned/produced content, in comparison to 85% for those aged over 65⁷.
- 21.** Within this broader picture of rapid change, some specific trends and pinch points stand out for Wales, as evidenced by the 'Broadcasting Trends' research report, commissioned by the Panel :
- Over a quarter of adults access Welsh news through social media platforms, especially Facebook, while TikTok is highly popular among young adults;
 - Satisfaction with public service broadcasting is higher in Wales than any other nation in the UK (71% of those in Wales who watched public service broadcast channel services in a 6-month period during 2021 said they were satisfied, and only 9% were dissatisfied);
 - ITV in Wales underperforms in comparison with STV in Scotland, in terms of perceptions of delivering programming about their respective nations.
 - Viewing of BBC and ITV's Welsh programmes accounts for just 4% of total TV viewing time, with viewing heavily skewed towards the over-65s. In line with all TV viewing, this is declining over time, but at a slightly slower pace;

⁶ Enders Analysis (February 2023) 'Broadcasting Trends: prepared for the Expert Panel on the Devolution of Broadcasting'

⁸ Enders Analysis (February 2023) 'Broadcasting Trends: prepared for the Expert Panel on the Devolution of Broadcasting'

⁷ Enders Analysis (February 2023) 'Broadcasting Trends: prepared for the Expert Panel on the Devolution of Broadcasting'

- Total viewing of Welsh network programming declined 62% between 2010 and 2022 among those under the age of 45. Due to these declines, 88% of all those viewing Welsh network programming in 2022 came from the over-45s age group, despite this group making up just under half the Welsh population;
 - Radio listening across Wales is similar to the UK, except that the BBC is much more popular. BBC Radio Cymru has a broad demographic spread of listeners in terms of age and socio-economic background. Three quarters of BBC Radio Wales' listening hours are from the over-65s, which raises immediate questions around serving younger non-Welsh speakers.
- 22.** The Institute of Welsh Affairs (IWA) has undertaken work to assess the current state of regulation and accountability for broadcasters in Wales and survey the options available for future models of regulation. The final two parts of its Broadcasting Regulation in Wales report⁹ was published in March 2023. The report set out two main recommendations:
- **Recommendation 1** - The UK Government should transfer some functions relating to broadcasting from DCMS (all appointments to boards governing broadcasters, policy responsibility for commercial broadcasting, and decisions related to the BBC Charter, BBC Agreement and Broadcasting Licence Fee) to (a) Welsh Government Or (b) an independent Commission.
 - **Recommendation 2** - Welsh Government should set up an Institute for Media in Wales before the end of the current Senedd term in May 2026. It should be independent from governments and have a remit to serve the interests of citizens and audiences in Wales.
- 23.** Questions around the future governance of Wales add further complexity to the mix. The interim report by the Independent Commission on the Constitutional Future of Wales identifies ten immediate pressure points on devolution, including the fragility of intergovernmental relations, constraints on policy and delivery at the boundaries of the settlement, and an information and accountability deficit. The pressure points identified by the Commission resonate with this Panel in terms of the evidence they have heard across the landscape of broadcasting and communications in a devolved context and compound the fragility and inadequacy of the current system in terms of truly delivering for the people of Wales.
- 24.** The Co-operation Agreement¹⁰ between the Welsh Government and Plaid Cymru recognises this inadequacy, and sets out some of the key issues with the current system:

“Broadcasting

While the pandemic has raised the profile of Wales and Wales’s democracy in the UK media, there is a broad consensus that the current broadcasting and communications framework is inadequate, is hampering the democratic life of our country and is not serving the needs of, or ambitions for, the Welsh language. The current system is therefore not capable of delivering the media Wales needs. There are also ongoing threats to, and attacks on, public service broadcasting from the UK Conservative Government. Plaid Cymru and the Welsh Government agree that broadcasting and communications powers should be devolved to the Senedd.”

⁹ IWA Broadcasting Powers in Wales report - Broadcasting Regulation in Wales - Institute of Welsh Affairs (iwa.wales)

¹⁰ Welsh Government (2021) 'The Co-operation Agreement: Full Policy Programme'. Available at: <https://www.gov.wales/co-operation-agreement-full-policy-programme-html#86027>

- 25.** At present, ‘broadcasting and other media’ remain Reserved Matters¹¹ and the Senedd cannot legislate in these areas. The present legislation and the BBC Charter are not specific to Wales. This is also the case regarding the Media Bill published by the UK Government in March 2023. To confer powers on the Senedd to legislate in this area would require an amendment, made by the UK Parliament, to the Government of Wales Act to remove the reservation.
- 26.** The Welsh Ministers currently have wide powers set out in section 60 of the Government of Wales Act (GoWA) 2006 to do anything they consider appropriate to achieve any one or more of the following objects: (a) the promotion or improvement of the economic well-being of Wales, (b) the promotion or improvement of the social well-being of Wales, and (c) the promotion or improvement of the environmental well-being of Wales. Section 61 of GoWA specifically permits the Welsh Ministers to do anything which they consider appropriate to support various activities including: arts and crafts relating to Wales, cultural activities relating to Wales, and the Welsh language.
- 27.** These powers (sections 60 and 61) are very broad and give the Welsh Ministers considerable scope to support a range of activity. Section 70 gives a specific power to the First Minister to give financial assistance (whether by way of grant, loan or guarantee) to any activity which the First Minister considers will secure, or help to secure, the attainment of any objective within the functions of the Welsh Government.

¹¹ Government of Wales Act. Amendment in Schedule 7A (reservation 158)

Section 3: What the Panel heard

28. Key themes emerged from the evidence, and form the foundation for the recommendations in this report:

Accountability, scrutiny and regulation

- The Panel provided the opportunity to discuss alternative models of regulation, accountability and scrutiny with the aim of better serving the people of Wales in this field. Current broadcasters, regulators and unions were reluctant to engage in this conversation, including at a level of hypothetical modelling, noting that any revision of the current constitutional arrangements would be a political matter.
- Reference was made to the need for broadcasters to be accountable and the need for audiences to be able to receive the same or better services through any arrangements. S4C would expect to be treated as other public service broadcasters across the UK and noted the value and benefits associated with them being part of the wider PSB ‘family’.
- The Panel heard concerns that at present, discussions with Senedd Committees were merely a friendly exchange and in essence, the Senedd had no real power in holding PSBs accountable.
- BECTU noted their belief that there was a lack of accountability in Wales with regards to broadcasting as both the BBC and S4C Boards are directly accountable to DCMS in Westminster.
- The BBC noted that they were accountable to OFCOM with regards their responsibilities to Wales, including specific targets around the

number of broadcasting hours that represent Wales and spend on content.

- In general, the status quo was presented as a functional system with no immediate need to enhance accountability at Welsh level. Public service broadcasters are currently exposed to very light-touch scrutiny in respect of their activity in, for, and about Wales. The Panel believes that there is an argument to support more direct accountability to the people of Wales.
- The Panel noted that some European countries operate models of shared regulation, where certain aspects of media regulation lie at state level and others at the level of autonomous or devolved parliaments¹².
- Developing the current system of Memoranda of Understanding between public service broadcasters and the Welsh Government, and between each other, appeared to be the preferred course of action from those giving evidence. This arrangement doesn’t allow for any input from citizens, and also does not involve any independent contribution to a public debate concerning the long-term future of broadcasting and communications in Wales.
- There is a significant data deficit in respect of broadcast and communications media as experienced by the people of Wales and no organization has the responsibility to address it at present.
- The Panel was concerned that making Welsh content more visible and more accessible to people living in Wales was not being prioritized through geo-technology.

¹² School of Journalism, Media and Culture, Cardiff University (January 2023) ‘Review of the broadcasting powers and responsibilities in selected countries: report for the Expert Panel on a Shadow Broadcasting and Communications Authority for Wales’

- The Panel was concerned that there seemed to be very little future thinking or innovation to consider what broadcasting and communications might look like in Wales in the future. At present there is no organisation tasked with developing a strategic vision, specific to Wales in this field.
- Recent Census data¹⁴ shows that just under 4% of Welsh households have a main language other than English or Welsh, with Polish being the most common. Little or no broadcast content is currently provided in these languages, and the UK statutory target for British Sign Language is 5% of television programme hours¹⁵.

