

Agenda – Reform Bill Committee

Meeting Venue:

Committee Room 1, Senedd

Meeting date: Thursday, 18 April 2024

Meeting time: 09.15

For further information contact:

Helen Finlayson

Committee Clerk

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Hybrid

1 Introductions, apologies, substitutions, and declarations of interest

(09.15)

2 Papers to note

(09.15)

2.1 Letter from the Finance Committee to the Senedd Commission regarding the financial implications of the Senedd Cymru (Electoral Candidate Lists) Bill – 18 March 2024

(Pages 1 – 2)

2.2 Letter from the Minister for Social Justice and Chief Whip to the Reform Bill Committee regarding the Senedd Cymru (Electoral Candidate Lists) Bill – 19 March 2024

(Page 3)

2.3 Letter to the Llywydd regarding the Senedd Cymru (Electoral Candidate Lists) Bill – 22 March 2024

(Pages 4 – 5)



3 Senedd Cymru (Electoral Candidate Lists) Bill: Evidence session with the Expert Panel on Assembly Electoral Reform

(09.15–10.15)

(Pages 6 – 16)

Professor Laura McAllister, Chair of the Expert Panel on Assembly Electoral Reform

Professor Rosie Campbell, Member of the Expert Panel on Assembly Electoral Reform

Professor Sarah Childs, Member of the Expert Panel on Assembly Electoral Reform

Supporting document

Research brief

Break (10.15–10.30)

4 Senedd Cymru (Electoral Candidate Lists) Bill: Evidence session with electoral reform organisations

(10.30–11.30)

(Pages 17 – 32)

Hannah Stevens, Chief Executive, Elect Her

Jemima Olchawski, Chief Executive, Fawcett Society

Supporting documents

Paper 1 Written evidence: Fawcett Society

Research brief

Break (11.30–11.45)

5 Senedd Cymru (Electoral Candidate Lists) Bill: Evidence session with the Electoral Commission's Welsh Parliament Parties Panel

(11.45–12.45)

(Pages 33 – 46)

Geraint Day, Deputy Chief Executive, Plaid Cymru

Tom James, Director, Welsh Conservatives

Joanna McIntyre, General Secretary, Welsh Labour

Supporting documents

Paper 2 Written evidence: Welsh Labour

Research brief

Lunch (12.45–13.30)

6 Senedd Cymru (Electoral Candidate Lists) Bill: Evidence session with academics

(13.30–14.30)

(Pages 47 – 74)

Professor Meryl Kenny, University of Edinburgh

Professor Mona Lena Krook, Rutgers University

Professor Rainbow Murray, Queen Mary University of London

Dr Larissa Peixoto Vale Gomes, University of Edinburgh

Supporting documents

Paper 3 Written evidence: Professor Meryl Kenny

Paper 4 Written evidence: Dr Larissa Peixoto Vale Gomes

Research brief

7 Motion under Standing Order 17.42 (ix) to exclude the public from the remainder of the meeting

(14.30)

8 Senedd Cymru (Electoral Candidate Lists) Bill: Consideration of evidence

(14.30–14.45)

Ken Skates MS, Commissioner
Senedd Commission

18 March 2024

Dear Ken

Financial implications of the Senedd Cymru (Electoral Candidate Lists) Bill

On 13 March, the Finance Committee agreed that it would undertake financial scrutiny of the Senedd Cymru (Electoral Candidate Lists) Bill (the Bill), that was introduced on 11 March.

The Explanatory Memorandum states that the Bill will implement the recommendations relating to gender quotas made in the report of the Special Purpose Committee on Senedd Reform, published in May 2022.

As you will be aware the Committee has already considered the Senedd Cymru (Members and Elections) Bill; and the Elections and Elected Bodies (Wales) Bill. Given the interrelationship between these pieces of legislation, I would be grateful if you could confirm if the Senedd Commission has engaged with the Welsh Government on potential costs arising from the Bill.

Yours sincerely,



Peredur Owen Griffiths MS
Chair

cc Chair of the Reform Bill Committee and Chair of the Legislation, Justice and Constitution Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English.

Jane Hutt AS/MS
Gweinidog Cyfiawnder Cymdeithasol a'r Prif Chwip
Minister for Social Justice and Chief Whip

Agenda Item 2.2



Llywodraeth Cymru
Welsh Government

David Rees MS
Chair
Reform Bill Committee

seneddreform@senedd.wales

19 March 2024

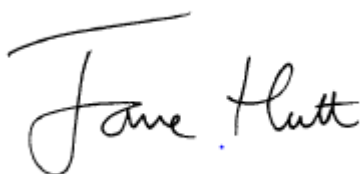
Dear David,

During the committee scrutiny of the Senedd Cymru (Electoral Candidates Lists) Bill on Wednesday 13 March, a commitment was made to write to the committee on two issues.

The first was the question “what were the costs to the Welsh Government of the last case that was taken to the Supreme Court in respect of a competency issue in relation to a Senedd Bill?”

