

1 February 2022

To:

Chair of the Special Purpose Committee on Senedd Reform, Huw Irranca-Davies MS

**Special Purpose Committee on Senedd Reform**

Dear Huw Irranca-Davies MS,

Thank you for your letter seeking assistance in gathering information on measures to encourage the election of a more diverse Senedd. We are keen to support the Committee's work in this important area and have enclosed several documents that we hope will be useful in this endeavour:

**1. Expert legal opinion on legislative quotas for Senedd elections**

WEN Wales, in partnership with ERS Cymru, instructed Christian J Howells, a public law specialist with significant expertise on devolution issues, to provide a legal opinion on whether the Senedd can pass legislation in relation to quotas for gender and other protected characteristics, within the meaning of the Equality Act 2010. We subsequently met with Mr Howells to discuss the advice and explore its implications for the work of the Special Purpose Committee and the Welsh Government.

*Gender quotas*

Mr Howells is of the view that the introduction of legislative gender quotas would arguably be within legislative competence because it is arguable that the purpose of such legislation would not relate to a reserved matter (equality of opportunity) and, even if it did, it would arguably fall within an exception to the reservation at section N1 of Schedule 7A and so would not be caught by s108A(2)(d) GoWA 2006. At a subsequent meeting with Mr Howells to discuss the advice, he affirmed that he sees no legal reason as to why the Welsh Government should not try to pursue this policy. As the purpose of the legislation would relate to Senedd elections rather than equal opportunities, he believes there is no legal reason why gender quotas could not be legislated for by the Senedd. The legal opinion references two cases where the Supreme Court has clarified that the mere fact that legislation for the purpose of a devolved matter also touches on a reserved matter (as in this case on equal opportunity) does not mean that it is not in competence.

Mr Howells also advised that the best way to introduce gender quota legislation in line with previous work of the Expert Panel would be through amending section 7 GoWA '*candidates at general election*' to include a requirement that party candidate lists must

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include at least 50% women. We have asked Mr Howells for a suggested wording of the legislation and this will be provided shortly.

With regard to enforcement mechanisms, Mr Howells advised that this could be achieved through rejection by Returning Officers if candidate lists are not compliant with the requirement set out above. This mechanism of ensuring compliance also has the advantage that it would not rely on financial incentives/sanctions and would therefore not touch upon the reserved area of funding of political parties. Mr Howells further advised that he is taking a different view to the legal advice referred to in the report by the Committee on Senedd Electoral Reform (paragraph 278), which states that rejection of candidate lists would "constitute unlawful discrimination and would also modify section 104 of the Equality Act 2010." In Mr Howells' view, his considerations on the introduction of gender quotas would equally apply to the enforcement of gender quotas through list rejection. Section 104 would remain unaltered by such legislation as it is not a modification.

**We therefore recommend that the Committee should make a recommendation for the Senedd to introduce mandatory legislative gender quotas through amending section 7 GoWA, as detailed above and as set out in the enclosed legal opinion.**

*Quotas for protected characteristics other than gender/sex*

With regard to quotas for other protected characteristics, the legal opinion finds that legislation would require careful justification with regard to the principle of non-discrimination in article 14 of the European Convention on Human Rights, by which the Senedd's competency is restricted (s108A(2)e). At our meeting, Mr Howells advised that such justification would likely require gathering of further evidence and statistical information on the representation of protected characteristics other than gender/sex in the Welsh population. In the absence of sufficient evidence to make this case, the Senedd could pass legislation to impose a due regard approach similar to the one detailed in paragraph 3 of the legal opinion.

**Given the timescales of the work of the Special Purpose Committee, we recommend that:**

- a) **The Committee should make a recommendation to the Welsh Government to gather the evidence required to justify the introduction of quotas for other protected characteristics, including race/ethnic minority status, disability, age, sexuality and gender identity.**
- b) **The Committee should make a recommendation for the Senedd to pass legislation imposing a duty on political parties to have due regard to the diversity of their candidates lists representing other protected characteristics, including race/ethnic minority status, disability, age, sexuality and gender identity.**

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- c) The Welsh Government should make representations to the UK Government to commence section 106 of the Equality Act 2010 in relation to Welsh elections. Otherwise, legislation for Senedd electoral reform should include provision that would secure the availability of information regarding diversity

## 2. Diversity Quotas briefing paper

This briefing provides an overview on the use and evidence around quotas for other protected characteristics and underrepresented groups, including quotas for racial, ethnic, national or religious minorities, for young people and for disabled people. It also looks at the impact of quotas on people who experience intersecting disadvantage, such as women from ethnic minority backgrounds. It shows that gender quotas tend to benefit women from dominant backgrounds more than women from minority backgrounds and that quota systems need to be designed carefully to ensure diverse representation, with intersectionally embedded quotas emerging as global best practice.

## 3. Blog post on quotas: myth and reality

This blog post addresses some of the common myths around quotas, including that quotas threaten election on the basis of merit, that quotas are patronising, that quotas discriminate against dominant groups (e.g. that gender quotas discriminate against men), that quotas do not tackle the root of the problem, and that quotas are undemocratic.

## 4. Email on diverse and equal representation

A copy of an email that we sent to all Senedd Members in October 2021 and which clearly outlines why we need legally binding diversity and gender quotas and why now is the right time for change. It references, among other things, our polling showing that 44% of young people (aged 18-30) from Black, Asian and minority ethnic backgrounds in Wales want to see equal leadership and representation as a top priority for the Welsh Government.

## 5. Diverse5050 presentation - The case for diversity and gender quotas in Wales

This presentation makes the case for legally binding diversity and gender quotas through looking at international evidence on quotas and the representation of different groups in the Senedd across time. The presentation was delivered to the meeting of the Cross Party Group on Women in September 2021 and appended to the above email.

## 6. Gender quota briefing paper

This briefing paper from February 2020 provides an overview of the use and evidence on gender quotas, showing that they are the single most effective tool for increasing women's representation in parliament, are widely used internationally and supported by

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many international institutions. The briefing also provides an overview of the different types of quotas and examples of incentives for compliance.

We look forward to discussing any aspect of this evidence further at the technical briefing session on the 16<sup>th</sup> February. In the meantime, if we can be of any further assistance, for instance by providing further information on any of the areas outlined above, please contact [REDACTED].

Yours sincerely,

A handwritten signature in black ink that appears to read 'Catherine Fookes'.

Catherine Fookes, Women's Equality Network (WEN) Wales

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## **ADVICE ON LEGISLATIVE DIVERSITY QUOTAS FOR SENEDD ELECTIONS**

1. I am instructed to advise WEN Wales and ERS Cymru on whether the Senedd can pass legislation in relation to quotas for gender and other protected characteristics, within the meaning of the Equality Act 2010. They in turn have been asked by the Senedd Special Purpose Committee on Electoral Reform to identify any legislative options that may be available.
2. I am of the view that the introduction of mandatory selection arrangements, to include gender quotas, would arguably be within legislative competence because:
  - a. It is arguable that the purpose of such legislation would not relate to a reserved matter (equality of opportunity) but would relate to Senedd elections and so would not be caught by section 108A(2)(c) of the Government of Wales Act 2006 ('GoWA'); and
  - b. It is arguable that such legislation would fall within the exception to section N1 of Schedule 7A and so would not be caught by s108A(2)(c) GoWA.
3. Alternatively, it would be open to the Senedd to pass legislation imposing a duty on political parties to have due regard to the desirability of gender balanced candidate lists – mandating consideration of utilising section 104 of the Equality Act 2010.

### **Purpose of legislation would relate to Senedd elections not equality of opportunity**

4. Legislative selection arrangements would probably be introduced by way of amendment to section 7 and/or 9 GoWA, '*candidates at general elections*' and '*allocation of seats to electoral region members*'. Those provisions are not protected by virtue of §7(2)(a)(v) of schedule 7B.

5. Senedd legislation will be outside competence where “*it relates to reserved matters*” in schedule 7A; section 108A(2)(c) GoWA.
6. Section 108A(6) provides the test to be applied in determining whether legislation relates to reserved matters. It provides:

*“The question whether a provision of an Act of the Senedd relates to a reserved matter is determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances.”*

7. The Supreme Court has on two occasions clarified that the purpose of the legislation is to be ascertained in the usual way. If the purpose relates to a matter within devolved competence, then the fact that the legislation also touches upon reserved matters does not render the legislation outwith legislative competence:
  - a. *Martin v Most* [2010] UKSC 10, (2010) SC (UKSC) 40 was a case where an increase in the summary sentencing powers of Scottish criminal courts to 12 months impliedly amended the Road Traffic Offenders Act 1988 which stated that the maximum summary sentence for offences under the Act was 6 months. The Act was a reserved matter. The Court held by a majority at §§ 31 and 59 - 60 that as the purpose of the new legislation was to re-allocate the caseload and reduce pressure on the higher courts, it was “*directed*” as Scots law and did not relate to a reserved matter. Most of what was enacted by the Westminster Parliament (that it was an offence and the maximum penalty was 12 months) was left untouched;
  - b. *Re Agriculture Sector (Wales) Bill* [2014] UKSC 43, [2014] 1 WLR 2622 was a case where the Welsh Assembly passed legislation setting minimum terms and conditions of employment in the agricultural sector. Agriculture was then a conferred power, but employment and industry were not. The Court accepted at §58 that the bill “*might in principle be characterised as relating to “employment” and “industrial relations”*”.