Our bilingual nation

- The systemic separation of the Welsh and English languages across the industry is typical of media sectors in bilingual and multilingual countries where there is a significant media presence in the languages concerned¹³. Creating or gaining access to broadcasting authorities, television channels, radio stations as well as print and online press have been regarded as major achievements for minority language communities across Europe and further afield. Media content and organisations make a crucial contribution in increasing the vitality of minority languages. Enhancing the digital presence of languages such as Welsh, Basque, Galician, and Catalan is imperative to their future prospects.
- Our contemporary bilingual nation is one where we move between Welsh and English, in our homes, workplaces, schools and wider communities. Yet the version of Wales we see and hear from our public service broadcasters does not often represent this fluid, harmonious co-existence of the two languages. The Panel noted that further innovation was needed in this field.
- Left to market forces alone, minority languages become further marginalised and public monies are needed to address future-facing challenges. This can and is being done by the Welsh Government without additional legislative powers. For example, the Books Council of Wales funding for a Welsh Language Digital News Service.
- Non-Welsh-speaking Welsh audiences continue to be under-served by Wales-specific content, and the funding gap in this area of service, compared to Scotland, persists. The Panel believes that the non-Welsh speaking population of Wales should not be deprived of an appropriate amount of relevant local content, and also notes that Welsh speakers frequently watch and appreciate programming about Wales in the English language. The Panel didn't hear evidence to suggest that this problem is being adequately addressed by public services broadcasters, and cites figures directly from the BBC below, to substantiate these concerns¹⁶. The issue of adequately serving non-Welsh-speaking audiences does not rest solely with the BBC.
 - » Spend on local English language TV content in Wales (across BBC 1 and BBC 2) in 2022 totalled £35m, compared with a budget of £71m into English language TV content in Scotland in the same period;
 - » There is wide satisfaction with public service broadcasting in Wales: audiences are mostly satisfied with PSB (with 72% of those watching PSB channels in the past six months saying so), while only 9% were dissatisfied. S4C had the lowest score of 60%.
 - » Wales scored just behind Northern Ireland but significantly ahead of Scotland when were asked how well PSB delivered on 'regional programmes that keep me informed about my area' with 52% of respondents in Wales giving a rating of 7

¹⁴ <https://www.gov.wales/ethnic-group-national-identity-language-and-religion-wales-census-2021.html>

¹⁵ https://www.ofcom.org.uk/_data/assets/pdf_file/0035/179954/tv-access-services-code.pdf

¹⁶ BBC Group Annual Report and Accounts 2021/22 (2022). Available at: <https://downloads.bbc.co.uk/aboutthebbc/reports/annualreport/ara-2021-22.pdf>

- or more out of 10 – S4C scored 67%, BBC 56%, ITV 49% with C4 at 28% and C5 22% – In Scotland, ITV had a score of 55% and 64% in Northern Ireland.
- » The BBC Scotland channel, launched in 2019, is on air every evening, and includes a full hour of news. While this model may not be appropriate for Wales, it demonstrates considerable investment in hours and a range of genres for the Scottish audience from the BBC in English, compared to that in Wales;
 - » While on occasion BBC Wales has co-commissioned drama with S4C (back-to-back English and Welsh production), most drama in English on BBC Wales is co-commissioned with network BBC commissioners. This means that almost all of the BBC Wales spend and hours in this genre are devoted to drama intended to be shown at some point across the whole of the UK. This brings considerable investment and scale into drama set in Wales on the BBC which is a very positive development. However, the Panel does have a concern that drama specifically for audiences in Wales in the English language is becoming a thing of the past. Network tastes in terms of subject matter and story may not always reflect Wales in a way that resonates deeply enough with audiences here. BBC Scotland's hours in Drama, Entertainment, Music and Arts were 456 in 2022 (compared to 63 in Wales);
 - » The number of local opt-out hours for Wales of daily, weekly news and current affairs in the English language on TV are down to 367 hours (from 429 in 2021) which is additional cause for concern. Investigative long form current affairs is now only occasional in the BBC Wales Investigates programme. Wales Live, established a few years ago, is a weekly magazine format continuing on BBC 1 Wales, but it doesn't fulfil this long-form investigative remit;
 - » The Panel has a very real concern about the number of hours of 'education, factual and religion' on BBC Wales (in 2022 down to 165 hours, from 212 hours in 2021). This genre does not lend itself to co-commissioning with network (there are occasional exceptions to this). It is a key genre to deliver stories of relevance and resonance to Welsh audiences and it appears to be in decline. X Ray, BBC Wales's long running consumer programme, has just been brought to an end. While some programmes may not attract sufficient audiences to justify continued spend, we are concerned at the general depletion of local content in this genre. The picture in Scotland could not be more different, with 1008 hours being commissioned in 2022;
 - » Research commissioned by this Panel shows that specific long-running shows broadcast by the BBC and ITV face the largest declines among the overall fall in regional and wider TV viewing. X-Ray (BBC), Wales This Week (ITV) and Sharp End (ITV) have investigated issues relevant to Welsh viewers for over a decade. While all three of them maintained a sizeable audience for much of that time, their viewership has fallen dramatically in the last four years, with all declining by over 35%.
 - » In relation to spend on radio, the figures speak for themselves: Radio Wales has a budget of £14m while Radio Scotland has £24m. The radio budget in Wales is divided more or less equally between the Welsh and English languages, but the overall spend figure does raise the question about whether either the Welsh language or the English language stations are getting what they need to serve their audiences;
 - » Both the BBC and ITV are required by regulation to produce Welsh specific news and non-news content for Welsh viewers – It is regulation that ITV must broadcast 5.5 hours of Welsh specific news and

non-news content for Welsh viewers each week (286 hours a year), of which 4 hours must be news, and 47 minutes must be current affairs – In 2021, they overdelivered, producing 332 (vs. 286)

- » Across 2022, ITV 1's Welsh news bulletins (18:30-19:00) had an average audience of 126k. This has declined by 45% over the last five years.
- » S4C accounts for just 1% of TV viewing and 3% among Welsh speakers, but viewing has held up well over the last five years.
- » S4C was watched by 505,000 people in the UK in an average week in 2022. Within Wales, it was watched by 10% of the TV owning population per week. – Although S4C had a weekly reach of just 5% among under-25s and 8% among 25-44s in Wales, its reach was higher among 45-64s (12%) and 65+s (17%)
- » 28% of all S4C viewing is to sports programming, among non-Welsh speakers it accounts for half of their viewing. Of the 30 most watched programmes on S4C in 2022, 24 were sports matches (8 of the top 10 were international football matches).
- » If you combine viewing to S4C (1%) with the viewing to Welsh network content on the BBC and ITV, 5% of Welsh audiences' total TV viewing in 2022 was to content produced for Wales – That is almost 8 minutes of viewing per person per day.

The role of Creative Wales

- » Creative Wales is an economic development agency within the Welsh Government that supports the creative industries in Wales. Its focus is on promoting growth across TV, Film and Animation; Games, VFX and Post-production; Music and Comedy and the Publishing sectors alongside leading on the Welsh Government's policy position on broadcasting and media. It invests in creating opportunities for people in the industry by supporting skills and talent initiatives, funding projects that boost infrastructure and creative businesses, providing specialist advice and actively promoting sustainability, diversity and equality for all across the creative sectors.
- » Creative Wales has made some substantial investments in television drama over recent years, resulting in a major boost to the creative industries here. Creative Wales' investment has resulted in greater portrayal of Wales on a range of TV platforms and channels (both UK networks, including ITV and Channel 4, and international streamers). While this is a positive development, Creative Wales does not commission or broadcast drama for audiences in Wales: it is an investor not a commissioner. This Panel continues to be concerned about decision-making around public service broadcast funding as it relates to Wales, the total levels of spend, and whether that serves audiences well in Wales.

Championing audiences in Wales

- No single body or person is accountable for seeking and articulating the opinions of people in Wales on the quality and range of broadcasting and communications about Wales. It could be argued that the people currently left out of shaping the strategy of public service broadcasting in Wales are, in fact, the public themselves.
- Written evidence received by the panel from Race Council Cymru stated that they 'simply aren't hearing our own accents, our own voices, our own experiences being reflected back to us'. However, there was a lack of focus across much of the evidence received, on equity, diversity, inclusion and belonging. This indicates to the Panel a significant need for more meaningful and systemic action.
- Written evidence received from Cymdeithas yr Iaith covered a range of issues. It highlighted the challenges in the funding and remit of S4C and the insufficient online content in Welsh

(including apps and gaming). It raised concerns about the language being left behind and proposed creating a Welsh Language Digital Initiative. The Panel received very little evidence to indicate that sufficient action is being taken to address either the deficit of accurate Wales-specific news within UK-wide news programming, or the need for representative and diverse news coverage specifically for Wales.

- The development of standalone digital platforms by our public service broadcasters doesn't necessarily put content in the places where audiences already go, and there is a risk that this approach is not sufficiently integrated into the wider evolving digital media landscape to keep pace.

Supporting democratic life in Wales

- Ofcom's report on news consumption in the UK (2022) indicates that the people of Wales are particularly interested in hearing news about their own nation. It is important that this desire is heard and met. It is also vital to recognise the role of a robust media that is accurate, timely, and responsive to nuance and difference across our devolved nation, to truly allow a strong democracy to thrive.
- A robust environment across broadcasting and communications is fundamentally important to a developed and informed democracy. In a digitally active world, it is essential to have distribution systems for trusted and responsible news which reach out to audiences in the digital spaces they spend time in. It isn't sufficient for public service broadcasters to build separate platforms and apps where their news provision resides.
- Many countries with similar challenges to Wales

are developing strategies for adapting policy and public service media organisations to the digital media landscape. Public service systems face constrained funding and one of the biggest pressures on broadcasters is the intense competition from global SVoDs for audiences and the production, supply and distribution of content. Separation between political or commercial interests and media governance is fundamental for public trust in media institutions and more direct public participation in key decisions concerning public media funding, governance and content strategies can contribute to new modes of governance and accountability. Effective policymaking and public media planning requires meaningful public accountability and scrutiny, and should be informed by comprehensive, authoritative and transparent research.¹⁷

- The people of Wales should be brought into the conversation about the devolution of broadcasting and communications. The landscape is complex, and even some of the experts approached for evidence were constrained in their thinking around what devolution of broadcasting might look like.