The last Bill that was referred to the Supreme Court under section 112 of the Government of Wales Act was the Law Derived from the European Union (Wales) Bill. The costs of that reference however are not typical as the Attorney General withdrew the reference before any hearing in the Supreme Court. The reference before that was the Recovery of Medical Costs for Asbestos Diseases (Wales) Bill. The costs associated with that reference are recorded as £62,596.54.

The second question was asking whether the Welsh Government has sought external legal advice. I can confirm that external legal advice has been sought.



Jane Hutt AS/MS
Gweinidog Cyfiawnder Cymdeithasol a'r Prif Chwip
Minister for Social Justice and Chief Whip

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

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

Agenda Item 2.3

Reform Bill Committee

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Y Llywydd

22 March 2024

Dear Llywydd

Senedd Cymru (Electoral Candidate Lists) Bill: written evidence

As you will be aware, the Senedd Cymru (Electoral Candidate Lists) Bill ('the SC(ECL) Bill') has been referred to the Reform Bill Committee for Stage 1 scrutiny of its general principles. We are writing to seek written evidence from you in your capacity as Chair of the Senedd Commission and Chair of the Business Committee. In particular, we would welcome further information in relation to the questions set out below.

In asking these questions, we recognise that there are interdependencies between the design and cost of the SC(ECL) Bill and the Senedd Cymru (Members and Elections) Bill as a package of reforms. However, our role is to scrutinise each Bill and associated Explanatory Memorandum and Regulatory Impact Assessment on their own merits, especially as the commencement provisions in the SC(ECL) Bill do not specify at which Senedd general election the Bill's provisions will come in to force.

1. We note that the Welsh Government's Regulatory Impact Assessment for the SC(ECL) Bill identifies no costs or savings to the Senedd Commission. What involvement has the Senedd Commission had in the development of the Regulatory Impact Assessment? Can you confirm that there are no anticipated quantifiable or unquantifiable costs or savings to the Senedd Commission associated with the SC(ECL) Bill?
2. What preparations is the Senedd Commission making to raise public awareness of the SC(ECL) Bill? What is the estimated cost of this activity?
3. In light of the likely increase in the number of Members of the Senedd with caring responsibilities for children and infants, has any consideration been given to making adaptations to the Senedd estate, such as the provision of an on-site crèche facility, or

increasing the provision of accessible parking, family rooms, and facilities for breastfeeding and expressing milk?

4. Has any consideration been given to the Senedd's future ways of working to address barriers that might otherwise inhibit women and under-represented groups from standing for election, such as the timetabling of Senedd business, flexible working practices and technological innovations?

It would be helpful if you could respond by 12 April 2024. This letter is being copied to the Finance Committee and the Legislation, Justice and Constitution Committee, and the First Minister.

Yours sincerely



David Rees MS
Chair, Reform Bill Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.

Agenda Item 3

By virtue of paragraph(s) ix of Standing Order 17.42

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Agenda Item 4

SCECLB9 - P Fawcett Society

Senedd Cymru | Welsh Parliament

Y Pwyllgor Biliau Diwygio | Reform Bill Committee

Bil Senedd Cymru (Rhestrau Ymgeiswyr Etholiadol) | Senedd Cymru (Electoral Candidate Lists) Bill

Ymateb gan Cymdeithas Fawcett | Evidence from Fawcett Society

The Fawcett Society's Submission to the Reform Bill **Committee's Consultation on the Senedd Cymru** **(Electoral Candidate Lists) Bill**

1. What are your views on the general principles of the Bill and the need for legislation to deliver the Welsh Government's stated policy objective (*to make the Senedd a more effective legislature by ensuring it is broadly representative of the gender make-up of the population*)?

Here at the Fawcett Society, we support the creation of legislation that will facilitate gender parity within the Senedd. As the Senedd is proposing a range of changes to the electoral system in Wales (which will also increase the number of seats from 60 to 96), we are pleased to see the (Electoral Candidate Lists) Bill as one of these changes. We believe like others that it is an important step in the right direction towards ensuring women's representation in the Senedd.

We know that the path to building a stronger and healthier democracy within Wales (and beyond), relies on not only an increased number of seats and making sure that the Members elected truly look like the Wales they represent. Included in this of course, is the much needed representation of diverse lived experiences, voices and perspectives, which enrich policy making and policy discussions, and ultimately the legislation that is passed, which goes on to impact ordinary people's lives.

Fawcett have long called for political parties (specifically) to introduce quotas to increase women's representation, within their own parties. We have been supportive of Parliamentary quotas. We believe it is an important way to guarantee much needed change.

According to Wales' last Census data (2021)¹, women made up 51.1% of the population however they only make up 43% of the number of elected Members in the Senedd. Ensuring that women make up 50% of elected office is incredibly important for representation, for better and more diverse policy outcomes and ensures that we bring the full breadth and diversity of the human experience within every corridor of power, especially as it relates to the governing of society.