Nevertheless, it held at §§ 65 – 68 that so long as the bill related to a devolved matter (the scheme of devolution was then a conferred powers model rather than a reserved powers model) it was within competence – GoWA at that time did not require that the legislation should only be categorised as relating a devolved subject.

8. The purpose of legislation can be ascertained by looking at the reports and papers that brought it about. I have considered the documents: (i) *A Parliament that Works for Wales* (November 2017) written by an expert panel on Assembly Electoral Reform; and (ii) *Senedd Reform: The next steps* (September 2020) written by the Senedd Committee on Senedd Electoral Reform. Recommendation 10 of document (i) was “*in order to safeguard the achievements of the Assembly and political parties in Wales in relation to gender-balanced representation, we recommend that a gender quota is integrated within the electoral system put in place for 2021.*” At §12.19 it stated that it would be anomalous if the Senedd did not have competence to determine its own electoral arrangements, including gender quotas. At §12.22 it states “*the intention of our proposals for gender quotas is to ensure that the Assembly is as representative as possible of the people of Wales*”. Read as a whole, the proposals in document (i) were not formulated to create equality of opportunity, but rather to ensure the Senedd was as representative as possible of the people of Wales.
9. Depending on the reasons for the legislative proposal going forward, if it can be said that the purpose of the legislation is to ensure the Senedd is representative of the electorate, then it can be argued that the purpose of the legislation relates to Senedd elections and although it may also touch upon equality of opportunity, that is insufficient to render it outside competence. The only reservations relating to Senedd elections are set out at §§ 21 - 27 of section B1 of Schedule 7A and are not relevant here.

10. Quotas in respect of protected characteristics other than gender need to be carefully thought through bearing in mind that the Senedd's competence is restricted by compatibility with the European Convention on Human Rights (s108A(2)(e)) and drawing distinctions along other lines requires careful justification for the purposes of the principle of non-discrimination contained in article 14 of the Convention.
11. Section 104 of the Equality Act 2010 ('EA') allows a political party to introduce selection arrangements which are designed for the purpose of reducing inequality in a party's representation and are proportionate arrangements. The introduction of mandatory gender quotas in candidate lists for each party in Wales would not be inconsistent with section 104 EA but would make additional provision – make such arrangements mandatory rather than permissible. I do not consider that there would be any modification of section 104 EA by the proposed amendment of sections 7 and 9 GoWA (and so I disagree with the suggestion to the contrary made at §278 of the report of the Senedd Committee on Electoral Reform). The Senedd legislation would not alter the rule laid down in section 104 EA or be in conflict with its unqualified continuation in force as before, so that section 104 EA has to be understood as having been in substance amended, superseded, disapplied or repealed; see *Re Withdrawal from the EU (Scotland) Bill* [2018] UKSC 64, [2019] AC 1022 at §51.
12. In any event, even if there were such modification, the Equality Act 2010 is not protected legislation in §5 of Schedule 7B and so can be modified by the Senedd, subject to the operation of section 108A(2)(c) and schedule 7A. §2 of Schedule 7B allows the modification of an enactment the subject matter of which is a reserved matter if such modification is ancillary to legislation which does not relate to a reserved matter. Thus, if the effect of an amendment to sections 7 and 9 GoWA was an implied amendment of section 104 EA, that would be permissible.

13. However, if such legislation is passed, there is a real risk that the Attorney General would refer the legislation to the Supreme Court pursuant to section 112 GoWA. That process will take 8 – 12 months to resolve.

**Even if purpose related to equality of opportunity, the proposed mandatory selection arrangement would fall within an exception to the reservation**

14. Schedule 7A sets out the reserved matters but also sets out the exceptions to those reserved matters. If the legislation falls within the exception, it is not caught by s108A(2)(d).
15. Section N1 of schedule 7A materially states:

*“Section N1 Equal opportunities*

*187 Equal opportunities.*

*Exceptions*

*The encouragement (other than by prohibition or regulation) of equal opportunities, and in particular of the observance of the equal opportunity requirements.*

*...*

*The provision falling within this exception does not include any modification of the Equality Act 2010, or of any subordinate legislation made under that Act, but does include –*

- (a) provision that supplements or is otherwise additional to provision made by that Act;*
- (b) in particular, provision imposing a requirement to take action which that Act does not prohibit;*
- (c) provision that reproduces or applies an enactment contained in that Act, with or without modification, without affecting the enactment as it applies for the purposes of that Act.” [emphasis added]*

16. If reliance is being placed on the exception because it is accepted, or the Supreme Court holds, that mandatory selection arrangements would relate to a reserved matter, then any legislation could not modify the Equality Act 2010,

as the exception expressly says so and §1 of schedule 7B would bite. But the Senedd **can** pass a provision which supplements or is otherwise additional provision and which imposes a requirement to take action which the Equality Act 2010 does not prohibit.

17. The first point is that, for the reasons given at §10, a legislative quota would not modify the Equality Act 2010 – it would be additional provision and would fall within the exception. Section 104 EA allows selection arrangements by political parties and the Senedd legislation would only require action already permitted by the Equality Act 2010. Such mandatory selection arrangements would be an encouragement of equal opportunity. I have debated whether a mandatory requirement would amount to regulation, which is not permitted by the exception, but in light of the fact that it later says such provision does include a requirement that is not prohibited, then I have come to the conclusion that it is arguable that mandatory selection arrangements would fall within the exception of encouragement.

### **The lesser option of a due regard duty**

18. If it was accepted, or the Supreme Court held, that a mandatory selection requirement did not fall within the exception of encouragement (because it was regulation) or because it did amount to a modification of the Equality Act 2010, then there is the lesser option of introducing a duty on all political parties who submit a list of candidates to have due regard to the desirability of gender balanced lists. This would simply be encouraging parties to take advantage of section 104 EA and it would be open to the parties to decline, so long as they consider it.

### **Conclusion**

19. Accordingly, I am of the view that it is within the legislative competence of the Senedd to introduce legislation which requires political parties at Senedd elections to submit candidate lists which are comprised of at least 50% female candidates. Alternatively, it is within the legislative competence of the Senedd to impose a duty on political parties to have due regard to the desirability of implementing selection arrangements in accordance with section 104 of the Equality Act 2010.

**Christian J Howells**

30 Park Place, Cardiff

31 January 2022

Proposed wording of the legislation:

*The statutory selection arrangements could be achieved by inserting a new subsection (4A) into section 7 of the Government of Wales Act 2006 to the effect of:*

*"The list must contain a number of women which is at least half of the total number of candidates on the list".*

#### Enforcement

*Paragraph 14(2)(dd) of schedule 5 of the [National Assembly for Wales \(Representation of People\) Order 2007](#) sets out the circumstances in which a returning officer is entitled to hold a party nomination paper invalid. Therefore, in order to allow enforcement of a provision mandating that a "list must contain a number of women which is at least half of the total number of candidates on the list", a new §14(2)(dd) of schedule 5 of the National Assembly for Wales (Representation of People) Order 2007 would need to be inserted to the effect of:*

*"that the party list does not contain a number of women which is at least half of the total number of candidates on the list".*

*Also, see paragraph 2.125 of the Electoral Commission Guide to Returning Officers, Part C for a discussion of the powers to determine a candidate list as invalid (<https://www.electoralcommission.org.uk/sites/default/files/2021-03/Senedd%20PCC%20Part%20C%20-%20Administering%20the%20poll.pdf> )*

In terms of enforcement mechanisms, we appreciate that the legal advice referred to in the report by the Committee on Senedd Electoral Reform (paragraph 278) states that the rejection of candidate lists would "constitute unlawful discrimination and would also modify section 104 of the Equality Act 2010." We have already addressed the point of modifying section 104 in the materials submitted, stating that Mr Howells is of the view that Section 104 would remain unaltered by such legislation as it is not a modification for the reasons laid out in his legal opinion. We would like to take this opportunity to also address the suggestion that rejection of candidate lists would constitute unlawful discrimination. Please find the advice we received on this below.

#### Unlawful discrimination

*In Mr Howells' view, rejection of a candidate list which did not contain a number of women which was at least half of the total number of candidates on the list would not amount to unlawful discrimination as it cannot be unlawful discrimination to make mandatory something which is permitted by s104 of the Equality Act 2010.*

# PAPUR BRIFFIO Ionawr 2022

## CWOTÂU AMRYWIAETH

## CEFNDIR

Gwnaeth canfyddiadau'r **Panel Arbenigol ar Ddiwygio Etholiadol y Senedd** gefnogi symudiad i Bleidlais Drosglwyddadwy Unigol gydag integreiddiad cwotâu rhywedd yn y system. Mae'r ymrwymiad i gyflwyno cwotâu rhywedd bellach wedi'i gynnwys yn y **Cytundeb Cydweithredol** rhwng Plaid Cymru a Llafur Cymru.

Er bod y Panel Arbenigol a'r **Pwyllgor ar Ddiwygio Etholiadol y Senedd** wedi ystyried cwotâu rhywedd yn fanwl a sut gallant gael eu defnyddio yn y Senedd, mae gwaith ar gwotâu ar gyfer nodweddion gwarchodedig ar wahân i rywedd wedi bod yn gyfyngedig iawn.