¹⁷ School of Journalism, Media and Culture, Cardiff University (January 2023) 'Review of the broadcasting powers and responsibilities in selected countries: report for the Expert Panel on a Shadow Broadcasting and Communications Authority for Wales'.

Section 4: Establishing a Shadow Authority for Wales

29. The Panel considered what the benefits and challenges might be in taking no action, based on the evidence it heard. Taking no action presents a range of challenges, including:

- The opportunity to develop a sophisticated and well-informed national conversation about the role and future of broadcasting, communications and journalism in Wales, at this pivotal moment, would be missed;
- The current volatility around future funding for public service broadcasters from the UK Government may continue, creating further fragility for broadcasting in Wales;
- Audiences in Wales would lose the chance to have some leverage over the rapidly shifting broadcasting and communications landscape here, across the UK, and globally.

30. Whatever action is now taken, the Panel wishes to emphasise that there must be an adaptive, responsive approach. Data and insight specific to Wales must be sought and used, and the people of Wales must be placed at the very heart of the conversation. The Panel was struck by the fact that, at present, there is no individual or body which has the responsibility to safeguard the interests of the people of Wales. This vital ‘champion’ role is a significant gap.

31. With more change on the horizon, there is a need for the Welsh Government to take a future-focused approach, looking ahead to the impending changes, distilling with clarity and insight what the implications might be for Wales. A body specifically given responsibility for stewarding a coherent, strategic and informed vision, and engaging with the people of Wales, would provide significant value at this time.

32. The Panel therefore recommends the establishment of a Shadow Broadcasting and Communications Authority for Wales

(hereafter referred to as a ‘Shadow Authority’). It recommends that the Shadow Authority:

- Is independent of Government;
- Comprises of individuals who have the right combination of diverse expertise, experience, and imagination to support transformational change across the broadcasting and communications sector, with and for the people of Wales;
- Is committed to finding meaningful and innovative ways to place the people of Wales at the heart of a vision for the future of broadcasting and communications in Wales;
- Finds ways to strengthen the mechanisms of accountability around public service broadcasting in Wales, particularly on areas of key importance to the people of Wales, even if the legislative and regulatory arrangements remain as they are;
- Engages directly with broadcasters to enable, facilitate and support them in their aims;
- Has specific responsibility for the Welsh language, to build relationships and prompt innovation and change across the sector, with a view to achieving the strategic aims of ‘Cymraeg 2050’;
- Seeks to improve the offer of English language content made within Wales for the people of Wales, and bridge the gap between English and Welsh across the spectrum of the broadcasting and communications landscape;
- Evolves over time, working within existing mechanisms at first, providing insight and data to inform and improve, but able to pivot to add additional functions if further devolution becomes necessary.

Section 5: A Shadow Authority for Wales – key principles

- 33.** The Shadow Authority must act as an enabler for collaborative thinking and action, encouraging innovation, optimism, imagination and ambition.
- 34.** The Shadow Authority must provide a single focus point of rigorous stewardship, becoming the ‘go-to’ body for all stakeholders as a centre of expertise, knowledge and leadership.
- 35.** The Shadow Authority will seek to work with existing broadcasters and content creators, and potentially new ones, to promote these key principles:
- That content produced for Welsh audiences is of consistently high quality;
 - That different communities and demographics across Wales are well served by this content;
 - That both network programmes and material produced specifically for Wales offer portrayal and storytelling which is relevant to audiences in Wales;
 - That news content is always accurate and represents a plurality of views and experiences.
 - That content produced for Welsh audiences should be visible and easy to find across digital platforms.
- 36.** The needs of the people of Wales should be front and centre of considerations around the devolution of broadcasting. The Shadow Authority must enable conversation with the public based on transformative approaches to equity, diversity, inclusion and belonging.
- 37.** There must be an ambitious and wide-ranging approach to the Welsh language, building on existing platforms and enhancing digital content and innovation.
- 38.** The Shadow Authority should advise on how the current divide between the English and Welsh languages could be bridged, facilitating the testing-and-learning of new approaches.
- 39.** The Shadow Authority must be able to pivot, respond, and innovate in the face of change.

Section 6: A Shadow Authority for Wales - areas of particular focus

- 40.** The Panel particularly considered some key areas that should fall within the Shadow Authority's scope, namely:
- Public interest journalism
 - Children and young people
 - Sport
- 41.** These areas are important for the following reasons:
- Their cultural significance to Wales;
 - Their role in building an engaged democracy;
 - Their position in relation to the Welsh language ambitions outlined in 'Cymraeg 2050';
 - Their importance when taking the Wellbeing of Future Generations Act into consideration;
 - Their impact on the long-term sustainability of the sector.
- Section 6.1: Journalism**
- 42.** In response to the commitments in the Co-operation Agreement, the Panel was asked to consider strengthening Welsh democracy and closing the information deficit.
- 43.** The panel heard from and worked closely with some of the members of the Wales Public Interest Journalism Working Group (WPIJWG), which was convened to provide advice on actions to support the long-term sustainability of Welsh and English language public interest journalism in Wales.
- 44.** The synergy between the work of the WPIJWG and the Expert Panel is clear. Both groups have maintained a focus on the need to nurture the right conditions for democratic engagement. Both have sought to define what the structural conditions need to be, in order to produce content that meets the needs of the Welsh people.
- 45.** The Panel recognises that journalism is a significant element of the broadcasting and communications landscape, and therefore believes it must be considered strategically in the work of the Shadow Authority going forward.
- 46.** The Shadow Authority should engage with the outputs from the important work of the WPIJWG from the outset.
- 47.** The rapid changes to the production, publication, and consumption of content across so many channels means that traditional models of understanding and supporting journalism have quickly become outdated. There is a vital need to quickly test and learn new approaches.
- 48.** Wales as a small and well-connected nation should be able to generate and iterate new ways to support the sector, taking account of the changing environment, and scanning the horizon for what comes next.
- 49.** It will not be sufficient to make small standalone investments using traditional models. We must work together with communities to develop a strong theory of change, so that systemic interventions can be measured using defined metrics, which seek to have a transformational impact on democratic engagement. The evidence submitted from Race Council Cymru particularly urged a future focus: 'The future of journalism must look different from the past. We...urge the shadow Broadcasting and Communications Authority for Wales to address our concerns about the current fragility in the media and attacks on its independence. We would like to see the use of the Welsh language, particularly in digital and encourage media plurality.'
- 50.** This kind of strategic forward-thinking and systemic change demands coordination and investment particularly when many print and online publications across Wales are already in precarious financial positions.
- 51.** Sustainable, high quality, accurate, and engaging journalism, which arises from the needs and interests of the people of Wales, is an integral part of the wider broadcasting and communications ecosystem.
- 52.** The Panel therefore recommends that a Shadow Authority includes journalism within its scope.

Section 6.2: Children and young people

- 53.** The Panel was keen to understand what the role of a Shadow Authority might be in relation to children and young people.
- 54.** The Panel commissioned a report and evidence session from experts in the field, which revealed some particular trends of interest and concern¹⁸:
- Children aged 13 and under now consume a significant amount of video-related content, whether this be online video (such as YouTube) or streaming on-demand services (such as Disney+). Children between 4-15 years old spend far less time watching live TV than any other age group;
 - The fragmentation of video content is particularly pronounced for children's content, with an array of channels and platforms competing for attention;
 - Children are spending significantly more time online, and are often navigating digital platforms fairly independently. These platforms have addictive properties. Evidence shows that there is a risk of repeated exposure to harmful content, which can impact on mental health.
- 55.** The Panel learned that there are identifiable differences, with parents in Wales more concerned about certain aspects of their children's media consumption than parents in other UK nations. They were particularly concerned about their children giving out personal details to people online or seeing age-inappropriate content online or on TV. In relation to gaming specifically, parents in Wales were more likely than other nations to be concerned about the possibility of their child talking to strangers while gaming, being bullied by other players, content and pressure to make in-game purchases.
- 56.** Parents in Wales were also more concerned about who their child is in contact with or the potential to be bullied on their mobile phone.
- 57.** Experts in the industry believe the existing regulatory functions in children's broadcasting and communications are not fit for purpose, and the risk presented by failing to keep pace with the rate of change is high.
- 58.** The Panel recommends it is vital for a Shadow Authority to explore different regulatory models in Wales which might create greater protection for children and young people, in line with the ambitions and scope of the Wellbeing of Future Generations Act.
- 59.** The expert evidence presented to the Panel in respect of children also addressed the potential for more specific investment and attention in the protection and enhancement of Welsh language children's content and distribution. They shared examples of other nations where indigenous languages have been protected and supported by investment in new models of children's content production and distribution (including Ireland, the Basque Country, Canada, Mexico, New Zealand and Australia).
- 60.** The Panel therefore recommends that the scope of a Shadow Authority should include consideration of new and improved models for supporting a thriving and engaging Welsh language broadcasting and communications landscape for a younger audience in Wales.

