

Cyflwynwyd yr ymateb hwn i [ymgyngoriad y Pwyllgor Biliau Diwygio](#) ar [Fil Senedd Cymru \(Aelodau ac Etholiadau\)](#).

This response was submitted to the [Reform Bill Committee consultation](#) on the [Senedd Cymru \(Members and Elections\) Bill](#).

SCME(P)16 Ymateb gan: | Response from: Rhys ab Owen MS





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Reform Bill Committee

Welsh Parliament

Cardiff

CF99 1SN

27/09/2023

Ein cyfeirnod / Our ref: RaO-GWE-0213

Annwyl Bwyllgor,

I am writing to express some concerns I have about the Senedd Cymru (Members and Elections) Bill. The Bill aims to amend the Government of Wales Act 2006 to reform the system of election and membership of the Welsh Parliament. My particular worry is section 9(3) of the Bill, which amends section 11 of the Act. The amended section 11(2) states that *“If the Member was an individual candidate when returned as a Member of the Senedd, the seat remains vacant until the next general election.”* This notion of a seat remaining vacant continues into section 11(7), where *“if there is no-one who satisfies the conditions in subsection (4), the seat remains vacant until the next general election.”*

On the face of it, this seems like a logical amendment. However, I am concerned that this could potentially create a blind spot that could be utilised by those who are against the Senedd. This amendment allows for seats to be left vacant, which greatly diminishes not only the representative power of the affected region, but also reduces the capacity of scrutiny. Clearly, an empty seat does not speak. In other countries we can see evidence of seats being kept vacant, however this is rarely for a long period of time. For example in New Zealand, which uses the single-transferrable vote system, a seat is only left vacant for six months at the longest. In the Senedd, the seat may be left empty for nearly four years.

I believe that this legislation needs to consider potential unintended consequences. One such case, which I raised with the Counsel General in his recent statement, is a group of independent candidates potentially standing on a single issue winning seats across Wales. They could then all quit at the same time in order to reduce the



efficacy of the Senedd. We have seen from previous Senedd elections that there are anti-Senedd groups that garner some popularity from those who feel disenfranchised by the political status quo. Switching away from First-Past-The-Post (FPTP) and adding more members to the Senedd (in a system of proportional representation) could well increase the odds of this happening again.

We know that it is not impossible for such a system to be in place, whereby a multi-member proportional representative constituency is filled through a by-election, as we have seen in Turkey (albeit rarely, in 2003 most recently). Most functional democracies, be that single-member, mixed-member, or multi-member, have some form of recall mechanism, or mechanism to ensure members of the population are not left unrepresented or under-represented. While the Scottish Parliament's consultation showed that by-elections can be an extra cost, I'm sure the Committee will agree with me that we should not allow the potential for the under-representation of a part of the Welsh population purely because we fear the cost and hassle of electing a new representative. This is especially the case when such an election would be a rarity, only applying when a party-list is not active.

However, even the party-list system of filling seats is not ideal. One concern I have heard around by-elections is that it reduces the capacity for "zipping"; the gender-quota policy that will be introduced to the Senedd later in the year, if all goes well. The argument goes that if we elect a Member through a FPTP by-election (as is the case in other UK and Scottish elections), then the biases of the electorate can be allowed in through the backdoor, throwing off the gender balance of the Senedd. But this misses the fact that as the Bill currently stands, this gender imbalance would automatically be implemented.

As zipping functions, a male candidate on a party-list must be followed by a female candidate, and vice versa. As a result, disparity can occur even after the election via a resignation. I would argue that there are two possibilities to maintain the effectiveness of zipping: firstly, switching to a FPTP by-election system which only allows for a candidate which matches the gender of the former Member (however, this would be legally challenging as seen with the issues the Labour Party has had with all-women shortlists in the past). The second option is to skip a single candidate on each party-list, allowing the gender parity to be maintained (again, equalities law would make this difficult). The Committee will have their own views as to which system works best, but I believe they may agree that such a consideration is important if we are aiming to future-proof this legislation for the future gender-quota Bill.



Rhys ab Owen AS/MS

Canol De Cymru | South Wales Central

I hope that the Committee will consider my proposals, and the potential unintended consequences arising from this Bill.

Rhys ab Owen AS/MS

Aelod o'r Senedd dros Ganol De Cymru
Member of the Senedd for South Wales Central

Rhys ab Owen AS/MS

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