Gwnaeth 'Adroddiad Camau Nesaf Pwyllgor Diwygio'r Senedd argymhell bod y Pwyllgor ar Ddiwygio'r Senedd yn cynnal ymholiad i gwotâu amrywiaeth:

**"Argymhelliaid 21.** Dylai'r pwyllgor Chweched Senedd perthnasol ymgymryd â mwy o waith ar gwotâu amrywiaeth o ran nodweddion ar wahân i rywedd i lywio penderfyniadau ar a fyddai cwotâu o'r fath yn fecanweithiau priodol i annog ethol Senedd fwy amrywiol. Dylai'r gwaith hwn gael ei lywio gan gyngor arbenigol ar ddyluniad a gweithrediad cwotâu amrywiaeth, a thrwy weithio'n agos mewn partneriaeth gyda grwpiau sy'n cael eu tangynrychioli, gan gynnwys cymunedau BAME yng Nghymru a phobl ag anableddau."

Dengys data rhyngwladol fod menywod sy'n profi ffurfiau rhyngadrannol ar wahaniaethu yn cael eu tangynrychioli'n benodol. Er enghraift, mae menywod dan 40 oed yn creu **6.1% yn unig o AS y byd**. Mewn gwledydd heb unrhyw ddeddfwriaeth gwotâu, mae'r siawns o fenywod o leiafrifoedd hil, ethnig neu grefyddol 1 ym mhob 14 o gymharu â dynion o gefndir mwyafrif (nid lleiafrifoedd), 1 ym mhob 3 o gymharu â menywod o gefndiroedd mwyafrif (nid lleiafrifoedd), ac un ym mhob 2 o gymharu â dynion o gefndiroedd lleiafrifoedd (sy'n gymharol i'w rhaniad o'r boblogaeth yn gyffredinol).<sup>1</sup>

### AMRYWIAETH YN Y SENEDD

Ers etholiadau 2021 mae yna:

- **43% yn fenywod**
- **3 AS (5%) o gefndir Du, Asiaidd a lleiafrifoedd ethnig, gan gynnwys y fenyw groenliw gyntaf i gael ei hethol i'r Senedd**
- **3 AS (5%) sy'n adnabod yn agored fel LBGTQ+**

Ni chaiff unrhyw wybodaeth ei chasglu na'i chyhoeddi ar nifer yr AS sy'n anabl.

Oedran yr AS ar gyfartaledd cyn etholiad 2021 oedd 55 oed, o gymharu â 42.5 oed ar draws poblogaeth Cymru. Nid oedd data oedran ar gyfer aelodau'r Chweched Senedd ar gael ar adeg llunio'r papur brifio hwn.

## TUDALEN 2

<sup>1</sup> Hughes, M. (2011). Intersectionality, quotas and minority women's political representation worldwide. American Political Science Review 105(3), 604-620.

## TROSOLWG O GWOTÂU AMRYWIAETH

- Cwotâu amrywiaeth yw cwotâu sy'n cynnwys nodweddion ar wahân i rywedd. Maent yn bresennol mewn dros 30 o wledydd ym mhedwar ban byd.<sup>2</sup>
- Defnyddir cwotâu ar sawl nodwedd eang, yn fwyaf cyffredin ar gyfer lleiafrifoedd ethnig, ieithyddol, hil neu cenedlaethol, ond cânt eu defnyddio hefyd ar gyfer oedran, anabledd, dosbarth, proffesiwn a thrigfan.<sup>3</sup>
- Er enghraift, mae cwotâu wedi cael eu defnyddio ar gyfer Maori yn Seland Newydd, ar gyfer dosbarthiadau penodol yn India, ar gyfer pobl fridorol yng Ngholombia a Feneswela, i alltudion yn Ffrainc, ac i siaradwyr Fflemineg, Ffrangeg ac Almaeneg yng Ngwlad Belg.

## MATHAU O GWOTÂU AMRYWIAETH

### Cwotâu ar gyfer lleiafrifoedd hil, ethnig, cenedlaethol neu grefyddol ('cwotâu lleiafrifol')

Y ddau brif fath o leiafrifoedd hil, ethnig, cenedlaethol neu grefyddol yw cwotâu rhanbarthol a seddi cadw.<sup>4</sup> Dyma wahaniaeth amlwg i gwotâu rhywedd, sy'n dod ar ffurf cwotâu deddfwriaethol fel arfer.<sup>5</sup>

- **Nod cwotâu rhanbarthol** yw cynyddu cynrychiolaeth grŵp lleiafrif drwy'r ffordd y caiff seddi seneddol eu dosbarthu i ranbarthau gwahanol yn y wlad. Mae rhanbarthau lle maer lleiafrif yn cyfrif am gyfran uwch o'r boblogaeth yn derbyn seddi ychwanegol dros ranbarthau â chrynnodiad lleiafrifoedd llai – yn lle dyrannu seddi'n gymesur ar sail cyfran y rhanbarth o'r boblogaeth.
- **Mae polisiau seddi wrth gefn** yn sicrhau cynrychiolaeth lleiafrif drwy warantu nifer penodol o seddi seneddol i ymgeiswyr sy'n cynrychioli grwp lleiafrifol. Mae'r system hon yn gofyn am ffordd i nodi a chydynabod âelodau'r lleiafrif perthnasol yn gyfreithiol. Mewn sawl gwlad, caiff cynrychiolwyr lleiafrifol eu hethol yn yr un ffordd ag ymgeiswyr eraill, fodd bynnag, mewn rhai gwledydd dim ond aelodau'r lleiafrif perthnasol sy'n gallu pleidleisio dros eu hymgeiswyr.

Er bod cwotâu rhywedd yn gyffredinol yn ceisio sicrhau bod seneddau'n adlewyrchu cyfran gyfwerth y boblogaeth dynion a menywod, ac fel arfer mae cwotâu ar gyfer lleiafrifoedd hil, ethnig, cenedlaethol neu grefydd yn ceisio gorgynrychioli'r lleiafrif dan sylw.<sup>6</sup>

### Fel arfer mae gan gwotâu lleiafrifoedd un o ddua nod:<sup>7</sup>

- Diogelu buddion y lleiafrif perthnasol drwy warantu isafswm cynrychiolaeth i grwpiau sy'n cyfrif am gyfran weddol fach o'r boblogaeth. Mae hyn yn aml yn mynd lawn yn llaw â cheisio gwneud yn iawn am ormes y lleiafrif yn y gorffennol.
- Rhannu pwer drwy ddosbarthu seddi ymhlið grwpiau gwahanol i sicrhau sefydlogrwydd democraidd mewn cymdeithasau sydd wedi'u gwahanu.

## TUDALEN 3

<sup>2</sup> Reynolds, A. (2005). Reserved Seats in National Legislatures: A Research Note. *Legislative Studies Quarterly*: 301–10.

<sup>3</sup> Krook, M.L. & O'Brien, D.Z. (2010). The politics of group representation: quotas for women and minorities worldwide. *Comparative Politics* 42(3), 253–272.

<sup>4</sup> Institute for International Law and Human Rights (2009). *Comparative Review of Minority Representation in Electoral Legislation*.

<sup>5</sup> Krook, M.L. & O'Brien, D.Z. (2010). The politics of group representation: quotas for women and minorities worldwide. *Comparative Politics* 42(3), 253–272.

<sup>6</sup> Ibid.

<sup>7</sup> Krook, M.L. & Zetterberg, P. (2014). Electoral quotas and political representation: comparative perspectives. *International Political Science Review* 35(1), 3–11.

Opsiwn gwahanol i gwotâu a ddefnyddir i gryfhau cynrychiolaeth yn yr UD yw darnodiad rhanbarthol. Daw ffiniau rhanbarthol i greu 'rhanbarthau mwyaf'r lleiafrif', lle mae lleiafrifoedd hil neu ethnig yn cyfrif am fwyaf poblogaeth y rhanbarth. Mae cefnogwyr yn dadlau bod yr arfer hwn yn cryfhau pleidleisiau lleiafrifol, ac mae gwrthwynebwyr yn honni y gall gael ei ddefnyddio i leihau dylanwad lleiafrif dros ranbarthau cyfagos.<sup>8</sup>

## CWOTÂU IEUENCTID

O gymharu â chwotâu rhywedd a lleiafrifoedd, mae cwotâu ieuencid yn weddol newydd

ac yn cael eu cyflwyno'n bennaf gan wledydd sydd eisoes â chwotâu rhywedd.

Cânt eu defnyddio ar drothwyon oedran rhwng 30 a 45 oed.

Ers 2018, mae gan 24 o wledydd rhyw fath o gwota ieuencid. Mae pedair gwlaid yn defnyddio seddi wrth gefn, mae pedair gwlaid yn defnyddio cwotâu deddfwriaethol ac mae pleidiau yn 16 o wledydd yn defnyddio cwotâu pleidiau gwirfoddol.<sup>9</sup>

Hyd yn hyn, nid yw cwotâu ieuencid **wedi cael effaith ystadegol sylweddol** ar gynrychiolaeth pobl ifanc. Nid yw hyn yn golygu bod cwotâu i bobl ifanc yn anfeithiol, oherwydd profwyd eu bod yn effeithiol i fenywod. Yn hytrach, gall y diffyg effaith fod oherwydd y maint sampl bach, y ffaith fod y cwotâu hyn yn weddol newydd a hefyd y trothwy cwotâu a ddefnyddiwyd. Mae polisiau seddi wrth gefn a chwotâu deddfwriaethol i bobl ifanc yn gyffredinol yn disgyn y tu ôl i dargedau argymelledig (gweler y blwch i'r dde). Petai rhagor o wledydd yn defnyddio cwotâu ieuencid ar lefel uwch, disgwylir i gynrychiolaeth pobl ifanc gynyddu.<sup>10</sup>

## TYSTIOLAETH SY'N CEFNOGI CWOTÂU

Dengys ymchwil ar gwotâu rhywedd mai nhw yw'r "offeryn unigol mwyaf effeithiol ar gyfer 'cyflymu' cynrychiolaeth menywod mewn cyrff etholedig i'r llywodraeth."<sup>11</sup> Defnyddir cwotâu ym mhedwar ban byd gan dros 100 o wledydd a chânt eu cefnogi'n rhyngwladol gan Bwyllgor y Cenhedloedd Unedig ar Wahardd Gwahaniaethu yn Erbyn Menywod (CEDAW), Llwyfan Gweithredu Beijing, yr UE a Chyngor Ewrop.

