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Equality and
Human Rights
Commission

Additional Technical Briefing

Senedd Special Purpose Committee on Electoral Reform

Definition of sex/gender in the Equality Act had been challenged
Gender parity had been achieved without the use of gender quotas

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Background

The Equality and Human Rights Commission (EHRC) was invited to give a technical briefing to the Special Purpose Committee on Senedd reform on the 16 February 2022. During and following this session, the Commission was requested to provide further information to the Committee:

- The Equality and Human Rights Commission agreed to provide examples of legal cases where the definition of sex/gender in the Equality Act had been challenged; and
- The Equality and Human Rights Commission agreed to provide a briefing on international examples of good practice where gender parity had been achieved without the use of gender quotas - specifying which tools were used to drive more structured change.

Case Law: Sex/Gender and the Equality Act

To Follow

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The Equality Act 2010: a Guide for Political Parties

<https://www.equalityhumanrights.com/en/publication-download/equality-act-2010-guide-political-parties>

This publication provides an overview of what the Equality Act 2010 means for political parties and their members.

It includes an explanation of the action that can lawfully be taken by parties to increase the participation of under-represented groups in elected office and within their own party structures.

It also explains when and how members of political parties, and people who want to become members, are protected from unlawful discrimination.

The information is for political parties and their members. It will also be of interest to people and organisations who want to see more under-represented groups involved in politics.

The information relates to equality law and political parties in England, Scotland and Wales.

International Examples

The Commission drew upon a number of sources and our library in order to provide an evidenced-based technical briefing to the Senedd Special Committee. We have detailed some of the international examples we have found during our research below. This evidence is in no way judged to be more or less applicable to the work of the Committee through not being quoted in this briefing. Papers and evidence quoted were randomly chosen with relevant information highlighted for the Committee for ease and examples.

Disclaimer

The information in this paper is provided to the Special Purpose Committee to support their work and research. In no way should the links we provide be considered the opinion or the position of the EHRC unless links are to official publications of the EHRC.

The evidence and information in this paper is to ensure that the Committee is fully informed and, unless stated, is not our guidance for the Committee. The Commission is keen to continue engagement and we offer to consider if developed proposals/possible courses of action are lawful or advisable, when the Committee has developed these further.

House of Lords Library (2021) Global gender equality in political life

<https://lordslibrary.parliament.uk/global-gender-equality-in-political-life/>
<https://committees.parliament.uk/writtenevidence/25407/pdf/>

“The UN Women’s theme for International Women’s Day, held on 8 March 2021, was “women in leadership: achieving an equal future in a Covid-19 world”. This theme was aligned with the UN’s sustainable development goal (SDG) 5 of ‘gender equality’. To help in achieving the goal, the UN wants to “ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision making in political, economic and public life” by 2030.

In 2020, the UN stated that its current projections indicate gender parity in positions of power will not be reached for another 130 years."

Female representation in national and local parliaments

"As of January 2021, about a quarter of the world's national elected representatives were female. The average proportion of women in national parliaments varied between global regions; data from the Inter-Parliamentary Union showed that the highest proportion of female representatives was in the Americas (32.4%) and the lowest proportion (17.8%) was in the Middle East and North Africa."

How can female representation in politics be increased?

"A recent UN Economic and Social Council report has examined the status of women's participation in public life. The report said that certain initiatives, such as the use of gender quotas and certain types of electoral systems, contributed to increasing women's participation in legislative bodies."

Gender quotas

In its report *Atlas of Electoral Gender Quotas*, the International Institute for Democracy and Electoral Assistance (IDEA) stated that there are three main types of gender quotas used across the world. These are:

Legislated candidate quotas: Set out in law, these quotas regulate the composition of candidate lists used by political parties.

Legislated reserved seats: Also set out in law, these measures reserve a certain number or set percentage of seats for women. This is achieved through special electoral procedures.

Party quotas: These are quotas adopted voluntarily by individual parties for their candidate lists.

"According to IDEA's gender quotas database, of the five countries with the highest female representation, three use some form of quota; Nicaragua uses a legislated candidate quota and Rwanda and the United Arab Emirates have reserved seats for women in their national parliaments."