¹⁸ Kids Industries (February 2023) 'Children's media in 2023 and the need for regulation'

Section 6.3: Sport

- 61.** The cultural importance of sport to Wales is well understood, and the Expert Panel heard from broadcasters about the huge audience figures they track during international football and rugby events.
- 62.** In a future where key sporting events might disappear behind paywalls, there would be a very real detriment to the people of Wales. Not only would such a change have the greatest impact on those least able to afford the subscription fees but given the issues with the rollout of Superfast broadband and 4G and 5G mobile signal across the nation, those communities typically already most marginalised would be hit the hardest by the shift. Along with the cultural impact, the negative effect on health and wellbeing, in terms of young people's engagement with sport, is a significant concern.
- 63.** The interests of the viewing public are currently protected by the identification in The Broadcasting Act (1996) of two lists of key sporting events which must remain free to view, commonly referred to as the 'Group A and Group B lists'. However, while S4C are consulted, events can currently be removed from this list without any direct engagement with the Welsh Government.
- 64.** Events including, but not exclusive to, the men's and women's FIFA World Cup and qualifiers; UEFA European Championship and qualifiers; the Rugby World Cup; Six Nations Rugby Championship; The Olympic Games; Paralympic Games; Commonwealth Games; FA Cup; cricket test matches played in the UK and Wimbledon are of national importance. It is vital that the DCMS understands their significance to Wales, so future generations are protected.
- 65.** The rapidly changing global broadcasting and communications landscape is already impacting on how people in Wales are able to access sporting events. The UK market for sports broadcast rights is the most competitive in the world, with a growing number of subscription-based broadcasters offering content across multiple platforms and finding innovative ways to deliver content to audiences. These companies are adapting to the market in ways that challenge the status quo, one example being the offering of bespoke live Welsh language commentary. Traditional public service broadcasters are being challenged in this market therefore not only by the financial heft of the pay-per-view broadcasters but by their innovative use of digital broadcast technology.
- 66.** Broadcast rights is a complex area of the broadcasting and communications sector, with a multitude of different packages of content negotiated and traded. The fragmentation of packages of rights increasingly a feature of the way rights are traded further complicates the picture. There are separate rights packages for: live access versus highlights access, satellite TV, linear public service broadcasting for TV, live digital, digital highlights, live radio and score flashes, amongst others.
- 67.** The complexity of these packaging and contracting arrangements can result in a detrimental outcome for people in Wales. For example, purchase of a rights package to a pay-per-view broadcaster might allow them to live-stream commentary in English and Welsh, thereby technically fulfilling their contractual obligations for a Welsh provision, but depriving viewers of Free to Air Welsh language commentary for significant sporting events.
- 68.** Removal of Welsh language coverage from free-to-air platforms could have a negative impact on the development of the language, particularly given the Welsh Government's ambition to reach one million Welsh speakers by 2050. Sport, with its wide-ranging appeal across all social demographics, currently brings the Welsh language into homes across Wales.
- 69.** It is essential for the Welsh Government to avail itself of the right insight and advice to be able to engage persuasively both in the rights-trading environment, and in discussion with the UK Government about the future protection of the Group A and B lists. Within the complex and changing landscape of this particular area of the sector, the Panel recommends that the Shadow Authority should have a specific functional responsibility for providing this insight and advice.

Section 7: Setting up a Shadow Authority for Wales

70. If the Welsh Government decides to establish a Shadow Authority, the Panel considers a phased approach would be the best way to proceed. It has considered the following factors:

- There is a data and insight deficit around broadcasting and the media in and for Wales, which a Shadow Authority could address in the first instance, creating a platform for further decisions around devolution;
- The creation of a Shadow Authority will create a focal point for broadcasting and communications in and for Wales, and will draw key stakeholders, and the people of Wales, into a strategic conversation;
- The majority of the existing powers around broadcasting and communications rest with the UK Government, and therefore changes to those powers, or their devolution, are not within the immediate gift of the Welsh Government. A Shadow Authority would be well placed to work with the Welsh Government to draw up a range of options for the further devolution of broadcasting and communications, and provide support to the Welsh Government in putting together a detailed options-based business case;
- The systems of regulation, accountability and scrutiny are complex, and some functions might be better located in a Wales-based organisation in future, ultimately accountable to Ministers at the Senedd. However, the prioritisation and phasing of those changes would need detailed consideration and political decision-making, both of which could be supported by a Shadow Authority;
- There is scope within the existing legislation for a Shadow Authority to add significant immediate value to the scrutiny mechanisms already in place for public service broadcasters in Wales.

71. The Panel recommends there is likely scope for real progress by a Shadow Authority even without further devolution of powers to the Senedd.

72. The Expert Panel believes it is essential that momentum is maintained to set up a fully operational Shadow Authority by the end of 2024. It recommends that the next step is for the Deputy Minister, and the Designated Member, Co-operation Agreement to create a smaller Shadow Broadcasting and Communications Working Group (hereafter referred to as the SBCA Working Group), operating from September 2023 to September 2024. The SBCA Working Group should be responsible for:

- Delivering the recommendations of the Expert Panel
- Setting up a Shadow Authority to commence work in September 2024

SBCA Working Group

SBCA Working Group timeline

September 2023

- A Working Group of six is appointed to start work on establishing the Shadow Authority;
- A full time senior civil servant is appointed/ seconded to support the group, supported by a Higher Executive Officer;
- Key pieces of further research and evidence-collecting are commissioned.

January 2024

The SBCA Working Group reports to the Deputy Minister and Designated Member on the mechanics of establishing the Shadow Authority, and its structure, evidenced by research undertaken in the first months. It starts the recruitment process for the executive team and discussions with the Public Appointments Unit for the board.

April 2024

Work continues on setting up the Shadow Authority including analysing research and identifying gaps.

September 2024

- Shadow Authority becomes operational. Working Group is dismantled.

The SBCA Working Group will:

- Be made up of six people chosen from the Expert Panel by the Deputy Minister and the Designated Member;
- Have the required mix of skills and knowledge (this may require consideration of external appointees);
- Be remunerated and resourced;
- Be supported by a full-time senior Government official.

Support

- The full time senior civil servant (at Grade 6) will be supported by a full-time Higher Executive Officer (HEO). Experience of setting up organisations and recruitment will be essential. Knowledge of broadcasting and journalism would be highly desirable.
- This officer would set up the mechanism to advertise and recruit the Shadow Authority staff team and the Shadow Authority board, and advise on Government policy, employment law etc

SBCA Working Group

SBCA Working Group priorities for first six months

The role of the SBCA Working Group will be to define the Shadow Authority's remit, organisational structure, board structure, legal status, procurement and any legal issues.

The Expert Panel has considered what type of body the SBCA Working Group should be, taking into consideration the categories of public bodies in Wales, as set out in the Classification of Public Bodies in Wales: Classification Guidance document (Appendix 4). The Panel has concluded that it should be set up as an advisory panel or task and finish group.

The Expert Panel understands that according to the Classification of Public Bodies in Wales: Classification Guidance new public bodies should only be established as a last resort. The SBCA Working Group would be set up to continue delivering the three-year programme that was set up under the Co-operation Agreement. It will use the external expertise needed to deliver the Shadow Authority and be politically impartial and independent.

The SBCA Working Group will establish the executive function and structure of the Shadow Authority team, will work up job descriptions and specifications for staff, the procedures for appointments and start the recruitment process.

It will set up the panel which will appoint the Board.

It will decide on the Shadow Authority Board structure, define the make-up of the Board and its remuneration, and draw up Board member role profiles to include the following expertise and background:

- Current and relevant experience of broadcasting, public service broadcasting and journalism;
- A current knowledge of digital broadcasting and journalism and its future importance;
- Experience and knowledge of business, finance, governance and Government;
- An understanding of policy and audit structures;
- Communications skills;
- An understanding of Trade Union needs;
- An understanding of Wales and its people;
- A recognition of the Nolan principles.

The group should define which roles are Welsh speaking desirable/essential, and determine the remuneration level and time commitment for members.

- The SBCA Working Group will oversee and support the recruitment of Shadow Authority staff and the Board;
- The Working Group may need to be mindful of any conflict of interest if any of the Working Group or former Expert Panel members wish to apply;
- It will continue to analyse research that has been gathered, and commission any further research where gaps are identified.

Section 8: The Shadow Authority (2024-25)

Workplan recommendations

73. It is vital that the Shadow Authority has a clear remit and defined areas of output. Whilst the SBCA Working Group will have responsibility for setting up the Shadow Authority, the Expert Panel has given detailed consideration to the areas of work the Shadow Authority should undertake, and has outlined these key work areas below:

73.1 Insight

Collecting data not currently available, building intelligence and insight, to inform effective scrutiny and to develop a rounded picture of how a successful future of broadcasting, communications and journalism for Wales might best be achieved:

- The Panel recommends the Working Group immediately commissions a piece of longitudinal work focused on collecting accurate and nuanced audience data from across Wales. It should combine quantitative data segmented across a wide variety of demographic groups, and qualitative data gathered using emerging approaches in meaningful community engagement.