Nid yw cwotâu amrywiaeth wedi cael eu hastudio mor eang â chwotâu rhywedd ond gallwn weld rhai tueddiadau clir wrth eu defnyddio a'u heffeithiolrwydd.

### MAE'R FFORWM UNDEB SENEDDOL RHYNGWLADOL O SENEDDWYR IFANC YN ARGYMELL Y TARGEDAU CANLYNOL ERBYN 2035:

- 15% o seneddwyr dan 30 oed
- 35% o seneddwyr dan 40 oed
- 45% o seneddwyr dan 45 oed

Yn seiliedig ar grwpiau oedran yn y boblogaeth fydd-eang,

## TUDALEN 4

<sup>8</sup> [https://ballotpedia.org/Majority-minority\\_districts](https://ballotpedia.org/Majority-minority_districts)

<sup>9</sup> Belschner, J. & García de Paredes, M. (2021). Hierarchies of representation: The redistributive effects of gender and youth quotas. Representation 57(1), 1-20.

<sup>10</sup> Ibid.

<sup>11</sup> Drude Dahlerup et al. (2013), Atlas of Electoral Gender Quotas, International Institute for Democracy and Electoral Assistance [IDEA], IPU and Stockholm University.

## EFFAITH RHYNGADRANNOL CWOTÂU CYFUNOL

Mae astudiaethau cymharol o gwotâu rhywedd a lleiafrifoedd mewn gwledydd gwahanol yn awgrymu bod effaith rhngadrannol yn dibynnu ar natur a chyfuniad y cwotâu dan sylw.

Er bod gan bob cwota unigol beth effaith gadarnhaol ar gynrychiolaeth menywod lleiafrifol, mae'r effaith yn gyfyngedig iawn. Dyma sy'n gwneud yr achos bod gweithrediad cyfunol ar rywedd a chwotâu lleiafrifol mor gryf.

**Ar eu pennau eu hunain, mae cwotâu rhywedd yn dueddol o fod o fudd i fenywod o gefndiroedd mwyafrifol na chefndiroedd lleiafrifol.<sup>12</sup>**

Mewn gwledydd lle mae'r cwotâu rhywedd a lleiafrifoedd ar waith, mae'r effaith gyfunol yn dibynnu ar y lefel y mae cwotâu gwahanol yn gweithredu.<sup>13 14</sup>

- Os yw cwotâu ar gyfer rhywedd a lleiafrifoedd ethnig yn bodoli ar wahân ac yn cael eu defnyddio'n annibynnol ar ei gilydd, maent yn dueddol o ffafrio menywod o gefndiroedd mwyafrifol a dynion o gefndiroedd lleiafrifol heb fawr o effaith ffafriol ar gynrychiolaeth menywod o gefndiroedd lleiafrifol.
- Dim ond os yw cwotâu rhywedd a lleiafrifoedd wedi'u 'hymgorffori' neu'n gweithredu mewn tandem (megis cwotâu ymgeiswyr deddfwriaethol sy'n cyflwyno cais i fod ar yr un rhestrau pleidiau) y maent yn cynyddu cynrychiolaeth menywod lleiafrifol yn sylwedol. Y rheswm dros hyn yw'r ffaith fod gweithdrefnau dethol yn ystyried statws rhywedd a lleiafrifoedd ar yr un pryd.

Mae'r canfyddiadau hyn wedi cael eu cadarnhau ar gyfer cyfuno cwotâu rhywedd ac ieuenctid.<sup>15</sup>

Fodd bynnag, mae dystiolaeth yn awgrymu y gall hyd yn oed cwotâu tandem gael eu defnyddio'n dactegol i gadw cynrychiolaeth grwpiau dominyddol. Gall pleidiau ond cyflwyno ymgeiswyr sydd â nodweddion gwarchodedig lluosog yn unig (e.e. dim ond menywod o gefndiroedd lleiafrifol). Gan y gall yr ymgeiswyr hyn gyflawni cwotâu gwahanol ar yr un pryd, gall eu detholiad gael ei ddefnyddio'n strategol i gadw nifer mwyafrif o seddi i ddynion o grwpiau dominyddol yn lle cynrychioli'r amrywiaeth llawn.

**Mae cwotâu rhngadrannol wedi'u hymgorffori yn ymddangos fel arfer gorau byd-eang i atal hyn ac i sicrhau cynrychiolaeth amrywiol ar draws nodweddion gwarchodedig gwahanol.<sup>16</sup> Mae cwotâu wedi'u hymgorffori yn defnyddio galwadau rhngadrannol o fewn cwotâu grwp. Mae modd cyflawni hyn, er enghraift, drwy ofyn am gyfartaledd rhywedd o fewn cwotâu ar gyfer nodweddion eraill, e.e. os oes cwota 20% ar gyfer pobl anabl, gallai'r gofyniad rhngadrannol ofyn bod hanner yr ymgeiswyr hynny'n ddynion a hanner yn fenywod.**

## TUDALEN 5

<sup>12</sup> Hughes, M. (2011). Intersectionality, quotas and minority women's political representation worldwide. *American Political Science Review* 105(3), 604-620.

<sup>13</sup> Ibid.

<sup>14</sup> Bird, K. (2016). Intersections of exclusion: The institutional dynamics of combined gender and ethnic quota systems. *Politics, Groups, and Identities* 4(2), 284–306.

<sup>15</sup> Belschner, J. & Garcia de Paredes, M. (2021). Hierarchies of representation: The redistributive effects of gender and youth quotas. *Representation* 57(1), 1-20.

<sup>16</sup> Krook, M. L. (10 December 2021). The intersectional impact of quotas. Presentation to the Senedd Cross-Party Group on Women.

## CASGLIAD

Yn dilyn llwyddiant rhngwladol cwotâu rhywedd, mae nifer cynyddol o wledydd yn defnyddio cwotâu ar gyfer grwpiau eraill sydd wedi'u tangynrychioli megis lleiafrifoedd ethnig, pobl ifanc neu bobl anabl.

Dengys ymchwil ar systemau cwotâu cyfunol fod angen iddynt gael eu dylunio'n ofalus i fwyafu buddion ar draws grwpiau sydd wedi'u tangynrychioli neu nodweddion gwarchodedig gwahanol.

Mae arfer gorau rhngwladol yn awgrymu bod cwotâu cyfunol yn gweithio orau pan eu bod yn gwneud y canlynol:

- Gweithredu mewn tandem – Dylai cwotâu cyfunol gael eu dylunio i arwain at weithdrefnau dethol sy'n ystyried nodweddion gwahanol ar yr un pryd, megis cwotâu ymgeiswyr deddfwriaethol i fenywod a lleiafrifoedd ethnig sy'n gymwys i'r un rhestrau pleidiau.
- Yn cael eu hymgorffori'n rhngadrannol – Dylai cwotâu cyfunol ddefnyddio galwadau rhngadrannol o fewn cwotâu grŵp unigol, er enghraifft drwy ofyn am gydraddoldeb rhywedd o fewn cwotâu ar gyfer nodweddion gwarchodedig eraill.

## GWYBODAETH AM RHCM CYMRU

Ein gweledigaeth yw Cymru heb wahaniaethu ar sail rhywedd. [Ymunwch â ni i helpu i gyflawni'r weledigaeth honno.](#)

Am ragor o wybodaeth, e-bostiwrch RhCM Cymru: [Admin@wenwales.org.uk](mailto:Admin@wenwales.org.uk) neu ein Swyddog Polisi a Materion Cyhoeddus, Jessica Laimann, [jessica@wenwales.org.uk](mailto:jessica@wenwales.org.uk)

[www.wenwales.org.uk](http://www.wenwales.org.uk) / @wenwales

Mae'r papur briffio hwn yn rhan o waith RhCM Cymru ar yr Ymgyrch **5050Amrywiol**, sef coalisiwn i gyflawni cynrychiolaeth ac arweinyddiaeth amrywiol a chyfartal yn y Senedd a thrwy strwythur gwleidyddol Cymru.

### Rydym yn galw am y canlynol:

- Diwygio etholiadol a fydd yn cyflawni mawrhau'r Senedd;
- Cwotâu amrywiaeth a rhywedd integredig cyfreithiol;
- Senedd wedi'i hethol gan system Pleidlais Drosglwyddadwy Unigol.

## CWOTÂU: Y MYTH A'R REALITI

Yn ddiweddar mae Llywodraeth Cymru a Phlaid Cymru wedi cyhoeddi y byddant yn '[gweithredu cwotâu cyfreithiol fel rhan o'u cytundeb cydweithio](#)'.

Roedd RhCM Cymru a'r 21 o sefydliadau sy'n cefnogi'r [Ymgyrch 5050 Amrywiol](#) wrth eu bodd bod ein gwaith caled a'n hymgyrchu dros y tair blynedd diwethaf wedi talu'r ffordd. Rydym yn credu bod angen i gynrychiolaeth amrywiol a chyfartal gael ei ymgorffori'n gyfreithiol i'n system etholiadol ac mae'r ymrwymiad i gwotâu rhywedd yn gam hanesyddol tuag at gyflawni hyn.