Research conducted by King's Global Institute for Women's Leadership, *Women Political Leaders: The Impact of Gender on Democracy*, shows that when women are able to exercise political leadership, there are gains for the whole of society. Their findings² show that:

- Women policy makers prioritise issues that benefit the most vulnerable in society (healthcare, welfare, education etc)
- That women work harder than men to represent their constituencies – linked to a stronger sense among voters that the government is responsive to their needs
- Women bring more collaborative and inclusive leadership into political environments that are often characterised by division and one-upmanship.

In 2003, the Senedd reached gender parity with 30 seats occupied by women Members of the Senedd. Since then, women's representation in the Senedd has decreased steadily over the coming years to where it currently stands at 26 – with women making up only 43.3% of elected office. This is a particular shame as the Senedd (the former National Assembly) was the first legislature to secure gender parity in the world³.

We know that having women in the rooms of power where decisions are made, transforms our laws and policies. Though Wales is currently leading Westminster and Holyrood on the highest number of women in Parliament, the steady decline and incremental increases (2016 – 41.7% vs 2021 – 43.3%), means more must be done to get back to the 50:50 split. It is important to note that without the (Electoral Candidates List) Bill, as part of the sweep of proposed changes to the electoral system in Wales, we may continue to see the number of women continue to decline or fluctuate in number but remain under the 50:50 split needed for gender parity. This Bill will also force all political parties to step up to the plate to ensure that they are selecting women candidates and giving them every opportunity to win (with more women potentially placed in winnable seats)⁴. This will ensure each party puts forth diverse candidate lists.

Fawcett's previous report, *Strategies for Success*⁵, highlighted the systemic barriers women face when participating in politics, which start right from the moment they put themselves forward for selection. The report found that there was a 'selectorate bias'. Participants to the research perceived that party members "ideal candidate" was not only male, but white, middle-class and able-bodied. Within the research, women spoke about being asked to seek selection in local organisations where they had no chance of being selected in order to meet the formal or informal requirement for gender balance or to ensure that the process appeared competitive. Quota's force Parties to overcome these biases and helps to tackle the overrepresentation of men.

We support the proposed method of the Zipping System as an effective type of gender quota system (in proportional representation electoral systems) to ensure gender parity on party lists. It is a method currently used in a number of countries (such as Senegal, Costa Rica, France, and Zimbabwe, among many others) as well as within national Green Parties.

Enforcement and compliance

2. What are your views on the system of enforcement and potential sanctions for non-compliance proposed in the Bill?

N/A

The Bill's implementation

3. Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

In response to Former first Minister Mark Drakeford and the former Leader of Plaid Cymru, Adam Price commitment to reforming the Senedd and including closed proportional lists with statutory gender quotas and mandatory zipping', the Electoral Reform Society, produced the effect it would have on women's representation in the Senedd and produced modelling data⁷. The modelling illustrated that quotas were likely to have a positive impact on women's representation – but flagged that parties would still need to play an active part in ensuring women are placed at the top of electoral lists. Fawcett believe that what is particularly important in this is that women are also placed in winnable seats. Therefore, the first caveat is around ensuring Parties also do their part. The Bill will be most effective, if Parties, ensure women are placed at the top of lists and in winnable seats. Predicting what will be a 'winnable' seat may be difficult for many Parties due to the creation of 16 new constituencies for the 2026 elections (included in the new measures to reform the Senedd).

The second issue that arises, across all Parliaments (the Welsh Government is not alone in not doing this), is the lack of diversity data of candidates and elected representatives. Without this data, it is incredible difficult to assess and measure the progress made on diversity in elected office.

In the meantime, there are other measures that the Senedd could take to complement swath of new legislations for electoral reform in Wales. The devolved government could collect and publish anonymous diversity data. This may also lead to putting more pressure on Westminster to enact Section 106 of the Equality Act. If a devolved administration was to lead the way in publishing diversity data, the others could follow suit. Wales could be a leader – in much the same way they led by being the first legislature to reach 50:50 gender parity.

In any case, we believe that the publication of diversity data from political parties would complement the (Electoral Candidate Lists) Bill and push Parties to ensure that they are presenting candidates lists that have equal men and women on their lists (as well as push for other forms of much needed diversity – race, disability etc).

As a further comment to the issue of diversity (further detail below), it will be incredibly important that there is effective monitoring of the *range* of diverse women within the candidate lists. Reaching 50% of women in the Senedd through using the quota legislation is important, but in this must be embedded alongside the requirement that they are women from diverse backgrounds and other under-represented identities – such as Black and Minority ethnic (BME) women, and disabled women for example. Parties must be asked to take active steps to enable this diversity.

4. Are any unintended consequences likely to arise from the Bill?

We appreciate that achieving gender parity is the main objective of this Bill, but it is equally important to ensure that other forms of discrimination are not further entrenched in the process. In enforcing the quota, it is important to make sure that the 50% of women who

take up their seats in the Senedd are diverse in identity and background. BME women and disabled women, must be included and feature prominently on candidate lists.