73.2 Engagement

Engaging with the people of Wales to hear their voices, understand their needs and interests in relation to broadcasting and communications, and journalism and ensure their voices are heard:

- The Panel recommends the Working Group immediately commissions a specific piece of work to identify an effective and meaningful way in which the people of Wales can be truly engaged in its governance structure. The outputs will fundamentally inform the structure, membership and governance arrangements of a Shadow Authority into the future.

Engaging with the sector, to:

- Work with public service broadcasters in Wales to coordinate joined-up and innovative responses to changes across the sector, to meet the needs and interests of the people of Wales;
- Convene stakeholders to provide expert advice to the Welsh Government on the future of public service broadcasters in Wales, in the context of the negotiations around the BBC Charter and the future of S4C funding, and the C3 relicence.

73.3 Infrastructure

Making the link between the rollout of superfast broadband and 4G & 5G mobile signal across Wales, the future trends towards increased online distribution in broadcasting, and the potential resulting inequity for marginalised groups across our nation:

- The Panel recommends research is commissioned to better understand the links between the rollout of broadband and mobile infrastructure across Wales in the context of broadcasting, communications and journalism.

73.4 Advice

Providing advice to the Welsh Government, allowing for evidence-based political decision-making around the extent to which legislative change is necessary in the future, to respond to audiences in Wales:

- The Working Group should commission a strand of work which provides evidence to illustrate what processes are needed to devolve parts or whole functions of the broadcasting and communications infrastructure across the UK to Wales, outlining the risks, benefits, challenges, and implications of the various options.

73.5 Accountability

Advising on the mechanism and nature of the scrutiny of public service broadcasters, by the Welsh Government, to enhance accountability against its strategic priorities. This might particularly be in relation to the Welsh language, strategic equality planning, the socio-economic duty, and the Wellbeing of Future Generations Act:

- Within the existing arrangements for scrutiny by the Senedd, of the public service broadcasters in Wales, there is scope for the development of a more challenging yet supportive relationship;
- The enhanced provision of Wales-specific data and insight, led by a Shadow Authority as outlined above, might be used to great effect as a part of this relationship. The Panel therefore recommends the evidence-base should be used as a part of the scrutiny and response process;
- The Shadow Authority should scope and advise on ways to make the BBC more directly accountable for how the licence fee is spent in Wales, in terms of both content and services. This could be in the form of new mechanisms for scrutiny, up to and including a specific BBC Charter for Wales, as outlined further below.

73.6 Welsh Language

Working with the Welsh Government, and stakeholders across the sector, to:

- Inform a strategic roadmap towards enhanced pluralism of platforming for Welsh language content;
- Commission and/or provide insight and expertise into the current landscape of Welsh language broadcasting, communications and journalism, with attention to the nuances of representation, prominence, penetration/cut-through, plurality and innovative practice;
- Champion and support innovation in the space of Welsh language broadcasting and across digital communications;
- Facilitate digital initiatives to support the aims of Cymraeg 2050 and new generations of Welsh speakers across Wales;

- Focus on a cross-sector gateway for non-Welsh speakers to be able to confidently access appropriate content;
- Challenge systemic issues, such as the detrimental effects of the division of the two languages within organisational structures, or the negative aspects of separation and pigeon-holing of individuals and teams across linguistic lines;
- Provide advice to the Welsh Government with regard to the scrutiny around authenticity of production across the two languages.

74. The Shadow Authority should use the outputs from these work areas to inform the Welsh Government as to whether more systemic and legislative change might be needed to address the current deficiencies outlined in the Co-operation Agreement.

75. The Panel recommends that during the lifespan of the Shadow Authority to 2025 responsibility for the key functions of policy, accountability and regulation are retained by the existing bodies that house them, as follows:

- Policy work should continue to be delivered by Welsh Government through Creative Wales;
- Regulation should continue to be undertaken by Ofcom, with increased transparency and visibility at a Welsh level through the work of the Shadow Authority;
- Accountability: existing mechanisms should continue in line with broadcasters' governance structures, to be enhanced by the work of the Shadow Authority as outlined in section 72.5

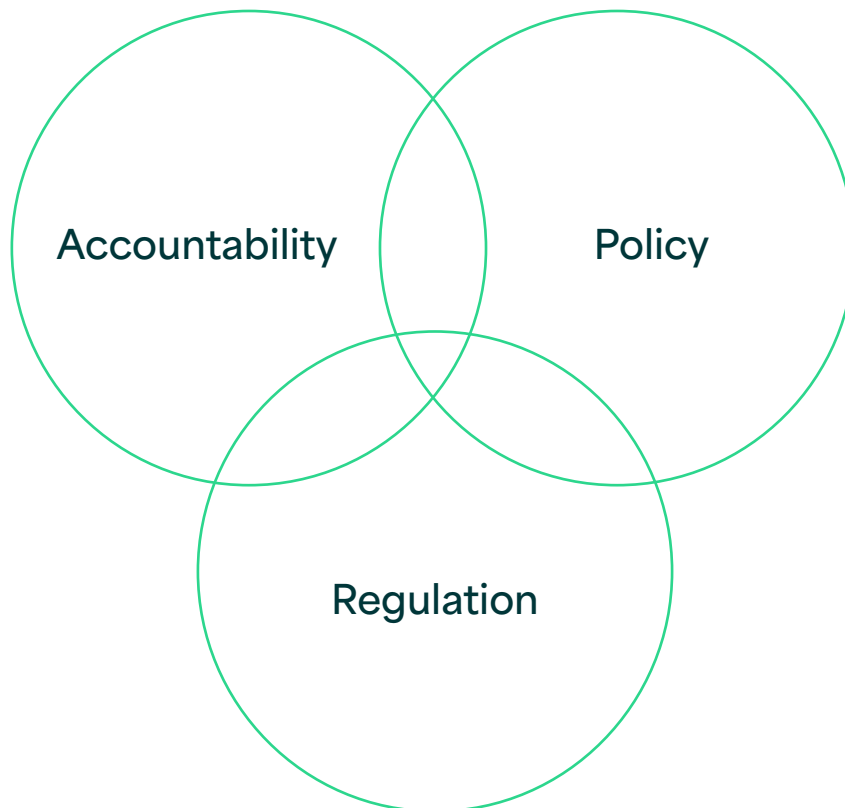
Each of these areas – Policy, Regulation and Accountability – need to work closely together

76. The Panel believes the work of the Shadow Authority will drive greater transparency within Wales, enhancing visibility, and developing scrutiny around issues relevant to Welsh audiences. The Shadow Authority, Ofcom and Creative Wales will need to work closely together, and with the Welsh Government, to realise these opportunities.

The diagram captures the importance of the inter-connected nature of broadcasting regulation, accountability and policy. As a reserved matter, powers for broadcasting and media sit with UK Government, with broadcasting regulated by Ofcom at a UK level. Whilst overall policy responsibility sits with the Department for Culture, Media and Sport, Creative Wales has responsibility for broadcasting and media policy in Wales, providing advice to Welsh Ministers and engaging with stakeholders, including the UK Government, to support the development of a fit for purpose framework for broadcasting that reflects the needs of Wales.

77. There are a range of pathways the Welsh Government could go down, to devolve regulation and/or accountability for broadcasting and communications to Wales. The Panel has outlined at section 78 the pathways it considers to be most relevant for consideration, and has outlined the potential benefits and challenges in each case.

78. The Shadow Authority should explore these pathways towards devolution in technical detail, in order to advise the Welsh Government (as suggested at point 72.4, above) on a clear, workable, and detailed proposal.



Pathways

Pathway 1: Significant actions are taken, within the Senedd's current legislative powers

Benefits

- This would demand no legislative change or negotiation with the UK Government;
- The Welsh Government could make steps towards shaping a broadcasting, communications and journalism strategy which better meets the needs of the people of Wales;
- Action of this kind would enable a 'test and learn' approach, building a more nuanced picture of the current strengths and weakness of public service broadcasting in Wales, including the funding and editorial challenges in terms of content relevant to Wales in both languages. It would allow for more comprehensive gathering of data, and a deeper exploration of models for further devolution;
- This pathway provides an opportunity for a wide group of stakeholders and audiences to take part in a national conversation around what further devolution might look like at its best;
- This greater political and civic focus on public service broadcasting in Wales would in itself expand the amount of scrutiny currently taking place.

Challenges

- This pathway demands coordinated action either undertaken by the Welsh Government directly, or outsourced to another body.
- There would need to be investment in this action, in order to generate the knowledge base and national dialogue needed to move towards meaningful change.

Pathway 2: A new BBC Charter is negotiated, with a separate version for each nation

Benefits

- This would put the requirement to meet the needs of audiences in the different nations of the UK at the very heart of the BBC's governance arrangements, bringing a new focus to local news and content.

Challenges

- This pathway requires the engagement and co-operation of the UK government, the Scottish Parliament, and the Northern Ireland Assembly, and requires legislative change;
- There may be concerns that this model would lead to the micro-management by each nation's parliament of editorial decisions by the BBC. Mechanisms would need to be put in place to continue to ensure that the BBC's independence would be protected.

