

Research Briefing
**The First Minister and
Cabinet Members – A
Constitution quick guide**

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The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

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The First Minister and Cabinet Members – A Constitution quick guide



The First Minister and the Cabinet

The *Government of Wales Act 2006* (“the 2006 Act”), as amended by the *Wales Act 2014* and the *Wales Act 2017*, establishes the Welsh Government (Llywodraeth Cynulliad Cymru) as the executive branch of the devolved political system in Wales. The current Welsh Government comprises the **First Minister** (Prif Weinidog), a number of Welsh Ministers (Gweinidogion Cymru), a number of Deputy **Welsh Ministers** (Dirprwy Weinidogion Cymru) and the **Counsel General to the Welsh Government** (Cwmsler Cyffredinol i Lywodraeth Cynulliad Cymru). The Welsh Government is accountable to the National Assembly.

The executive powers of the Welsh Government include:

- the development and implementation of policy;
- the exercise of a range of devolved functions;
- making subordinate legislation; and
- proposing Assembly Acts to be made by the National Assembly.

The First Minister and Ministers in the First and Second Assemblies

The *Government of Wales Act 1998* (“the 1998 Act”) provided for a “First Secretary” and “Assembly Secretaries”. The First Secretary was elected by the Assembly. Executive powers were devolved from Westminster to the National Assembly for Wales and the Assembly then delegated those powers to the First Secretary. He in turn appointed Assembly Secretaries and delegated powers to them. Collectively, the 1998 Act designated the First Secretary and Assembly Secretaries as “the Executive Committee” but it became known as “the Cabinet” from the outset.

As the Assembly established itself, a number of changes took place that strengthened the executive character of its governmental side. In February 2000, three Deputy Secretaries were appointed to support Assembly Secretaries. In October 2000, the term “Ministers” replaced the term “Secretaries” and the term “First Minister” came into use. However, at that time, the new titles were not recognised in law.

In November 2001, the First Minister announced that the term Welsh Assembly Government/Llywodraeth Cynulliad Cymru would in future be used to describe the Cabinet and officials, other than those working for the Presiding Officer. This was in order to emphasise the division between the “executive” and “legislative” parts of the Assembly.

The First Minister since 2007

The 2006 Act formally split the institution of the Assembly into two separate bodies: the Welsh Government (the executive) and the National Assembly for Wales (the legislature).

The Act also recognised the term “First Minister” for the first time. He or she is appointed by the Monarch on the recommendation of the Presiding Officer, following a vote in the Assembly.

Nomination of an Assembly Member for appointment as First Minister is triggered by one of these events:

- the holding of a poll at a general election;
- the Assembly resolving that the Welsh Ministers no longer enjoy the confidence of the Assembly;

- the First Minister tendering resignation to the Monarch;
- the First Minister dying or becoming permanently unable to act or to tender resignation; and
- the First Minister ceasing to be a member of the Assembly, other than on a dissolution (e.g. by resigning from the Assembly).

When one of these events occurs, the Assembly must nominate a First Minister within 28 days.

If a vote of no confidence is passed by the Assembly, the 2006 Act provides that the First Minister remains in office but Cabinet Secretaries and Ministers must resign. The situation is resolved when the Assembly nominates a new First Minister (or re-nominates the same person as First Minister).

If the Assembly fails to make a nomination within the 28 day period, the Secretary of State for Wales is required to fix a day on which an “extraordinary” general election will be held. This function of fixing an election will pass from the Secretary of State to the Presiding Officer as from 1 April 2018.

Cabinet Secretaries and Ministers

Once appointed, the First Minister may, with the approval of the Monarch, appoint Assembly Members to become members of the Welsh Government. There is one exception to this: the Counsel General need not be an Assembly Member. Unlike in Scotland, these appointments need not be approved by the Assembly itself. The Act places a limit of 12 on the number of positions within the Welsh Government, excluding the First Minister and Counsel General.

Although Assembly Members appointed to the Welsh Government are known, in law, as Welsh Ministers and Deputy Welsh Ministers, the former are now described as “Cabinet Secretaries” and the latter as “Ministers”. This is merely a change in terminology but is not, as yet, reflected in the wording of the 2006 Act.

The First Minister may remove Cabinet Secretaries and Ministers from office at any time. They also lose office if they resign as Assembly Members.

Accountability of the Welsh Cabinet

The Welsh Government is subject to scrutiny by the Assembly. The ways in which it is held accountable include:

- Standing Orders require that the First Minister answers oral questions in Plenary for a maximum of 60 minutes a week when the Assembly is in session;
- Oral Questions: Members may table oral questions to each Cabinet Secretary or to the Counsel General, about any matters relating to his or her responsibilities for a maximum of 45 minutes, every four weeks when the Assembly is in session. Ministers may answer oral questions on behalf of the First Minister and other Ministers;
- **Written Assembly Questions (WAQs):** Members may table WAQs to the First Minister, to each Cabinet Secretary or to the Counsel General, about any matters relating to his or her responsibilities. WAQs must be tabled at least five working days before they are to be answered. In practice, the Government aims to answer within seven/eight days but are not bound to do so;
- Power to Call: The 2006 Act enables the Assembly to require any "person" to attend Assembly proceedings to give evidence, or to produce documents which are in that person's possession or control, concerning any matter relevant to the exercise by the Welsh Government of any of its

functions and provided the person in question is involved in the exercise of functions or the carrying on of activities in relation to Wales.

The First Minister and other members of the Welsh Government may be required, therefore, to appear before the Assembly or one of its committees.

Further information

For further information on any aspect of the constitution, please contact Alys Thomas (alys.thomas@assembly.wales).