We appreciate that this issue will primarily be the responsibility of the political parties who submit their candidate lists. We believe that there must be clear guidance to parties, which will enable them to take the appropriate steps required to remove the barriers to women's participation in politics and pay close attention to the diversity of the women they are selecting and putting forward as candidates. Women from under-represented backgrounds/identities should also be placed in winnable seats.

5. What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill?

N/A

Subordinate legislation

6. What are your views on the balance between the information contained on the face of the Bill and what is left to subordinate legislation? Are the powers for Welsh Ministers to make subordinate legislation appropriate?

Other considerations

7. Do you have any views on matters relating to the legislative competence of the Senedd including compatibility with the European Convention on Human Rights?

N/A

8. Do you have any views on matters related to the quality of the legislation, or to the constitutional or other implications of the Bill?

N/A

9. Are there any other issues that you would like to raise about the Bill, the accompanying Explanatory Memorandum and Regulatory Impact Assessment, or any related matters?

There should be an equal focus and consideration made about the diversity of women selected and elected. BME and disabled women face additional barriers to securing political office. As there are considerations around ensuring the parity of women in elected office, there must be additional steps in place (perhaps through guidance in the first instance) to ensure the diversity of women candidates being put forward/onto lists within the political parties.

The Senedd Cymru (Electoral Candidate Lists) Bill is a crucial piece of legislation that sets the framework for ensuring gender parity in the Senedd. Women make up just over half of the population, but this figure is not currently represented in elected office. This Bill will change that. The Bill will also place responsibility on political parties to ensure that their candidate lists are made up of 50% women as much as possible. The unintended outcome of course using the zipping/zebra methodology is that more women may be placed in

winnable seats, therefore increasing their likelihood of being elected. It is of course all well and good to have a diverse list (50:50 gender split), but what good is that list if all the women are placed in unwinnable seats.

In our *Open House: Where Next for Gender Equality*, we made a series of recommendations⁹ to ensure the inclusion of minoritised and under-represented women in elected office. These recommendations are specific to the work that political parties must do to ensure that they fulfil their responsibilities, when pulling together candidate lists:

- That Black and Minoritised women, and disabled women are also placed in winnable seats.
- That political parties conduct reviews in the candidate selection process to ensure that there are no structural barriers hampering the participation of underrepresented groups including women, disabled and Black and Minoritised women.

With regards to CRO's invalidating Party lists, it would be prudent for any guidance that is produced, to lay out any grounds for appeals that the political party/ prospective candidates might make as to why their party lists has been invalidated. In this vein, guidance to prospective candidates may also be fruitful to hold parties to account when selecting candidates to stand (with regards to their rights).

By virtue of paragraph(s) ix of Standing Order 17.42

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SCECLB29- P Welsh Labour

Senedd Cymru | Welsh Parliament

Y Pwyllgor Biliau Diwygio | Reform Bill CommitteeBil Senedd Cymru (Rhestrau Ymgeiswyr Etholiadol) | Senedd Cymru (Electoral Candidate Lists) BillYmateb gan Llafur Cymru | Evidence from Welsh Labour

What are your views on the general principles of the Bill and the need for legislation to deliver the Welsh Government's stated policy objective (to make the Senedd a more effective legislature by ensuring it is broadly representative of the gender make-up of the population)?

Welsh Labour welcomes the opportunity to provide evidence to this consultation. The Party's values are underpinned by a commitment to a more just society and a more open democracy and, accordingly, aiming to improve diversity at all levels of government is a crucial part of the work we do. Our 2021 Senedd manifesto included a commitment to build on the work of the Committee on Senedd Electoral Reform and to 'develop proposals to improve the representation of the people of Wales in their Parliament'. Welsh Government ministers are taking forward our policies as part of their work in government.

We support the general principles of the Bill: a Senedd that is truly representative of Wales is a more effective one. We are committed to a Senedd that is more representative of the people that it serves, and that includes supporting provisions that are designed to maximise the chances of achieving a Senedd comprised of at least 50% women. We also support the proposals to encourage political parties to publish diversity and inclusion strategies, thus improving transparency.

Welsh Labour is committed to more positive action to encourage and enable more people with protected characteristics to come forward as potential candidates within the confines of the law, and to play our part in ensuring that there is more diversity at all levels of government.

To this end, we have already put a number of strategies in place internally to help us in our aim to positively influence our selection processes in order to attract a more diverse set of elected representatives. For instance, we already use gender quotas for our regional lists, and have devised support schemes and training opportunities to encourage a more diverse pool of candidates in elections at all levels, such as our successful Future Candidates Programme. More broadly, the Labour Party has long pioneered progress on better representation for women in public life.

The work that Welsh Labour has undertaken has seen us lead the way on gender equality among our Senedd representatives, with women making up more than half of our Senedd members. We

note that the percentage of Welsh Labour MSs who are women greatly exceeds that of other political parties in Wales.

What are your views on the system of enforcement and potential sanctions for non-compliance proposed in the Bill?