Electoral systems

“In its report, the UN Economic and Social Council also said that the type of electoral system used had an impact on number of female representatives elected.

It said that female representation is on average 10% higher in countries that use proportional representation or mixed systems, compared with those which use majority or plurality systems, such as first past the post (FPTP).

This sentiment has been reflected in the UK by organisations such as the Electoral Reform Society and the Fawcett Society. They have said that FPTP, the voting system used in UK national parliamentary elections, hinders further progress in achieving gender equality in the House of Commons.

The Electoral Reform Society has argued that FPTP “represents a constant drag on women’s representation”, because it effectively “reserves” seats for incumbent male MPs.

The Electoral Reform Society and the Fawcett Society have called for the current electoral system to be replaced with a proportional representation system, such as single transferable vote. Under this system constituencies are represented by multiple MPs which, they argue, would open up opportunities for women to contest seats currently viewed by parties as ‘safe’.

According to IDEA’s electoral system database, of the five countries with the highest female representation in national parliaments, two countries (Rwanda and Nicaragua) use a form of PR for their national elections, whilst one (New Zealand) uses a mixed system.”

Barriers to increased female representation

“Writing for the World Economic Forum, Anne-Marie Slaughter and Francesca Binda argued that quota systems can be “controversial” and seen as “a blunt instrument”. Instead, they have called for a “more nuanced approach” that focuses on reducing the barriers for women to participate in the first place. They identified these barriers as:

- The election system itself.
- Lack of access to finance.
- Weak professional networks.
- Social and cultural obstacles, such as greater care obligations.

They then suggested several measures to address these issues, such as state funding for political parties that support female candidates, policies to support working parents and targeted training for female candidates.”

World Economic Forum (2018)

[How do we get more women in politics? | World Economic Forum \(weforum.org\)](https://www.weforum.org)

“Efforts to improve female representation in politics have often focused on quotas and reserved shares. What is really needed is a nuanced approach that tackles the underlying, interconnected barriers that women face in getting nominated for elected office and conducting successful campaigns.

“...quotas may, however, be unnecessary. In seven of the top ten countries for female representation, political parties have voluntarily implemented their own rules on the matter. Globally, over 100 political parties in 53 countries have voluntary measures in place to increase the number of women candidates and party officials.”

“legislated or not, quotas can be controversial. Some claim that they are undemocratic. There is no doubt that they are a blunt instrument. Can we do better? A more nuanced approach would focus on eliminating the underlying, interconnected barriers that women face in getting nominated for elected office and conducting successful campaigns. Such obstacles include the election system itself (women fare better under proportional representation than they do in first-past-the-post systems based on single-member districts); lack of access to financing; weaker professional networks; and outside responsibilities that make it harder to take on punishing and unpredictable working conditions”

“Overcoming such structural barriers requires a comprehensive strategy for supporting women candidates.”

“Fortunately, some countries are introducing innovative measures to address this problem. In Georgia, for example, political parties that include at least 30% of each gender on their electoral lists receive a 30% supplement from the state budget. Similarly, in Ireland, political parties lose 50% of their state funding if their candidate pool includes less than 30% of either gender.”

“Beyond financing constraints, women face high social and cultural barriers to political participation. In particular, greater care obligations, reinforced by public perceptions of a “woman’s role,” severely undermine women’s ability to run for public office.

These issues are difficult to address directly. One step that could help would be for male politicians to assume more care responsibilities, thereby making the playing field more level, while demonstrating that family is a high priority for everyone.”

“Concrete policies should also be put in place to support working parents, by giving them more flexibility to meet family responsibilities. That is why the United Kingdom’s House of Commons is considering introducing proxy voting, as part of a broader effort to give members – male and female – parental leave.”

“Women may also benefit from targeted training. UN Women’s recent Political Academy in Tunisia trained women candidates on local governance, the missions and roles of municipal councils, and media relations. Some may one day follow in the footsteps of Souad Abderrahim, who was elected the first woman mayor of Tunis with the support of the Islamist Ennahda Movement.”