Er gwaethaf effeithiolrwydd profedig cwotâu wrth gynyddu cynrychiolaeth menywod, nid yw pawb yn cefnogi eu defnydd. Yma rydym yn esbonio rhai o'r mythau cyffredin yngylch cwotâu.

### "Dylai pobl gael eu hethol ar eu teilyngdod eu hunain"

Nid yw ein cymdeithas gyfredol yn deg ac nid ydym yn byw mewn meritocraeth. Gall menywod mewn grwpiau sydd wedi'u tangynrychioli wynebu sawl rhwystr cymdeithasol, diwylliannol ac economaidd. Nid yw'r grwpiau hynny sy'n dominyddu'n draddodiadol yn y byd gwleidyddol, megis dynion gwyn dosbarth canol, yn profi'r rhain i'r un graddau. Er enghraifft, mae menywod yn dal i ddioddef y rhan fwyaf o ofal di-dâl a gwaith domestig ac yn ennill llai o arian na dynion. Mae pobl anabl yn wynebu nifer o rwystrau ychwanegol i gyrraedd swydd etholedig oherwydd diffyg llety, trafnidiaeth, cymorth i gyfathrebu neu gyfarpar.

Mae ymchwil ar *duedd oblygedig* yn dangos bod llawer o bobl, gan gynnwys y rheiny sy'n ymrwymedig i gydraddoldeb, yn meddu ar ymagweddau negyddol anymwybodol a stereoteipiau tuag at fenywod neu bobl o gefndiroedd Du, Asiaidd a lleiafrifoedd ethnig. Mae menywod, pobl anabl, pobl o gefndiroedd Du, Asiaidd a lleiafrifoedd ethnig a phobl LGBTQ+ mewn mwy o berygl o gael eu targedu gan gamdriniaeth ar-lein ac oddi ar-lein. Caiff llawer o'r problemau hyn eu gwaethgu i bobl â hunaniaethau rhyngdoriadol, megis menywod Du.

Mae'r syniad bod cwotâu yn bygwth teilyngdod yn tybio bod ymgeiswyr sy'n cael eu hethol drwy gwotâu yn debygol o fod yn llai cymwys nag eraill. Ond nid dyma yw'r achos. Mae ymchwil ar [Dŵr Cyffredin y DU](#) yn awgrymu bod menywod sy'n cael eu hethol drwy Restrau Byr Menywod (ffurf ar gwta pleidiau gwirfoddol a ddefnyddir ym Mhlaid Lafur y DU) fel arfer yn fwy profiadol na'u cydweithwyr gwrywaidd.

Mae'r holl ffactorau hyn yn golygu nad yw pobl yn cael eu hethol ar deilyngdod yn unig yn ein cymdeithas. I rai grwpiau, mae llawer yn haws dod o hyd i'r amser, yr arian a'r hyder i sefyll mewn etholiad nag eraill. Mae ymgeiswyr o grwpiau sydd wedi'u tangynrychioli'n cael eu dal yn ôl, hyd yn oed os ydynt yn fwy cymwys.

Dylai cwotâu gael eu hystyried fel offeryn i dorri rhai o'r rhwystrau sy'n atal menywod, pobl anabl, pobl Ddu, Asiaidd a lleiafrifoedd ethnig a phobl o'r gymuned LGBTQ+ rhag dod yn wleidyddion. Gall cwotâu ein helpu i ddatblygu tuag at feritocraeth, yn hytrach na bod yn rhwystr iddi.

### "Mae cwotâu yn nawddoglyd"

Mae rhai pobl yn credu bod defnyddio cwotâu ar gyfer grwpiau penodol yn awgrymu bod yr ymgeiswyr hyn yn llai galluog a bod angen 'cymorth ychwanegol' arnynt i gyrraedd swydd etholedig. Ond mae'r gwrthwyneb yn wir. Mae cwotâu'n cael eu defnyddio oherwydd rydym yn cydnabod bod gan yr ymgeiswyr hyn amser mwy caled yn cyrraedd swyddi etholedig, heb unrhyw fai arnynt nhw eu

hunain oherwydd anghydraddoldeb a rhwystrau cymdeithasol. Mae cwotâu'n ffordd o gydnabod yr anfantais annheg y mae'r ymgeiswyr hyn yn eu hwynebu a mynd i'r afael â hwy.

**"Mae cwotâu'n gwahaniaethu yn erbyn grwpiau dominyddol – e.e. mae cwotâu rhywedd yn gwahaniaethu yn erbyn dynion"**

Am y rhesymau niferus y soniwyd amdanynt uchod, rydym yn gwybod bod yr arferol yn gwahaniaethu yn erbyn menywod a grwpiau eraill sydd wedi'u tangynrychioli - mewn ffordd sy'n estyn llawer yn bellach nag y mae cwotâu yn gwahaniaethu yn erbyn y grwpiau hynny sydd dan anfantais yn draddodiadol.

Caiff hyn ei adlewyrchu yn y diffyg amrywiaeth o ran y bobl sy'n cael eu hethol i'n cynrychioli. Er yr oedd gan y Senedd gydraddoldeb rhywedd yn 2003, mae ffigurau wedi gostwng [i 43%](#) a'r tu ôl i'r Alban am y tro cyntaf ers datganoli. Yn y Llywodraeth Leol yng Nghymru, mae menywod yn cyfrif am [28% yn unig o Gynghorwyr Sir](#) ac ar y gyfradd newid gyfredol, ni fyddwn yn gweld cydwysedd rhywedd yng nghyngorau Cymru cyn 2073.

Mae pobl Ddu, Asiaidd a lleiafrifoedd ethnig yn cyfrif am 1.8% o Gynghorwyr Sir a 1.2% o Gynghorwyr Cymuned, o gymharu â 5.6% o'r boblogaeth genedlaethol. Gwnaeth gymryd 22 o flynyddoedd i ethol y [fenyw gyntaf o lleiafrifoedd ethnig i'r Senedd](#). Mae 18% o Gynghorwyr Sir yn dweud eu bod yn anabl, o gymharu â 22% o'r boblogaeth yng Nghymru ac nid oes digon o ddata dibynadwy gennym ar nifer yr ymgeiswyr anabl yn y Senedd.

Nid yw cwotâu'n anghydbwys o'r glorian i'r ffordd arall ond maent yn gam effeithiol tuag at godi'r gwastad.

**"Ni fydd cwotâu'n mynd i'r afael â gwraidd y broblem"**

Mae yna lawer o rwystrau cymdeithasol, diwylliannol ac economaidd sy'n atal menywod ac unigolion o grwpiau sydd wedi'u tangynrychioli rhag sicrhau swyddi etholedig. Mae'r rhwystrau hyn yn symptom o anghydraddoldeb hanesyddol yn ein cymdeithas. Nid yw'r newid y mae ei angen i'w diddymu'n mynd i ddigwydd dros nos drwy gyflwyno cwotâu. Rydym yn gwybod bod angen i ni barhau i frwydro ar draws sawl maes i gyflawni hyn a dyna pam mae'r [cynllun mentora Llais Cyfwerth, Pŵer Cyfwerth](#) mor bwysig wrth greu cyfle i fenywod a'r rheiny o'r holl nodweddion gwarchodedig sefyll, fel y mae ein holl waith yn RhCM yngylch cymorth gofal plant a gwaredu ar gamdriniaeth ar-lein.

Ond rydym hefyd yn gwybod mai cwotâu rhywedd yw'r offeryn unigol mwyaf effeithiol ar gyfer cynyddu cynrychiolaeth menywod. Gellir disgwyl i gwotâu gael yr un effeithiau cadarnhaol ar gyfer grwpiau eraill os ydynt yn cael eu dylunio'n ofalus i ystyried gwahaniaethu rhymgioriadol a sicrhau bod yr amrywiaeth llawn o amrywiaeth yn cael ei gynrychioli. Rydym yn gwybod bod [amrywiaeth yn arwain at wneud penderfyniadau gwell](#). Gall cwotâu ein helpu i sicrhau bod penderfyniadau gwleidyddol yn cael eu llywio'n drwyndl gan safbwytiau a phrofiadau byw pobl â hunaniaethau rhymgioriadol.

Yn ôl ymchwil sy'n dadansoddi effaith cwotâu rhywedd mewn seneddau ym mhedwar ban byd, gall cwotâu gael effaith gadarnhaol ar bolisi a materion sy'n ymwneud ag iechyd menywod, trais yn erbyn menywod, gofal plant a hawlau atgynhyrchu. Mae hefyd yn dangos bod cwotâu rhywedd yn arwain at fwy yn cael ei wneud i fynd i'r afael â thlodi, trais yn erbyn menywod ac iechyd cyhoeddus.

Mae'r rhain i gyd yn flaenoriaethau allweddol i'r rhan fwyaf o bobl yng Nghymru, yn enwedig wrth i ni geisio adfer ar ôl y pandemig.

Felly, mae cwotâu'n mynd i'r afael â gwraidd y broblem a'r symptom. Mae eu pŵer yn mynd y tu hwnt i gynrychiolaeth gyfartal i newid canlyniadau gwirioneddol ein gwleidyddiaeth. Maent yn cael effaith go iawn ar fywydau pobl ar lawr gwlad a gallant fod yn gatalydd ar gyfer newid cymdeithasol tymor hir y mae angen mor ddifawr arno.