Pathway 3: Oversight and regulation of S4C is devolved to the Senedd

Benefits

- Action in respect of this pathway would overcome the problem of the current arrangements, in which scrutiny and accountability sit with Westminster and Whitehall;
- This pathway embodies an important principle, largely accepted in Wales, that where something is primarily relevant to one nation of the UK, it should be devolved to that nation.
- Section 61 of The Government of Wales Act specifically permits the Welsh Ministers to do anything which they consider appropriate to support the Welsh language.

Challenges

- This pathway requires the engagement and co-operation of the UK Government;
- Safeguards relating to editorial independence would need to be applied in the event of this being implemented.
- This pathway would create a complex, new division between English-language and Welsh-language broadcasters in Wales and between different parts of public service broadcasting. Welsh language audiovisual/television accountability would be in Wales, equivalent English-language accountability would remain at UK level, as would Welsh-language radio/ audio public service.

Pathway 4: Accountability for Welsh public service broadcasting is devolved to the Senedd**Benefits**

- This pathway would allow the Welsh Government to determine the nature and parameters of scrutiny for public service broadcasting in Wales;
- This pathway would create the opportunity for scrutiny to be more inclusive of, and constantly responsive to, the needs of the people of Wales, and informed by insight (data, research, and expertise) specific to Wales.

Challenges

- This pathway requires the engagement and co-operation of the UK Government;
- The complexity of devolved accountability would involve dismantling or fragmenting existing regulatory structures, which is complex and takes detailed strategic consideration, multi-stakeholder involvement, and administrative time and investment.

Pathway 5: Oversight and regulation of all Welsh public service broadcasting is devolved to the Senedd**Benefits**

- This pathway would make significant changes in the governance arrangements of public service broadcasters in Wales, potentially including greater engagement and influence for communities across Wales;
- This would allow for a coherent public service broadcasting strategy for Wales, with the needs of the people of Wales at its heart;
- Full devolution of broadcasting and communications may be the way in which news and stories about Wales are best portrayed, and therefore an option that closely links with the provision of content that serves a developed and fully informed democracy.

Challenges

- This pathway requires the engagement and co-operation of the UK Government;
- It would require the de-coupling of regulation, presenting a significant administrative challenge; additional complexities would be involved in the case of privately owned UK wide public service broadcasters, such as ITV;
- It presents significant challenges in relation to the structure and governance arrangements of the BBC, including the question of whether the change might mean the break-up of the BBC across the UK;
- Such a change might mean loss of the pan-UK investment which creates content currently loved by audiences;
- Wales is currently a net beneficiary of the licence fee. If this degree of devolution is pursued, it will be vital to ensure audiences in Wales are not negatively affected.

79. The Panel was acutely aware of the complexity, potential pitfalls, and nuances involved in the mechanisms for either wholly or partly devolving broadcasting and communications to Wales. Some action can be taken quickly, with a view to building the insight and the public discourse to drive the creation of effective models for further devolution into the future.

80. A significant amount of progress may be made without further devolution, and it is the recommendation of this Panel that the Welsh Government initially pursues actions within the scope of its current legislative powers. If tangible progress is not possible as work progresses, the Welsh Government may wish to seek further devolution. The potential risks of devolving broadcasting and communications should not be a barrier to innovative, sophisticated thinking about how it could be done, and the benefits it could bring.

Non-executive Advisory Members

The following expertise and skills must be represented fully among the overall pool of members selected:

- Ability to think strategically;
- Capability for future-thinking, including connection to emerging trends and imaginative capacity for new ways of working;
- In-depth knowledge of broadcasting, communications and journalism;
- In-depth understanding of the legislative and regulatory environment around broadcasting, communications and journalism;
- Understanding of the breadth of devolved policy areas across the Welsh Government and the technical or legislative business of devolved government;
- Understanding of digital platforms and the emerging digital environment globally, including experience of operating within this environment in reality;
- Practical understanding of broadband and mobile signal rollout in a Wales context;
- Welsh and non-Welsh speakers, with nuanced understanding of our bilingual nation;
- Expertise in community engagement, including new and emerging ways of working;
- Insight into the lived experiences of diverse communities across Wales, including from a socio-economic perspective.

Executive Team

| | |
|----------------------------------|-----------------|
| Director | <£80,000 |
| Policy & Strategy Officer | <£70,000 |
| Research Coordinator | <£40,000 |
| Administrative Coordinator | <£30,000 |
| Contracted expert provision | £ 100,000 |
| Total maximum staff costs | £320,000 |

Section 9: Remuneration, staffing, key costings and governance of the SBCA Working Group and Shadow Authority

81. The Expert Panel recommends that the Shadow Authority should operate with the structure, staffing and expertise outlined at Table 1, above:

82. In addition to ensuring Shadow Authority members have the range of expertise and knowledge outlined in Table 1, the Panel recommends the group is selected with keen attention to:

- Members being diverse across the group, with particular attention to lived experience, but with absolute clarity that any individual group member’s lived experience will not be relied upon to ‘represent’ a wider demographic or set of experiences during the fulfilment of their role;
- Inclusion of expertise from outside the sector, where appropriate, particularly where it might bring innovative or emerging practice into the group’s work.

Table 1. Recommended Shadow Authority Model

| Area of expenditure | SBCA Working Group Key Costs 2023/24 | Shadow Authority Key Costs 2024/25 | The Authority Key Costs 2025/26 | Commentary |
|--------------------------|--------------------------------------|------------------------------------|---------------------------------|---|
| Budget agreed/ committed | £1m | £1m | £0 | Budget agreed/ committed |
| Staff Team | £120,000 | £320,000 | £320,000 | |
| Commissioned research | £200,000 | £300,000 | £400,000 | The research budget builds to account for lead-in time in determining priorities and commissioning work |
| Other costs | £50,500 | £84,000 | £84,000 | Board remuneration |
| Total Costs | £370,500 | £704,000 | £804,000 | |

83. The Panel recommends that both the SBCA Working Group and Shadow Authority members are remunerated for their contribution in line with Welsh Government guidelines and should be accountable to the Deputy Minister and the Designated Member. Indicative key costs are outlined at Table 2, below:

Table 2. Indicative key costs of SBCA Working Group and Shadow Authority

84. The Panel strongly recommends the Shadow Authority should be independent of Government. The constitution and governance arrangements of the body will depend on a range of factors, including but not limited to:

- The availability and prioritisation of investment;
- Political direction and the wider political context in Wales and at Westminster;
- The outputs of the SBCA Working Group, which will form the set-up of the Shadow Authority.

Section 10: The work of an Authority for Wales from 2025

- 85.** Depending on the insight and findings of the Shadow Authority's work there might be significant movement towards further devolution of broadcasting and communications to Wales. If so, the Shadow Authority should be reconstituted as an official Authority from 2025, no longer operating in shadow format.
- 86.** Consideration should be given to whether the Authority goes on to be shaped as a Commission, similar to the Future of Media Commission established in Ireland in 2020. The Commission in Ireland was tasked with developing recommendations on sustainable public funding and other support to ensure media in Ireland remains viable, independent and capable of delivering public service aims. This Panel believes the format of a Commission could provide the rigour needed to inform a set of strategic, sustainable, long-term actions along a pathway to full devolution.

Section 11: The work of an Authority for Wales into the future

- 87.** By 2028 we will have passed a number of milestones: a General Election at Westminster, the Senedd Elections of 2026, changes to both the BBC and S4C as a result of the current BBC Charter coming to an end in 2027, and any ramifications from renegotiated ITV licenses after 2024.
- 88.** The combination of these factors means it is unhelpful to outline or predict in any detail what the requirements might be of a fully-constituted Authority for Wales from 2028 onwards.
- 89.** Devolution of specific functions to the Welsh Government would bring with it the necessity for a Transfer of Functions Order, and a shift in the financing and governance arrangements needed to effectively carry out those functions. At that point, an Authority that had built a locus of expertise and credibility in the sector in Wales, would likely need to pivot quickly again, to meet the changes and challenges of the new landscape head-on.
- 90.** If the Welsh Government wishes to move towards increased devolution, it will be essential to retain the expertise and insight of a body such as an Authority, building on the work of the SBCA Working Group and Shadow Authority, as recommended by this Panel.

Conclusion

- 91.** Over the past 10 months, the Expert Panel for Broadcasting and Communications has heard evidence from a wide range of sources, commissioned extensive research and engaged in considerable discussion to explore the creation of a Shadow Broadcasting and Communications Authority and the evidence-base for the devolution of those powers to Wales.
- 92.** It is clear to the Panel that there is a real need for increased scrutiny of broadcasting and communications in this rapidly changing landscape. There is also a need to gather significantly more research, insight and data specific to Wales, and to horizon-scan to develop a co-ordinated future-focused strategy for Wales.
- 93.** It was particularly evident that there is no single body with a responsibility for meeting the needs of broadcasting and communications to best serve the people of Wales.
- 94.** This Panel therefore concludes that the Welsh Government should establish a Shadow Broadcasting and Communications Authority, whose remit should also include journalism. This body will be publicly funded and independent of government.