“Some leaders have made powerful statements in support of greater female participation in government. In 2015, Canadian Prime Minister Justin Trudeau gave his country its first cabinet with an equal number of men and women. His Spanish counterpart Pedro Sánchez has gone a step further, appointing a cabinet where women outnumber men.”

“Political parties, which serve as gatekeepers for aspirants to public office, also have significant power to find creative ways to support women candidates. Nigeria’s two main parties, for example, will waive or reduce non-refundable nomination fees for the 2019 general election. One Cambodian party provides women candidates with basic campaign resources, including clothing and a bicycle.”

“In past Canadian elections, political parties have reimbursed women candidates for child-care and travel expenses, and provided subsidies to women seeking nomination in constituencies where a male incumbent is retiring. The New Democratic Party and Liberal Party have endeavored to have women candidates run for “winnable” open seats.”

“There is no one-size-fits-all solution to gender inequality in politics. But there is plenty that can – and should – be done to ensure that women’s voices are heard.”

Essential Reading

In addition to the sources quoted in this briefing, please see the list of sources the Commission drew upon for the technical briefing for the Special Committee. This list is not in order of importance or relevance.

House of Lords Library

'Women in elected office in the UK', 23 February 2021

'Representation of women in the House of Lords', 24 February 2021

Saskia Brechenmacher et al

'Representation isn't enough', *Foreign Policy* (£), 2 March 2021

Professor Sarah Childs

[https://pure.royalholloway.ac.uk/portal/en/persons/sarah-childs\(a4f918f7-c05b-4347-b79a-186b2842ed11\)/publications.html](https://pure.royalholloway.ac.uk/portal/en/persons/sarah-childs(a4f918f7-c05b-4347-b79a-186b2842ed11)/publications.html)

Razan Masad

'The struggle for women in politics continues', UN Development Programme blog, 13 March 2020

European Parliamentary Research Service

Women in Politics: A Global Perspective, March 2019

Chwarae Teg (2022) Gender Sensitive Parliaments: Beyond the 'added women and stir approach'

<https://chwaraeteg.com/news/beyond-the-add-women-and-stir-approach/>

Engender (2022) A Gender Audit for the Scottish Parliament

<https://www.engender.org.uk/news/blog/a-gender-audit-for-the-scottish-parliament1/>

<https://www.holyrood.com/news/view,presiding-officer-leads-audit-of-female-representation-at-scottish-parliament>

Clayton, A (2021) How Do Electoral Gender Quotas Affect Policy?

<https://www.annualreviews.org/doi/full/10.1146/annurev-polisci-041719-102019>

Forman-Rabinovici A, Nir L (2021) Personalism or party platform? Gender quotas and women's representation under different electoral system orientations

<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0257665>

House of Commons (2021) Women in politics and public life

<https://researchbriefings.files.parliament.uk/documents/SN01250/SN01250.pdf>

Oxford Human Rights Hub (2021) Gender Sensitive Parliaments

<https://ohrh.law.ox.ac.uk/wp-content/uploads/2021/04/Gender-Sensitive-Parliaments.pdf>

Solyom, E (2020) Gender Quotas: Towards an Improved Democracy

<https://www.e-ir.info/2020/07/01/gender-quotas-towards-an-improved-democracy/>

Welsh Government (2020) Is Wales on track to become a 'world leader for gender equality'?

<https://research.senedd.wales/research-articles/is-wales-on-track-to-become-a-world-leader-for-gender-equality/>

UK Parliament (2018) UK Gender-Sensitive Parliament Audit 2018

https://www.parliament.uk/globalassets/documents/lords-information-office/uk-parliament_-_gender-sensitive-parliament-audit_report_digital.pdf

Wales Centre for Public Policy (2018) Putting equality at the heart of decision-making Gender Equality Review (GER) Phase One: International Policy and Practice

<https://www.wcpp.org.uk/wp-content/uploads/2018/07/Putting-equality-at-the-heart-of-decisionmaking-corrected-final.pdf>

Inter-Parliamentary Union (2011) Gender-Sensitive Parliaments: A Global Review of Good Practice