We support the principle of a system of enforcement and potential sanctions for parties that fail to reach the minimum threshold. It is crucial that there are effective sanctioning mechanisms in place in order to encourage compliance.

Welsh Labour already undertakes action within our internal processes to encourage compliance with measures to improve diversity in our selection processes.

Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

Are any unintended consequences likely to arise from the Bill?

What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill?

Wales is the most under-represented country in the UK, and the proposals form part of a once-in-a-generation opportunity to strengthen our democracy. There are, of course, costs associated with reforming the Senedd, but they represent the equivalent of a very small amount of Wales' total budget every year.

What are your views on the balance between the information contained on the face of the Bill and what is left to subordinate legislation? Are the powers for Welsh Ministers to make subordinate legislation appropriate?

Do you have any views on matters relating to the legislative competence of the Senedd including compatibility with the European Convention on Human Rights?

Do you have any views on matters related to the quality of the legislation, or to the constitutional or other implications of the Bill?

Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

Anything else?

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Agenda Item 6

SCECLB14- P Meryl Kenny, Professor of Gender and Politics, University of Edinburgh

Senedd Cymru | Welsh Parliament

Y Pwyllgor Biliau Diwygio | Reform Bill Committee

Bil Senedd Cymru (Rhestrau Ymgeiswyr Etholiadol) | Senedd Cymru (Electoral Candidate Lists) Bill

Ymateb gan Meryl Kenny, Athro Rhywedd a Gwleidyddiaeth, Prifysgol Caeredin | Evidence from Meryl Kenny, Professor of Gender and Politics, University of Edinburgh

What are your views on the general principles of the Bill and the need for legislation to deliver the Welsh Government’s stated policy objective (to make the Senedd a more effective legislature by ensuring it is broadly representative of the gender make-up of the population)?

With this Bill, Wales would join a rapidly growing number of countries around the world who have adopted legal quotas, including as part of wider processes of electoral reform. Gender equality is essential for democratic legitimacy – research demonstrates that citizens (both men and women) strongly prefer gender-balanced decision-making bodies, which they see to be more fair, trustworthy, and legitimate [1]. These effects remain even when equal representation has been achieved through legal rule changes [2]. In seeking to redress these inequalities, action on women’s representation worldwide has moved increasingly from an ‘incremental track’ to a ‘fast track’, where significant increases in women’s representation have been brought about by the introduction of legal gender quotas, rather than relying on the voluntary efforts of individual parties [3].

International research provides an extensive evidence base with regards to the positive impact of quota measures on women’s representation and political institutions; and suggests that quota effectiveness also increases over time, as measures become accepted, and as policy makers refine and strengthen quota rules [4, 5]. While the relationship between women’s numerical representation and outcomes is complex, evidence from the UK (including the devolved parliaments) and comparatively suggests that gains in the political presence of women and other under-represented groups can make a difference to public and political attitudes, policy priorities and ways of working [6, 7, 8]. While arguments against gender quotas frequently claim that they dilute ‘merit’, there is very little research evidence (either in the UK or comparatively) to suggest that this is the case. Studies, for example, find that quotas can improve candidate quality and experience [9]; that voters do not penalise ‘quota women’ at the ballot box [10]; and that ‘quota women’ have equally successful career trajectories to men once they are in office [11].

The proposed Bill's candidate threshold of at least 50% is both substantively and symbolically important – given that women are over 50% of the population. The comparative evidence generally finds that quotas with higher candidate thresholds result in higher levels of women's representation [4]. While the Senedd Cymru has a strong track record on women's representation, women are still currently under-represented amongst candidates and members. Levels of women's representation in Wales also differ significantly across parties and have fluctuated over time, with headline figures largely the result of voluntary party quotas used by (some) Welsh parties [12]. These patterns reinforce the need for legislation – voluntary quotas apply only to those parties that choose to implement them, meaning that overall numbers may stagnate or even reverse over time depending on party representation and commitment. Legal quotas, in contrast, would apply to all parties – ensuring that equal representation is the responsibility of all. Evidence-based calls for legal quotas have been made across the UK and beyond – including, for example, through the Scottish Women 5050 campaign and the House of Commons Speaker's Conference on Parliamentary Representation.

What are your views on the system of enforcement and potential sanctions for non-compliance proposed in the Bill?

For quota laws to deliver their desired impact, they cannot just be 'on the books', they also need to be effectively implemented. It is increasingly the global norm for quota laws to include not only threshold requirements, but also placement mandates and sanctions for non-compliance. Research evidence finds that quota rules matter – and that the implementation of placement mandates and sanctions (alongside higher candidate thresholds) increases the effectiveness of quotas in delivering gains in women's representation [4]. In including both vertical and horizontal placement mandates and oversight of compliance with these rules at constituency and national level – the Bill is broadly in line with international best practice and is more likely to deliver on its intended aims.