Appendix 1: Expert Panel Terms of Reference

1. Title and Type

1.1 The Expert Panel is an advisory body reporting to the Deputy Minister for Arts and Sport and the Chief Whip and the Designated Plaid Cymru Member. The Panel is established and appointed on a task and finish basis for a period not exceeding one year from April 2022.

2. Purpose

2.1 The main purpose of the Panel is to provide options and recommendations on delivery of the Welsh Government and Plaid Cymru Co-Operation Agreement commitment to explore the creation of a shadow Broadcasting and Communications Authority for Wales.

2.2 In offering an outlook and perspective based upon individual knowledge and expertise, the Panel will complement and add value to wider sources of advice provided by the civil service, industry partners and other mechanisms, such as community engagement.

3. Scope and Remit

3.1 The Panel will have specific regard to the above shadow Broadcasting and Communications Authority commitment. Its work will be guided by the wider context of the broadcasting and media commitments set out in the Co-Operation Agreement. Further detail is set out at Doc 1.

3.2 The Co-operation Agreement details the types of functions a shadow Broadcasting and Communications Authority could deliver, including action to close the information deficit in Wales, to align existing efforts to strengthen media in Wales with innovations to support the Welsh language on all media platforms and in the digital sphere and development of plans for an alternative framework in Wales in readiness for the devolution of broadcasting and communication powers.

3.3 The Panel will be expected to build on the initial thinking set out in the Co-operation Agreement to consider and make recommendations on achieving those aims. This work will need to include recommendations on:

- Remit and scope;
- Structure and position in the wider government and regulatory framework;
- Transparency and accountability;
- Governance arrangements;
- Funding implications and ongoing sustainability;
- Any other relevant options for realising the ambitions of the broadcasting commitments in the Co-operation Agreement.

3.4 As an element of its work, the Panel will be expected to identify best practice and learning from other nations and regions in the UK and internationally and demonstrate how such examples might be used to inform thinking in Wales. The work of the Panel will be integral to developing the evidence base and business case for the devolution of broadcasting and communication powers to Wales.

4. Membership

4.1 The Panel is established on an Expert Panel basis and will comprise the following individuals:

- Shirish Kulkarni
- Richard Martin
- Nia Ceidiog
- Mel Doel
- Geoff Williams
- Elin Haf Gruffydd Jones
- Dr Llion Iwan
- Dr Ed Gareth Poole
- Clare Hudson
- Ceri Jackson
- Arwel Ellis Owen
- Carwyn Donovan

4.2 The Panel will be chaired by Mel Doel and Elin Haf Gruffydd Jones.

4.3 Membership will be reviewed periodically with the option to co-opt additional members or expert advice to ensure all relevant stakeholder are represented as needed for specific discussion items.

5. Meetings and Ways of Working

5.1 The Panel will meet regularly and at a frequency determined by the Co-Chairs.

5.2 Meetings will be held both virtually and in Welsh Government premises with the agreement of members and depending on the current COVID-19 regulations.

5.3 Meeting agendas and accompanying papers will be circulated to members in advance of meetings. Agendas will be agreed in advance with the Chair(s). Any conflicts of interest will need to be declared at the start of each meeting or as such matters arise.

5.4 The organisation of meetings, circulation of papers and other related matters will be undertaken through a secretariat function provided by Welsh Government officials. The secretariat will produce a note of each meeting, recording key points of discussion and actions.

5.5 The Panel will provide regular updates on its work to Ministers and Designated Members. The Panel will aim to provide an interim report after 6

months.

5.6 Documentation, including meeting notes may be subject to access to information requests made under the Freedom of Information Act 2000. Where such requests are received, the Welsh Government's standard Freedom of Information procedures will be followed.

5.7 The discussions of the Panel will be held in Welsh and/or bilingually; papers will be supplied in Welsh and simultaneous translation provided.

6. Accountability

6.1 The Panel is ultimately accountable to the Welsh Government and reports will be provided to both Welsh Ministers and the Designated Plaid Cymru Member.

7. Review

7.1 These Terms of Reference will be subject to review and change as agreed with Welsh Ministers and the Designated Plaid Cymru member.

Appendix 2: Relevant Co-operation Agreement Commitments

24. Broadcasting

While the pandemic has raised the profile of Wales and Wales's democracy in the UK media, there is a broad consensus that the current broadcasting and communications framework is inadequate, is hampering the democratic life of our country and is not serving the needs of, or ambitions for, the Welsh language. The current system is therefore not capable of delivering the media Wales needs. There are also ongoing threats to, and attacks on, public service broadcasting from the UK Conservative Government. Plaid Cymru and the Welsh Government agree that broadcasting and communications powers should be devolved to the Senedd.

- We will work together, and with industry experts, communities and wider partners, to explore the creation of a shadow Broadcasting and Communications Authority for Wales.
- The remit of this body would include aiming to strengthen Welsh democracy and close the information deficit; bring together and coordinate in a structured way the Welsh Government's existing efforts to strengthen the media in Wales and innovations to support the Welsh language in the digital sphere such as amam.cymru; enhance media pluralism and the use of the Welsh language on all media platforms.
- The new Authority would also be tasked with drawing up plans for, and steps towards, an alternative broadcasting and communications framework for Wales in readiness for the devolution of broadcasting and communications powers

This approach will allow us to strengthen the sector despite the challenges posed by a UK government that is failing to engage constructively with Welsh devolution.

25. Media financial support

As an initial intervention, we will provide additional investment to develop existing and new enterprises seeking to improve Welsh journalism and to support Welsh-based media to tackle the information deficit.

Appendix 3: List of Evidence considered by the Expert Panel

Oral evidence in chronological order of presentation

| | |
|----------|--|
| 05/10/22 | TAC (Teledwyr Annibynnol Cymru) Ofcom |
| 24/10/22 | S4C Wales Federation of Entertainment Unions |
| 10/11/22 | ITV BECTU |
| 16/11/22 | BBC Wales Wales Governance Centre |
| 17/01/23 | Alan Esslemont (TG4, Ireland) Andrew Jeffreys (Treasury, Welsh Government) |
| 21/02/23 | Institute of Welsh Affairs (IWA) Wales Public Interest Journalism Working Group |
| 10/03/23 | Alun Llwyd (AM Cymru) |

Written Submissions received from:

- Arqiva
- Channel 4
- ITV Cymru Wales
- National Communications Council
- Netflix
- NUJ (Available at: <https://www.nuj.org.uk/resource/nuj-submission-to-the-expert-panel-on-a-shadow-broadcasting-and-communications-authority-for-wales--october-2022.html>)
- Race Council Cymru
- TAC
- Ofcom: information on PSB provision of news and current affairs content
- Cymdeithas yr Iaith

Evidence Commissioned by the Expert Panel

- School of Journalism, Media and Culture, Cardiff University (January 2023) 'Review of the broadcasting powers and responsibilities in selected countries: report for the Expert Panel on a Shadow Broadcasting and Communications Authority for Wales'
- Enders Analysis (February 2023) 'Broadcasting Trends - Prepared for the Expert Panel on the Devolution of Broadcasting'
- Kids Industries (February 2023) 'Children's media in 2023 and the need for regulation' (Kids Industries')

Other material

Annual reports and publicly available reports from the PSBs (S4C Annual Reports and annual management reviews from BBC Wales)

Creative Wales funded activities: Available at: [Homepage | Creative Wales](#)

Welsh Affairs Select Committee. Inquiry into Broadcasting in Wales. Available at: [Broadcasting in Wales - Committees - UK Parliament](#)

Enders Reports (not available to non-subscribers; temporary access while Future Trends contract underway)

- Sports rights: Will streamers bid up prices?
- The UK's ongoing status as a cultural powerhouse
- Public service television: Something for everyone
- Analysing UK sports rights: The different value components
- UK's Creative Industries: Boosting the regional economy
- Free-to-air television: Consolidation and the public interest
- Outsourcing culture: When British shows aren't 'British'

Appendix 4: Classification of Public Bodies in Wales: Classification Guidance

Types of Public Body

A. Non Ministerial Departments (NMDs)

B. Executive Agencies (EAs)

C. Welsh Government Arm’s Length Bodies (WG ALBs)

C1. Executive ALBs

C2. Advisory ALBs

C3. Tribunal ALBs

D. Limited Companies

D1. Government-Owned Companies

D2. Public Corporations

E. Advisory Bodies

E1. Public Sector Working Groups

E2. Advisory Panels

E3. Task and Finish Groups

F. NHS Bodies

G. Other Bodies

G1. Independent Statutory Office Holders

H. Joint Arrangements and Public Private Partnerships

List of Devolved Public Bodies in Wales.