#### **Mae'n annemocataidd gorfodi cwotâu - dylai'r etholaeth barhau**

Democratiaeth yw cynrychioli lleisiau pawb, ond yn ein system gyfredol nid yw lleisiau pobl yn cael eu cynrychioli'n gyfartal oherwydd bod llawer o grwpiau'n parhau i gael eu tangynrychioli. Mae cwotâu'n arwain at ethol arweinwyr gwleidyddol sy'nadlewyrchu'r cymunedau amrywiol maent yn eu gwasanaethu ac yn gallu sicrhau bod eu safbwytiau a'u profiadau byw'n dod i'r bwrdd penderfyniadau.

Mae democratiaeth yn gofyn y gall pobl bleidleisio dros yr ymgeiswyr o'u dewis, a phwy maent yn meddwl sy'n gallu cynrychioli eu buddion a buddion eu cymunedau orau. Mae'r diffyg ymgeiswyr o grwpiau sydd wedi'u tangynrychioli'n golygu ar hyn o bryd nad dyma yw'r achos. Mae [43% o boblogaethau Du, Asiaidd a lleiafrifoedd ethnig](#) yn teimlo fel nad oes digon o fodelau rôl mewn bywyd cyhoeddus a gwleidyddol. Efallai fod yn well gennyl gael fy nghynrychioli gan fenyw, ond mae'r siawns o hyn yn digwydd yn fach iawn os nad oes unrhyw ymgeiswyr benywaidd mewn seddi y mae modd eu hennill yn fy etholaeth. Nid oes tystiolaeth o duedd pleidleiswyr yn erbyn menywod, ond mae yna ddiffyg ymgeiswyr benywaidd.

Mae'r syniad bod cwotâu'n annemocataidd hefyd yn cael ei wrth-ddweud gan ba mor boblogaidd ydynt. Defnyddir cwotâu rhywedd bellach mewn mwy na 100 o wledydd ym mhedwar ban byd ac mae nifer cynyddol o wledydd hefyd yn eu defnyddio ar gyfer grwpiau eraill sydd wedi'u tangynrychioli, megis lleiafrifoedd ethnig, pobl ifanc neu bobl anabl. Gwnaeth cynulliad dinasyddion yn Iwerddon bleidleisio 80% o blaid cwotâu. Yn ôl arolwg diweddar yn y Western Mail, mae yna gefnogaeth gyhoeddus eang ar gyfer diwygio etholiadol i sicrhau cydraddoldeb rhywedd yn y Senedd. Mae hyn yn arbennig o gryf ymhliith pobl ifanc yng Nghymru, gyda 58% o bobl 16-34 oed o blaid o gymharu â 46% o bobl 35-54 oed.

Yn groes i fod yn annemocataidd, gall cwotâu ein helpu i gryfhau ein democratiaeth yng Nghymru a gwneud lle i'r rheiny sydd wedi'u tangynrychioli yn y byd gwleidyddol ar hyn o bryd.

#### ***Ymunwch â RhCM Cymru i gefnogi ein gwaith.***

***Dangoswch eich cefnogaeth ar gyfer cwotâu rhywedd ac amrywiaeth integredig drwy lofnodi'r ddeiseb hon gan yr Ymgyrch 5050 Amrywiol.***

Annwyl Aelod o'r Senedd,

**Cenedl amrywiol yw Cymru.** Fodd bynnag, mae menywod, pobl anabl, pobl Ddu, Asiaidd a lleiafrifoedd ethnig a phobl o'r gymuned LGBTQ+ yn parhau i gael eu tangynrychioli mewn swyddi sy'n ymwneud â gwneud penderfyniadau. Oherwydd ein bod yn dod at Gam 2 y broses Diwygio Etholiadol, a fydd yn cael ei ddatblygu gan y Pwyllgor Diben Arbennig newydd ar Ddiwygio'r Senedd, rydym yn wynebu **cyfle unigryw** i sicrhau bod y Senedd yn fwy cynrychioladol o ran y boblogaeth amrywiol mae'n ei gwasanaethu.

Er mwyn sicrhau bod cynnydd yn gadarn ac yn dymor hir, rydym yn credu bod angen **yngorffori anghenion amrywiol a chyfartal yn ein system etholiadol.** Mae'r broses Diwygio Etholiadol yn gyfle unwaith mewn bywyd i gyflawni hynny.

Ond mae amserlenni'n hanfodol. Yn ôl amcangyfrifon gan y Panel Arbenigol, mae angen i ddeddfwriaeth fod ar waith erbyn diwedd 2022 er mwyn effeithio ar etholiad nesaf y Senedd. **Os nad ydym yn gweithredu nawr, rydym yn colli oddeutu degawd arall.**

Felly, rydym yn galw am eich cefnogaeth wrth **hyrwyddo cwotâu amrywiaeth a rhywedd fel rhan o'r broses diwygio etholiadol** i sicrhau bod y Senedd yn cynrychioli'r boblogaeth mae'n ei gwasanaethu a bod ei phrosesau gwneud penderfyniadau wedi'u llywio gan safbwytiau a phrofiadau amrywiol.

**Mae cynrychiolaeth amrywiol a chyfartal yn bwysig.** Gwnaeth y Pwyllgor ar Ddiwygio Etholiadol y Cynulliad gydnabod bod [amrywiaeth yn arwain at broses gwneud penderfyniadau well](#). Mae diffyg cynrychiolaeth amrywiol yn cael effaith ar lawr gwlad, fel a [brofir gan bobl anabl](#) yn ystod y pandemig COVID-19. Dengys ymchwil fod [43% o boblogaeth Du, Asiaidd a lleiafrifoedd ethnig Cymru](#) yn teimlo fel nad oes digon o fodelau rôl cadarnhaol mewn bywyd cyhoeddus a gwleidyddol ac yn wynebu amrywiaeth o rwystrau wrth sefyll am swydd wleidyddol, ac mae 44% o bobl ifanc (18-30 oed) o gefndiroedd Du, Asiaidd a lleiafrifoedd ethnig am weld arweinyddiaeth a chynrychiolaeth gyfartal fel [prif flaenorriaeth i Lywodraeth Cymru](#). Yng ngoleuni tystiolaeth gynyddol ar y rhwystrau niferus sy'n wynebu pobl anabl, pobl Ddu, Asiaidd a lleiafrifoedd ethnig, pobl o'r gymuned LGBTQ+ a menywod wrth sefyll am swydd wleidyddol, mae'n amser gadael fynd o'r chwedl fod pawb yn cael eu trin yn gyfartal a chymryd camau gweithredu cadarnhaol.

**Mae mesurau gwirfoddol wedi'n methu.** Roedd y Senedd yn arfer meddu ar gydraddoldeb rhywedd yn 2003, ond mae'r ffigurau wedi gostwng a nawr maent y tu ôl i'r Alban am y tro cyntaf ers datganoli. Rydym yn gwybod bod cynrychiolaeth menywod yn wahanol iawn rhwng pleidiau gwahanol ac yn dibynnu'n helaeth ar fenter grwpiau gwleidyddol unigol. Mae cynnydd ar gynrychiolaeth pobl o boblogaethau Du, Asiaidd a lleiafrifoedd ethnig, yn ogystal â phobl o'r gymuned LGBTQ+, yn fregus. Mae data dibynadwy ar nodweddion gwarchodedig eraill, megis anabledd, yn ddifygiol yn llwyr.

## **GALW I WEITHREDU**

**Rydym yn galw ar holl Aelodau'r Senedd i wneud y canlynol:**

- Achub ar y cyfle unigryw hwn a chefnogi cyflwyniad cwotâu amrywiaeth a rhywedd cyfreithiol fel rhan o gam nesaf diwygio'r Senedd
- Cyflwyno sylwadau i'r ['Pwyllgor Diben Arbennig ar Ddiwygio'r Senedd](#) i:
  - *Cynnwys cwota rhywedd cyfreithiol o 50% fel rhan o gynnig polisi ar gyfer diwygio'r Senedd*

Mae'r dystiolaeth yn glir. Nawr yw'r amser i weithredu arni. Yn dilyn argymhellion gan y Panel Arbenigol ar Ddiwygio Etholiadol, rydym yn credu bod gwneud y Senedd yn fwy angen mynd llaw yn llaw â chyflwyno cwotâu rhywedd. Dengys dystiolaeth ryngwladol o dros 100 o wledydd nid yn unig bod cwotâu'n gweithio, ond mai nhw yw'r offeryn unigol mwyaf effeithiol ar gyfer cyflymu cynrychiolaeth menywod mewn bywyd cyhoeddus a gwleidyddol.

- *Blaenorai aethu rhagor o waith ar gwotâu amrywiaeth ar frys fel a argymhellir gan y [Pwyllgor ar Ddiwygio'r Senedd](#) neu fecanweithiau eraill i ymgorffori cynrychiolaeth amrywiol yn gyfreithiol*

Er bod gwaith blaenorol ar ddiwygio etholiadol wedi cynnwys cwotâu rhywedd yn fanwl, mae angen rhagor o waith arnom ar frys am gwotâu amrywiaeth o ran nodweddion heblaw am rhywedd. Os yw'r gwaith hwn yn dangos bod cwotâu amrywiaeth yn ffordd ddichonadwy ac effeithiol o gynyddu cynrychiolaeth amrywiol yn y Senedd, dylent gael eu cynnwys yn y cynigion polisi a ddatblygwyd gan y Pwyllgor. Os yw'r gwaith yn dangos na fyddai cwotâu amrywiaeth yn addas, mae angen i unrhyw anghenion cynigion polisi gynnwys mesurau amgen sy'n sicrhau cynrychiolaeth amrywiol.