Not all sanctions are equally effective – and 'fit' with electoral rules and the wider context of party regulation and finance is important to consider. The strongest form of sanctions usually require electoral commissions (or other bodies) to reject candidate lists that do not comply with quota laws; weaker sanctions include monetary fines, or limiting access to state funding [13]. The Bill's incorporation of sanctions in the form of the invalidation (or re-ordering) of nomination papers that do not comply with vertical or horizontal placement rules fits within this stronger category, and these are, in turn, more likely to be effective at ensuring compliance. Financial penalties related to funding are unlikely to work in this context, compared to other countries such as the Republic of Ireland, where state funding is

more central; and fines are often ineffective, particularly in the case of bigger and better resourced parties (e.g. as seen in France) [14].

As the accompanying rationale for enforcing horizontal placement criteria recognises, there is still the possibility that a particular party could fulfil both the vertical and horizontal placement rules and still not deliver equal (or close to) representation. This may particularly be the case for small parties. In Scotland, for example, in the 2016 Scottish Parliament elections, the Scottish Greens zipped their regional list candidates – alternating men and women – and paired its lists, ensuring that 50% of them were topped by women. In the end, however, only 1 of 6 Green MSPs elected were women (17%) – highlighting the interplay between horizontal placement rules and district and party magnitude. In 2021, Scottish Green women topped every regional list not being contested by an incumbent (five out of eight lists) and were placed second in six regions – with five women ultimately elected (63% of the parliamentary party) [15]. While horizontal ‘winnability’ cannot be easily tackled through legislation, political parties might be encouraged to consider this as part of their decision-making. The Bill’s 50% minimum threshold and vertical placement criteria (versus a mandatory and symmetric zipping system) allows for flexibility in this regard, with the decision ultimately in the hands of parties as to whether to zip the list, or place multiple women candidates in succession on particular lists.

Are there any potential barriers to the implementation of the Bill’s provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

Are any unintended consequences likely to arise from the Bill?

What are your views on the Welsh Government’s assessment of the financial and other impacts of the Bill?

The costs and/or savings for political parties (Regulatory Impact Assessment, paras 170-172) are seen to be contextual, relating to how they organise and select candidates, and whether or not they have experience of implementing voluntary party quotas. The introduction of other recommendations in the Special Purpose Committee report – for example around transparently publishing data on the diversity of Senedd candidates, and encouraging parties to publish Diversity and Inclusion Strategies – might on the one hand add to initial and short-term ‘costs’ for parties, but would ultimately facilitate implementation and monitoring of quotas over the long haul.

What are your views on the balance between the information contained on the face of the Bill and what is left to subordinate legislation? Are the powers for Welsh Ministers to make subordinate legislation appropriate?

Do you have any views on matters relating to the legislative competence of the Senedd including compatibility with the European Convention on Human Rights?

Do you have any views on matters related to the quality of the legislation, or to the constitutional or other implications of the Bill?

Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

If changes to the size of the Senedd (and its electoral system) are not accompanied by quotas (or reforms are not introduced at the same time), there is a potential risk that levels of women's representation may fall in upcoming elections – given wider candidate trends. Expansion without quotas may also reinforce incumbency effects, and further entrench party asymmetries on women's representation, which may in turn inhibit future efforts at diversifying the Senedd.

While the Bill focuses on women as an 'under-represented majority', I would support the Committee on Senedd Electoral Reform's recommendation to further explore the possibility of introducing 'diversity quotas' with regards to other protected characteristics, building on research expertise and working in partnership with under-represented groups and relevant organisations. This could include exploring the design and potential implementation of intersectional quotas – for example 'tandem' quotas targeted at different groups (but largely operating independently) or 'nested' quotas where a proportion of seats go to a targeted sub-group of members (e.g. women of colour) [16, 17].

Anything else?

This submission draws on the following research:

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SCECLB16- P Larissa Peixoto Gomes, University of Edinburgh

Senedd Cymru | Welsh Parliament

Y Pwyllgor Biliau Diwygio | Reform Bill Committee

Bil Senedd Cymru (Rhestrau Ymgeiswyr Etholiadol) | Senedd Cymru (Electoral Candidate Lists) Bill

Ymateb gan Larissa Peixoto Gomes, Prifysgol Caeredin | Larissa Peixoto Gomes, University of Edinburgh

What are your views on the general principles of the Bill and the need for legislation to deliver the Welsh Government's stated policy objective (to make the Senedd a more effective legislature by ensuring it is broadly representative of the gender make-up of the population)?

Although the percentage of women in the Senedd rivals that of other countries, it is important to realise that this is not a guarantee. The current electoral success of Welsh women is likely due to the proportional aspect of the current electoral system and is not reproduced at the local level. The change in number of seats and other electoral rules does, indeed, lead to uncertainty and unpredictability regarding the gender equality of representatives alluded to in the Senedd Cymru (Electoral Candidate Lists) Bill's memorandum (point 31). This is otherwise demonstrated by other countries' experiences when overhauling electoral legislation and whether by accident or design creating ineffective gender quotas.