| Categories and Characteristics | Governance Arrangements for WG |
|--|--|
| A. Non-Ministerial Departments (NMDs) | |
| <ul style="list-style-type: none"> • Separate Government departments in their own right, established to deliver a specific function, but do not have their own Minister. • Powers are generally derived from statute headed by a Statutory Board. • Precise nature of their relationship with the Welsh Ministers will vary according to their statutory functions and framework. Distance day-to-day administration of the activity from direct Ministerial control, while retaining some Government input to wider policy. • Staff are civil servants. Senior official is the accounting officer, who is normally appointed by the Treasury. • Produce their own accounts. • Appointments to the board are regulated by the Commissioner for Public Appointments and must be made in compliance with the Code of Governance. | <ul style="list-style-type: none"> • Memorandum of Understanding/Concordat defines the working relationship between the WG and NMD. |

| Categories and Characteristics | Governance Arrangements for WG |
|---|--|
| B. Executive Agencies (EAs) | |
| <ul style="list-style-type: none"> • Executive Agencies are part of Welsh Government or a UK Government Department. • They are defined business units set up to carry out a particular service or function from within the WG. • Policy is set by Welsh Ministers. They operate with a degree of autonomy from WMs and their ‘parent’ Director General. • They are headed up by a Chief Executive (CE) who may also be supported by a Management Board. The CE is also designated as the Accounting Officer by the appropriate WG Additional Accounting Officer. All staff are civil servants. • WMs do not concern themselves with day to day running but are accountable to the Senedd for its overall performance. WMs approve and provide funding. • They are set up administratively and do not have a separate legal personality. EAs produce their own accounts and annual report. Their accounts are consolidated into the Whole of Government accounts. • The Chief Executive may be designated as the agency Accounting Officer. | <ul style="list-style-type: none"> • Framework document • Code of Conduct for Board Members (if there is a board) • Letter of Appointment for Accounting Officer, including terms and conditions. |

| Categories and Characteristics | Governance Arrangements for WG |
|---|--|
| C. Welsh Government Arm’s Length Bodies (WG ALBs) | |
| C1. Executive ALBs | |
| <ul style="list-style-type: none"> • Executive ALBs are usually established under statute, although a small number have been established by Royal Warrant or Royal Charter. • Not part of the Crown but have own legal personality. • Operate within a strategic framework determined by WMs. • Carry out a wide range of administrative, commercial, executive and regulatory or technical functions which are considered to be better delivered at arms length from WG. • The CEO is usually designated as the Accounting Officer. Through the Accounting Officer, they are directly accountable to the Senedd and Parliament although Ministers are ultimately accountable for their performance. • Headed by Boards (or occasionally an office-holder) whose members are appointed by Ministers. Some members may be Crown Appointments on the advice of Ministers or appointments may be made by the body itself. Appointments are regulated by the Commissioner for Public Appointments and must be made in compliance with the Code of Governance. • The board appoints the CEO, usually with the agreement of the WM.CEO and staff are not civil servants but employed by the body itself. • Funding is delivered through grant or, more commonly, grant-in-aid although some may generate additional income through other sources. Produce own accounts and annual report. | <ul style="list-style-type: none"> • Framework document • Code of Conduct for Board Members • Code of Conduct for Staff • Remit Letter • Register of Interests • Letter of Appointment including terms and conditions. |
| C2. Advisory ALBs | |
| <ul style="list-style-type: none"> • Advisory ALBs are set up to provide Welsh Ministers with independent, expert advice on an ongoing basis. They are bodies which have a lifespan in excess of two years. • No new Advisory ALBs are being created by Welsh Ministers at the moment. Advisory Groups or Panels should be set up instead - these are not separate bodies and can be created and dissolved more easily. | |

| Categories and Characteristics | Governance Arrangements for WG |
|---|---|
| C3. Tribunal ALBs | |
| <ul style="list-style-type: none"> • Normally operate under statutory provisions. • Usually concerned with tasks and advice relating to specialist areas of the law, and undertake judicial functions, such as determining the rights and obligations of private citizens. They are not part of the court system. • Vary widely in the type and quantity of their work, as does their administrative support. • Following report to Counsel General, structure of Tribunals in Wales is under review. | <ul style="list-style-type: none"> • Concordat between Welsh Tribunals Unit and Tribunal, setting out roles and responsibilities, dispute resolution etc. • Appointment letters for lay members, detailing terms and conditions. |
| D. Limited Companies | |
| <ul style="list-style-type: none"> • There are a range of companies set up by Welsh Ministers, which they own fully or partly. | |
| D1. Government- Owned Companies | |
| <ul style="list-style-type: none"> • Established as public companies limited by shares or by guarantee in accordance with the Companies Acts. • The Company’s “basis of trading” must be clearly set out in the Memorandum and Articles of Association. • Welsh Minister appointments to the board will fall within the remit of the Commissioner for Public Appointments and must be made in accordance with the Commissioner’s Code of Practice. • Board will appoint the CEO, with the approval of the WM, who will be designated accounting officer by the Permanent Secretary, if appropriate. • The freedoms granted to the company will depend very much on the degree of intervention and control that Ministers would wish to exercise. • Staff will be employees of the company not civil servants. | <ul style="list-style-type: none"> • Management Agreement • Memorandum and Articles of Association, if set up under the Companies Act. • Code of Conduct for Board Members • Code of Conduct for Staff • Remit Letter • Register of Interests • Letters of Appointment |

| Categories and Characteristics | Governance Arrangements for WG |
|---|--|
| D2. Public Corporations | |
| <ul style="list-style-type: none"> • These are mainly trading bodies operating either commercially or recovering most of their costs from fees charged to customers or levies. • Usually classified where at least 50% or more of its costs are met from such outside income. The 50% criterion should be applied by looking over a range of years to avoid frequent reclassifications through minor fluctuations in one year, which are not repeated or expected to be repeated in the future. • Advice should be sought from Financial Control Team regarding treatment for budgeting and accounting purposes. | <ul style="list-style-type: none"> • Concordat between Welsh Tribunals Unit and Tribunal, setting out roles and responsibilities, dispute resolution etc. • Appointment letters for lay members, detailing terms and conditions. |
| E. . Advisory Bodies | |
| E1. Public Sector Working Groups | |
| <ul style="list-style-type: none"> • Provide advice on a wide range of issues including policy issues, usually non-statutory. • Comprised of at least two-thirds civil or public servants. • Members often serve in an ex-officio capacity and are accountable to their employers. The lifespan of this type of body is not limited to two years. | <ul style="list-style-type: none"> • Terms of Reference • Appointment letters |
| E2. Advisory Panels | |
| <ul style="list-style-type: none"> • Provide advice on a wide range of issues including policy issues, usually non-statutory. • Comprised of at least two-thirds civil or public servants. • Members often serve in an ex-officio capacity and are accountable to their employers. The lifespan of this type of body is not limited to two years. | <ul style="list-style-type: none"> • Modus Operandi (covering but not limited to, its purpose, terms of reference, membership and appointments process) • Code of Conduct for Members • Appointment Letters detailing terms and conditions • Conflicts of Interest Declaration |

| Categories and Characteristics | Governance Arrangements for WG |
|---|--|
| E3. Task and Finish Groups etc | |
| <ul style="list-style-type: none"> • Set up quickly to provide independent, expert advice to Welsh Ministers on a specific issue in a short period of time. • Short lifespan of less than two years. • Remit focused on a single dominant issue. • Membership drawn from the wider public sector, third sector or the private sector. • Appointments do not fall within the remit of the Commissioner on Public Appointments due to their short term nature. • Do not incur expenditure in their own right or produce accounts accounted for by the sponsor department. | <ul style="list-style-type: none"> • Letters of Appointment • Terms of Reference • Register of Interests • Code of Conduct for Members |
| F. NHS Bodies | |
| <ul style="list-style-type: none"> • To manage, administer and deliver the NHS in Wales. • LHBs, SHAs and Trusts are responsible to their Boards to deliver national and regional healthcare services and locally informed needs. • LHBs and Trusts prepare their own annual accounts, which are included in the Welsh Government's Resource Accounts. | |

| Categories and Characteristics | Governance Arrangements for WG |
|--|---|
| G. Other Bodies | |
| G1. Independent Statutory Office Holders | |
| <ul style="list-style-type: none"> Individual office holders whose appointment is specified in statute. Legal status is that of a ‘corporation sole’. Independent of Ministers, established to operate outside of any political influence. Oversight, enforcement, adjudication or monitoring powers or advocacy role. The office holder is appointed by Senedd or the First Minister but is usually made on the advice of an all-party committee. They may employ staff but they will not be civil servants. They produce their own accounts and annual report and the AGW is their external auditor. The office holder is the accounting officer. | <ul style="list-style-type: none"> Founding legislation will determine the nature of any control documents. Some form of funding letter will be required if funded from WM resources. Some may drawdown funds directly from the Consolidated Fund. An MoU may also be required depending on the nature of the relationship with WM. |
| H. Joint Arrangements and Public-Private Partnerships | |
| <ul style="list-style-type: none"> To work with private sector partners to maximise funding and/or expertise in the target area. A special purpose vehicle, such as a partnership or limited company, may be established to run in conjunction with a private sector partner. The arrangements between the partners, e.g. governance, financial management, reporting, appointments etc, must be documented and clearly understood by all parties. Senior Responsible Officer (SRO) is appointed to manage the Joint Arrangement. | <ul style="list-style-type: none"> Policy Statement Legal Agreement List of Public Bodies to be updated. Register of interests Memorandum and Articles of Association and usually a Shareholders Agreement. Business Plan |

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