Dylech gyfeirio at y cyflwyniad atodedig, a drafodwyd yn y cyfarfod diwethaf o'r Grŵp Trawsbleidiol ar Fenywod, am ragor o wybodaeth.

Gyda'ch cefnogaeth, gall Cymru fod ar flaen y gad o ran cynrychiolaeth amrywiol a chyfartal.

# The case for diversity and gender quotas in Wales

Women's Equality Network (WEN) Wales



# Evidence supporting quotas

## Gender quotas:

- Are the “**single most effective tool for ‘fast tracking’ women’s representation in elected bodies for government.**”

[Drude Dahlerup et al., *Atlas of Electoral Gender Quotas*, International Institute for Democracy and Electoral Assistance [IDEA], IPU and Stockholm University, 2013.]

- Are **backed internationally** by the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW), the Beijing Platform for Action, the European Union and the Council of Europe.
- Are **used by 100 Countries world-wide**, while 40 countries are using minority quotas e.g. for ethnic or religious minorities.

# EU27 countries using quotas

- Belgium: 50%
- Croatia: 40%
- France: 50%
- Greece: 33%
- Ireland: 30% (to rise to 40% from 2023)
- Italy: 40%
- Poland: 35%
- Portugal: 33%
- Slovenia: 35%
- Spain: 40%



# Effectiveness of quotas in EU 27 countries

Country	Women's representation before quotas	Women's representation at most recent election	Increase in women's representation
Belgium	13% (1995)	41% (2019)	28%
Croatia	21% (2007)	31% (2020)	10%
France	11% (1997)	40% (2017)	29%
Greece	19% (2009)	22% (2019)	3%
Ireland	15% (2011)	23% (2020)	8%
Italy	31% (2013)	36% (2018)	5%
Poland	20% (2007)	28% (2019)	8%
Portugal	21% (2005)	40% (2019)	19%
Slovenia	12% (2004)	27% (2018)	15%
Spain	36% (2004)	44% (2019)	8%