- **Bolivia:** strong wording on placement and sanctions (rejection of the list), quickly led to parity in Bolivia, however that was harder to achieve in the majoritarian districts (horizontal parity) and was more immediate in the areas with proportional representation. Similar designs are found in Ecuador, Costa Rica, and Mexico.
- **Brazil:** candidate quotas with a proportional, open-list system, with a 30% candidate gender quota. However, it also simultaneously increased the number of overall candidates by 50%, effectively 'watering down' the mechanism given that open lists do not have placement mandates. Sanctions were also weakly worded, leading to low compliance (Almeida and Gomes, 2018).
- **Croatia:** weak wording at the initial stages, as well as weak sanctions once tougher language near-parity lists were imposed. Specifically, the country moved from invalidating lists to financial sanctions, which political parties were willing to suffer (Lulić and Tucak, 2017).

- France: the association of gender quotas in a majoritarian system with presidential elections seems to create an effect of women being more likely to become elected if they are in the president's party, with the important reform to the electoral calendar that joined Assembly and presidential elections (Cunha Silva and Crisp, 2022).
- India: for the state of Jharkhand, reserved seat quotas for council head positions were found to have positive effects for immediate elections, but no evidence of impact on 'lower hierarchy positions' was found (Motghare, 2023).
- Indonesia: similarly to Brazil, parties were originally urged to consider quotas, rather than have them imposed (Hillman, 2018). Despite tougher language being introduced, again similarly to Brazil, Indonesia introduced an open-list system, which significantly increased the individual cost of elections, effectively marginalising and excluding women.

Comparative analyses also show that the majority of quotas, whether voluntary or legislated will have diminished returns over time. They also point out the relevance of cultural context, campaign financing, party adherence, and force and enforcement of sanctions. These demonstrate that the combination of different rules may create outcomes that render the gender quota ineffective – and this includes the current disposition of the proposed rules in Wales.

The parliamentary institution was created by men and for men, and it is important to understand gender quotas not as a temporary fix or a shortcut but as a standing rule that ensures the bare minimum of societal representation. Women's exclusion and marginalisation over centuries has made them into an outsider group, while men, as the mainstream, enjoy the status of the mainstream and of being political individuals – they then believe their achievements are due to merit rather than reinforced institutions of power inequality. Any challenge to this status quo will receive backlash, calling into question the qualifications of women, their interest in politics, their ability to adapt to the political environment. Consequently, it is essential that the Bill is perceived as a natural step in Wales's path towards a more equal Wales.

What are your views on the system of enforcement and potential sanctions for non-compliance proposed in the Bill?

While compliance and sanctions have been referred to in the legislation as the responsibility of the returning officers and the national nominations compliance officer, these are temporary positions that will exist only during elections and will not have the support of a full government agency. The Electoral Commission has also been insufficient in resolving electoral issues in Wales. The development of an agency that would function year-round to keep ahead of any electoral issues and to organise elections in Wales would create a trained and dedicated staff that could ensure the quality of services.

Verifying compliance with gender quotas as established in the Senedd Cymru (Electoral Candidate Lists) Bill should be relatively straightforward as the quantity of lists are manageable and there is the requirement of self-identification. In Bolivia, some men registered themselves as women in order to secure better positioning and possibly to attempt an argument at how easy it would be to evade compliance (Albaine, 2016). In Brazil, changes in finance legislation saw candidates change their self-declared ethnicity or skin colour from the previous election. While self-identification is the only option, when registering to run, candidates should bring ID, whether it is their driver's licence or gender recognition certificate. This should not be controversial given that an ID is also demanded of voters.

It is strongly suggested that submission be made electronically to facilitate data management and that lists include both the candidates' names and gender. Given the interest in understanding more about Welsh political actors, it would behove any Welsh electoral authority or the Welsh Government and the Senedd to collect other information at the application stage on candidates, such as age, ethnicity, schooling.

Information on countries that also collect and make available this data is sparse, however it can be easily anonymised if deemed necessary. Several countries provide data to some extent, often not fulfilling all open data parameters, or with some key variables omitted. Brazil and France were identified as countries with largest number of variables associated to each candidate, including gender, birthdate, civil status, among others. Some countries that have data to some degree were Peru, Sweden, Costa Rica, and Mexico.

Most countries that have achieved successful results with gender quotas have imposed strong sanctions, the most common being the whole list being expunged. While pecuniary sanctions also exist, often parties perceive this as an acceptable cost, given that they will not have to make the financial and administrative investments required to comply with the rule. Moreover, compliance only works with enforcement; even in the case of strong sanctions, if parties are aware that they will not be enforced, they will not comply.

Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

Are any unintended consequences likely to arise from the Bill?

Wales has had more success with inclusion of women at the national level than at the local level. This requires further study, as the pipeline to politics often takes the path from local elected office to regional or national elected office. The lack of uniformity among electoral systems in councils in Wales might contribute to this, and imposing a gender quota system at

the national level only will reinforce this. Parties should consider internal quotas for their council runs in order to build a consistent pipeline of candidates towards the national level.