<http://archive.ipu.org/pdf/publications/gsp11-e.pdf>

<https://www.ipu.org/our-impact/gender-equality/gender-sensitive-parliaments>

European Institute for Gender Equality Gender Sensitive Parliaments

<https://eige.europa.eu/gender-mainstreaming/toolkits/gender-sensitive-parliaments/what-tool>

OECD Why quotas work for gender equality

<https://www.oecd.org/gender/quotas-gender-equality.htm>

United Nations

<https://www.unwomen.org/en/what-we-do/leadership-and-political-participation/facts-and-figures>

Women in politics in the EU

[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689345/EPRS_BRI\(2021\)689345_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689345/EPRS_BRI(2021)689345_EN.pdf)

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Recent Developments of Interest

Equality in the heart of democracy: A gender sensitive House of Commons

This is a House of Commons Committee report, with recommendations to government. The UK Government has two months to respond.

[Gender Sensitive Parliament](#) - Published March 2022

“a range of witnesses agreed that the Government could further gender sensitivity and broader inclusion through existing legislation. Professor Childs, the Equality and Human Rights Commission, Centenary Action Group, The Fawcett Society and others urged the Government to enact section 106 of the Equality Act 2010.

This, as yet uncommenced, section of the Act would require political parties to collect and publish diversity data relating to their parliamentary candidates.”

Human Rights Tracker

This is an online tool to help track how well the UK and Welsh Governments are putting their human rights duties into practice.

The assessment was made based on the evidence available up to 18/03/2021

<https://humanrightstracker.com/en/progress-assessment/political-and-civic-participation-including-political-representation-welsh-government-assessment/>

Political and civic participation, including political representation – Welsh Government assessment

There have been changes to the policy and legal framework to increase political participation and improve the diversity of political representation. This includes the extension of the right to vote to 16- and 17-year-olds and qualifying foreign citizens, and specific programmes to increase the political representation of ethnic minority and disabled people – although it is too early to assess the impact of these programmes. The Welsh Government has also developed an action plan to increase the diversity of public appointments in Wales and has funded a range of mentoring initiatives over the past three years. However, ethnic minorities and disabled people remain underrepresented in politics and on boards, particularly in senior roles.

- Voter turnout increased at the 2016 Senedd election from 41% in 2011 to 45%, though this remains low. Turnout at the 2017 local government elections also increased from 38.7% in 2012/13 to 41.8%.
- The political participation and engagement of young people has increased through the introduction of the Welsh Youth Parliament by the Llywydd and the Senedd. More than 25,000 young people registered to vote in the Youth Parliament elections in 2018. The recent extension of the right to vote in Senedd and local elections to 16-17 year olds in the Senedd and Elections (Wales) Act 2020 and the Local Government and Elections (Wales) Act 2021 respectively will further advance political participation among young people.
- In the 2016 Senedd election, 34.5% of the candidates and 41.7% of elected Assembly Members were women. There is no regularly collected data on the proportion of Members who are disabled, LGBT or from ethnic minorities.

- Women, people from ethnic minorities, disabled, LGBT, and younger people, and those with lower incomes, are markedly under-represented in local government. In the May 2017 local elections, 34% of the candidates were women, 98% were white and 15% were disabled.
- After rising for several years, the proportion of women appointed or reappointed to public boards in Wales decreased for the first time in 2019–20 to 43.1%, down from 47.2% in 2015–16.
- The proportion of ethnic minority people appointed or reappointed to public boards in Wales has increased from 3.9% in 2015/16 to 7.7% in 2019–20.
- Despite disabled people making up 22% of the population in Wales, the proportion of appointments or reappointments of disabled people to public boards in Wales fell to just 4.6% in 2019–20, the lowest rate since 2015–16.
- Despite previous commitments from the Welsh Government, it has not yet introduced legislation to extend the right to vote in local government elections to prisoners serving sentences of less than four years. As such, prisoners in Wales serving custodial sentences remain unable to vote.

Read more about the UK and Welsh Governments' actions on political and civic participation, including political representation.