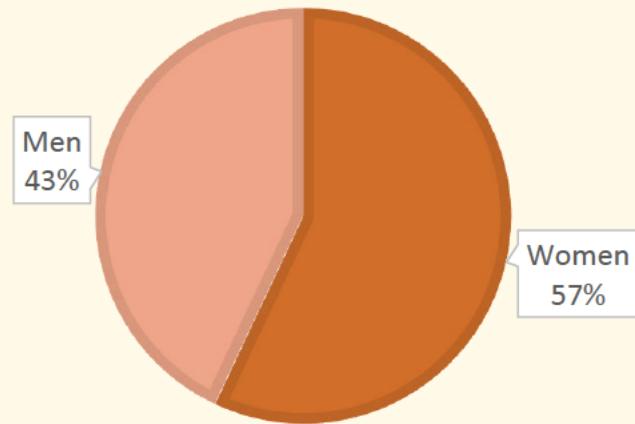
# The situation in Wales

Representation of women in the Senedd

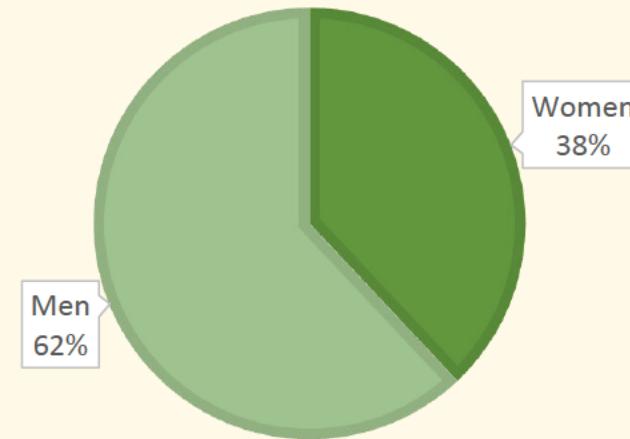


# Percentage of women MSs in political parties

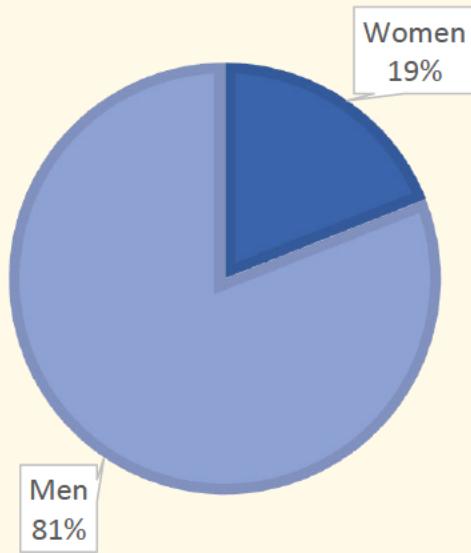
WELSH LABOUR



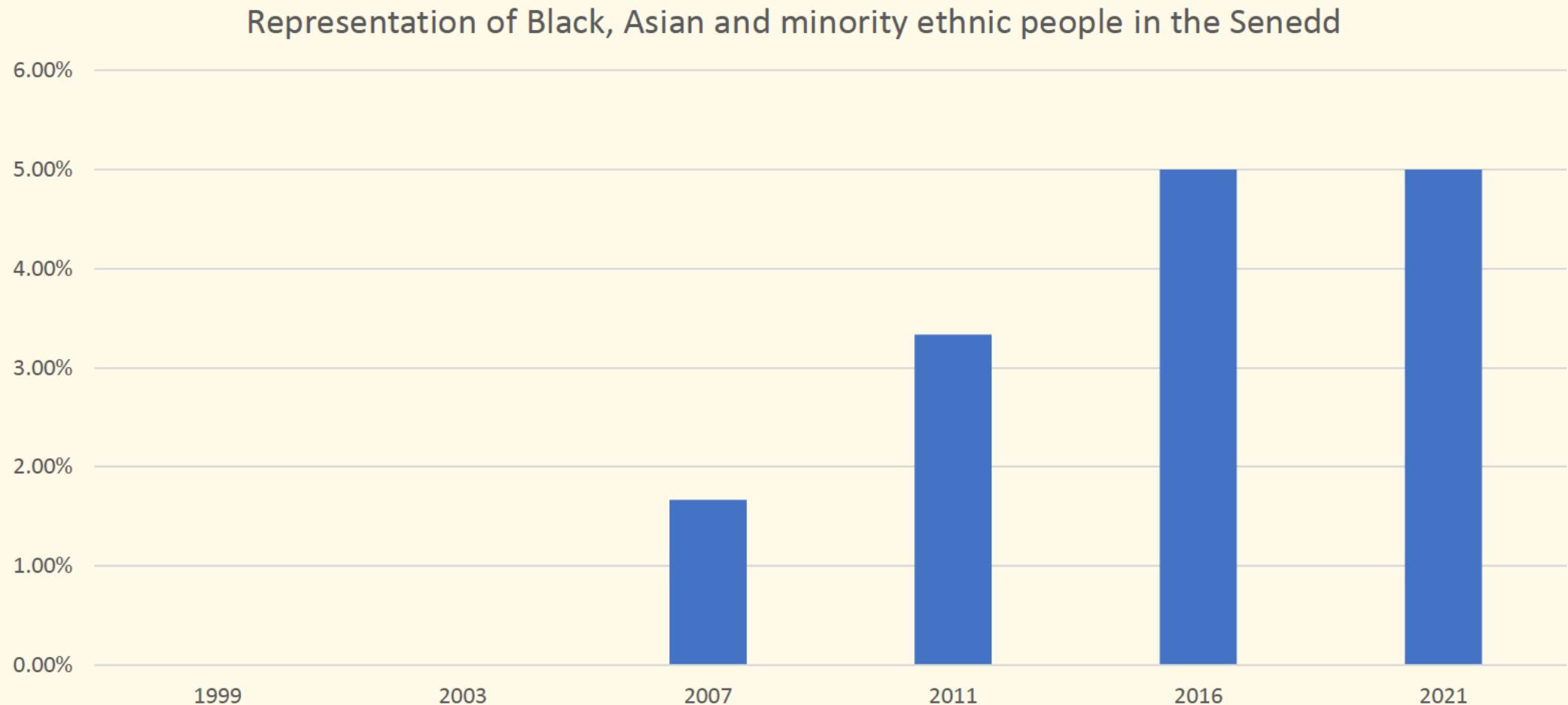
PLAID CYMRU



CONSERVATIVES

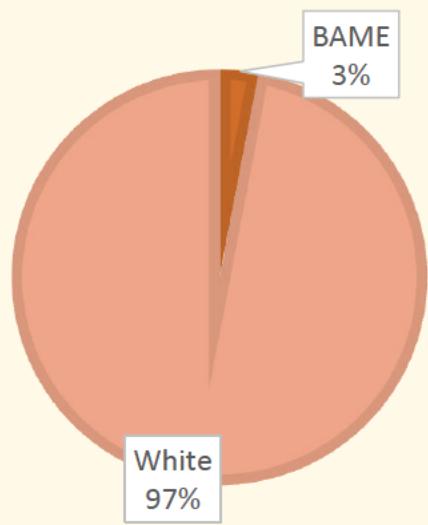


# The situation in Wales

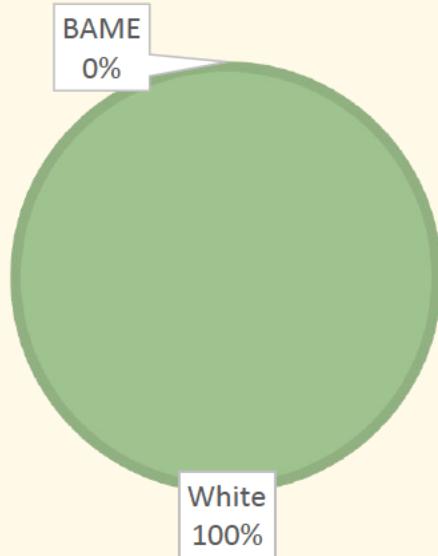


# Percentage of Black, Asian and minority ethnic MSs in political parties

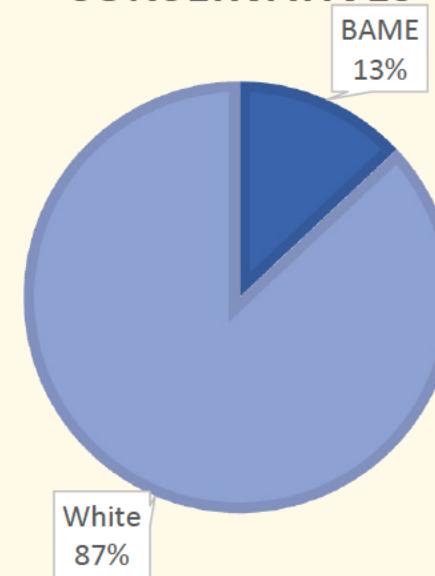
WELSH LABOUR



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CONSERVATIVES



# The situation in Wales

- 5 % of MSs publicly identify as LGBT+
- No information on number of MSs with a disability
- Urgently need further work on diversity quotas (i.e. quotas for characteristics other than gender)

# The case for quotas in Wales

- Progress on representation of Black, Asian and minority ethnic people and LGBT+ representation is frail
- We lack reliable data on other characteristics
- Women's representation is stagnating / declining
- Reliant on initiative of individual parties

# The time to act is now!

- Phase 2 of Electoral reform process – quotas go hand in hand with increasing the size of the Senedd and STV
- Timescales are critical
  - Legislation for quotas needs to be in place **by end of 2022** to impact 2026 elections
- If we miss the chance to act now, **we are losing almost another decade.**



## The case for quotas to deliver equal and diverse representation

February 2020

WEN Wales favours an electoral system that results in gender balance or ‘Equal Power and Equal Voice’ in the Senedd and in Local Government in Wales. The system must also ensure that the voices of those with protected characteristics are represented. **We therefore support the use of legally binding prescriptive gender quotas with sanctions or incentives.**

- WEN Wales supports the findings of the Expert Panel on Assembly Electoral Reform, who support the Single Transferable Vote with **the integration of gender quotas into the system.**
- WEN Wales believes that women’s participation and the success of women as candidates in elections are vital indicators of the health of a representative democracy, and an integral part of achieving a more equal Wales, in line with the ambitions of the Wellbeing of Future Generations (Wales) Act 2015.
- Gender quotas should be enforced through legislation, and not just through voluntary measures as we believe we need to ‘bake in’ gender equality into our electoral system or we will continue to see reductions in numbers of woman AMs, low number of women as Councillors and a lack of diversity of political representatives too.

### Evidence supporting quotas

- Research shows that quotas are the “**single most effective tool for ‘fast tracking’ women’s representation in elected bodies for government.”**<sup>1</sup>
- Among the twenty Organization for Security and Co-operation in Europe (OSCE) countries registering the sharpest growth in the proportion of women in parliament during the last decade...**half had introduced legal quotas. By contrast, among the twenty OSCE countries lagging behind in growth...none had implemented legal quotas.**<sup>2</sup>
- There is international backing for gender quotas. Various international institutions, including the United Nations Committee on the Elimination of Discrimination (**CEDAW**), the Beijing Platform for Action, the EU and the Council of Europe support their use.
- **Ireland** has successfully used quotas requiring that at least 30 per cent of the candidates each party stands nationally are female (rising to 40 per cent after seven years). **The percentage of women candidates increased 90 per cent at the 2016 election** compared to the 2011 election, with a corresponding **40 per cent increase in the number of women elected**—35 in 2016 compared with 25 in 2011.<sup>3</sup>
- **100 Countries** world-wide now have some form of gender quotas in place and 40 also use them for intersectional groups such as BAME women.

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<sup>1</sup> Drude Dahlerup et al., *Atlas of Electoral Gender Quotas*, International Institute for Democracy and Electoral Assistance [IDEA], IPU and Stockholm University, 2013.

<sup>2</sup> Norris, P. and Krook, M. for OSCE, *Gender equality in elected office: a six-step action plan*, 2011

<sup>3</sup> Brennan, M. and Buckley, F. ‘The Irish legislative gender quota: the first election’, *Administration*, vol 65(2), May 2017

- A report published by the United Nations in 2012 found that **out of the 59 countries that held elections in 2011, 17 of them had quotas**. In those countries, women **gained 27% of parliamentary seats compared to 16% in those without**.<sup>4</sup>

### **Types of Quota**

Different types of gender quota have been used in different countries, depending on the electoral system and local circumstances. The Expert Panel on Electoral reform<sup>5</sup> describes the three main types as:

- **Candidate quotas** which introduce a ‘floor’ for the proportion of male or female candidates a party stands for election. These could be applied in the form of constituency twinning for First Past The Post (FPTP) seats. They could also be applied to multimember systems such as STV or Flexible List at a constituency or a national level. Parties in Scandinavia, Spain and Austria have voluntarily adopted similar quotas, ranging from 33 per cent to 50 per cent.
- Requirements for **the ordering of candidates on any list** element of the system. Voluntary quotas of this nature have been used by parties in Wales in Assembly elections, for example zipping of regional candidate lists. (I.e. listing candidates alternately according to their gender)
- **‘Reserved seats’** to which only female candidates could be elected. This type of quota is widely used in South Asia, the Arab region and sub Saharan Africa.

### **Examples of Incentives used:**

- **Croatia** has legally binding quotas and uses incentives - for each MP representing an underrepresented gender, political parties receive an **additional 10 per cent of the amount envisaged** per individual MP;
- **Bosnia and Herzegovina**: where 10 per cent of the funding provided to political parties is distributed to parties in proportion to the number of seats held by MPs of the gender which is less represented in the legislature.
- **Two for the price of one deposits** for two candidates of different genders could be used in Wales —this would appear to us to be proportionate in the context of seeking to ensure that the gender balance in the Assembly reflects the gender balance in the communities it serves.<sup>6</sup>

### **What needs to happen next**

After decades of campaigning by NGOs to make change, women – who make up 52% of the population in Wales - still do not have equality in terms of representation in politics. In Welsh local government just 28% of local councillors, four of the 22 council leaders (18%) and 27% of Council Cabinet members are women. One local authority cabinet is 100% male. At the rate of change to date, gender balance in Welsh councils is unlikely before 2073.

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<sup>4</sup> <https://www.theguardian.com/politics/2013/aug/20/quotas-women-parliament-authors-edinburgh-book-festival>

<sup>5</sup> A Parliament that works for Wales, Report of the Expert Panel on Assembly Electoral Reform, November 2017

<sup>6</sup> A Parliament that works for Wales, Report of the Expert Panel on Assembly Electoral Reform, November 2017

We have a unique window of opportunity to progress the diversity and equality of representation agenda and push for legislative and party political change to enshrine diversity into our political system for years to come. Wales is at a tipping point and, with legislative quotas, Wales could lead the way and be a trail blazer in terms of showing the rest of the UK how quotas can be used.

#### **Political Context:**

In 2017 the Wales Act devolved power to Wales to have control over its own electoral system. An expert panel on Assembly reform, Chaired by Prof. Laura McAllister and appointed by the Llywydd (Presiding Officer) recommended introducing gender quotas for the 2021 Assembly elections as part of a new electoral system with STV or Flexible List PR, lowering the age of voting to 16 and changing the name of the Welsh Assembly to Senedd Cymru.

This resulted recently in 'Phase 1' of the Electoral Reform legislation - The Senedd and Elections (Wales) Bill however it was not bold enough in tackling equality and diversity partly as the Presiding officer felt there was not sufficient public support, though it extended the franchise to 16 year olds. The Liberal Democrats said it is an "important step" that will "ensure the voices of young people are heard within Welsh politics and help us create a better Welsh democracy."

Phase 2 of the reforms are likely to take place after the May 2021 elections and will include looking at the electoral system and the enlarging of the Assembly. **We see the legislation on quotas as being a perfect fit with this reform Bill as it goes hand in hand with STV and an enlarged Senedd.**

#### **Conclusion**

WEN Wales believes that legally binding quotas, with sanctions or incentives, are essential to ensure we do not continue to see a reduction in the numbers of women AMs elected to the Senedd and the continuation of low numbers of women elected in Local councils.

We are calling for:

- **All Political Parties to include a commitment to legally binding quotas in their Manifestos for the 2021 elections**
- **The Local Government and Elections (Wales) Bill and forthcoming legislation on Reform of the Assembly should include provisions on legally binding quotas.**

#### **ABOUT WEN Wales**

Our vision is a Wales free from Gender Discrimination. [Join us](#) to help deliver that vision.

[REDACTED]

[REDACTED]

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