Women are often socialised away from politics and perceive themselves as not qualified to run for office despite evidence to the contrary. Even when interested in politics, women might perceive that space as too acrimonious and feel their efforts are better spent elsewhere.

Given that the number of women candidates for the Senedd is much lower, a concern might be raised that not enough women might be in place to be selected for lists. This argument has been made in other countries, such as Mexico, which saw the issue brought to the judiciary and lists being complied with eventually.

It is the responsibility of the Welsh Government, the Senedd, all councils, any electoral authority, and all parties to include citizens in politics and to develop their political knowledge. In this instance, political parties should find strategies to incorporate citizens in their routine and consider that this might require daycare facilities and non-traditional meeting times. Additionally, closed lists require that list placement be something discussed within parties and that internal democratic procedures be carefully considered so that informal practices do not obstruct ethical and meritocratic procedures.

A serious possible consequence that would affect recruitment and women MSs is threat of and violence. Violence in politics in Wales has been identified as a problem overall, particularly for women. The establishment of strongly enforced quotas in other countries such as Bolivia, Costa Rica, Ecuador, and Mexico saw the rise of violence against women in politics, ranging from psychological and symbolic violence to physical violence, and death threats from men alternates. Despite not yet having quotas, in 1998, Brazil saw the murder of federal deputy Ceci Cunha by her alternate, with the aim of taking her position.

It is notable that these cases should arise more often in places where placement on the list ensures parity and sanctions are the list being expunged rather than fines and, most importantly, enforced.

The Bill bars single-person lists composed by a man, essentially preventing a small party from running if it has no other candidate. In odd-numbered lists, they must have more women than men. These rules create incentives for faux candidacies by women, whereupon parties ask women to run and resign once the election is over, doing so willingly whether by financial incentive or by promise of another position. This can also create incentives for pressuring women to resign in favour of men, including physical violence.

One way to circumvent this would be to remove the provision of single-person lists, either by banning single candidates or by removing the gender requirement. Another would be a requirement that if an elected woman needs to resign her post, the next woman on the list will be her automatic alternate. Only if no woman is present (i.e., she was the penultimate

on the list), can a man replace her; in this case, a request for cause of resignation might be required.

What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill?

What are your views on the balance between the information contained on the face of the Bill and what is left to subordinate legislation? Are the powers for Welsh Ministers to make subordinate legislation appropriate?

Do you have any views on matters relating to the legislative competence of the Senedd including compatibility with the European Convention on Human Rights?

Do you have any views on matters related to the quality of the legislation, or to the constitutional or other implications of the Bill?

The Bill has been criticised for favouring one gender over another and thus going against equalities legislation. Other countries, such as Brazil and Croatia have faced similar challenges and worded their legislation without referring to a specific gender, for example, XX% of candidacies are reserved for either gender, that should be placed in alternate positions in closed lists (in the case of Croatia). This demands a binary understanding of gender limited to cisgender men and women, and that horizontal parity is also contemplated by indicating that lists must be headed by alternating genders.

Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

This evidence has sought to demonstrate some of the pitfalls that might occur as a result of the Senedd Cymru (Electoral Candidate Lists) Bill based on evidence from other countries' experiences.

At the national level, Wales has achieved a higher degree of gender equality than other countries, but the overall reform in electoral rules might have a negative impact on that. A gender quota avoids possible issues and signals Wales's commitment to gender equality in politics. This document has suggested the following:

1. That an electoral management body be instituted to manage Welsh elections, data, research, and political inclusion year-around. Regarding the implementation and upkeep of gender quotas, an EMB would be key in:

- a. The socialisation of the Welsh population towards introducing more women into politics.
 - b. Data collection and research into diversity in politics and the effectiveness of the quota.
 - c. Ensuring violence in politics, including violence against women in politics, is properly investigated and penalised.
 - d. Ensuring that quotas are complied with and enforcing sanctions when not.
2. All political organisations need to design and deploy a strategy of political inclusion to develop future candidates.
 3. Political inclusion is particularly needed at the local level to ensure the same degree of gender equality for local councils despite the gender quotas not applying to them.
 4. Sanctions should be strongly worded, and at the example of other nations, expunge lists rather than (only) set pecuniary fines.
 5. Candidates must bring IDs to register their candidacies.
 6. Single-person lists should be reconsidered and in case of the resignation of an MS, rules should be in place for alternates to be of the same gender, discouraging political violence (including psychological pressure to resign).
 7. To prevent legal challenges to the Bill on the basis of equalities legislation, rewording could be considered to state that both genders will be represented in equal percentages. This comes with the caveat of understanding gender as a binary and further consideration of non-binary persons is suggested.

One issue neglected in this document is job sharing. Closed lists with alternating genders might pose practical issues regarding job-sharing measures that have also been discussed in the Senedd and in other evidence. This should be carefully considered as it was suggested that job sharers be a single legal entity, and this might impact the gender balance of the Senedd.

Anything else?

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