

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 Ali Morris | Evidence from Ali Morris

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)?

I don't believe this Bill is a necessary step in achieving sex equality in the Senedd. It is a massive overkill in achieving the stated aim. Currently the gender make-up of the Senedd is 57% (male) to 43% (female) which equates to 34 males and 26 females elected. Although this is not ideal, the Senedd has previously achieved 50/50 before so there is no reason that we cannot achieve this again without introducing this piece of legislation.

With the future intention to increase Senedd members from 60 to 96, Welsh Government will need to ensure women's participation also increases. Welsh Government should be focusing on improving the structural inequalities in Wales that stop women from entering political life and ensuring political parties adhere to equalities legislation and lessen the high level of sexual harassment and abuse that female politicians report instead of imposing a hugely expensive and vague piece of legislation.

This Bill will only ease the way for women who are already on the route to a political life, it will do nothing to encourage and support women with disabilities or those from black and minoritised communities for example. It will only encourage the same cohort of women not expand and reflect the female demographic in Wales.

This Bill is being used as a smokescreen to introduce self-identification into Wales. Self-identification is not the law in the UK and Wales does not have the legislative authority over equality areas (this is a UK area of law).

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

This system of enforcement is an extremely weak way of enforcing the key element and purpose of the Bill and is easily open to abuse. To allow a piece of legislation to have such weak structures is quite frankly incompetent.

To allow anyone to state they are a 'woman' or 'not a woman' at point of application without asking for legal identification is mind boggling. Currently to vote in elections in Wales you have to show identification, but to be a potential political representative in said elections, you don't need to show any identification. This is a huge omission and unworkable.

There are no legal terms attached to the Bill, so we are not told Welsh Government's interpretation of a 'woman' and 'not a woman'. Welsh Government believes that 'Trans women are women' so this reasonably implies that women only gender quotas will be open to men who identify as women. This is a totally unacceptable way of Welsh Government imposing their widely contested views onto the public.

How can Welsh Government realistically expect to impose any sanctions around this when the Bill is saying that you can self-identify as a woman without any legal paperwork, to be a part of the women only list?

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?

This Bill will do nothing to eradicate and lessen the barriers that women face in entering political life. Welsh Government's own research for this Bill identifies the myriad of barriers women face to get into political life but chooses to use a sticking plaster (this Bill) to try and solve it.

Tackling the real issues such as lack of childcare, sexual harassment, caring responsibilities, working hours etc will improve women's participation much better than forced gender quotas.

Even if gender quotas increase the number of female political representatives, there will still be barriers that hinder women's participation while they are in office.

The main barrier is that it is outside of Welsh Government's legislative competence, even though the attached paperwork states that it is.

Are any unintended consequences likely to arise from the Bill?

The unintended consequences of the Bill are as follows;

1. That males who identify as women will take the places of biological females who want a place on the list. This will increase male participation not female.
2. This Bill is discriminatory. It fails to comply with the Equality Act 2010 and conflates sex and gender..
3. There could be legal challenges from political parties or Senedd members.
4. A reduced focus on removing the barriers that women face in political life simply because this Bill is seen as the de facto magic wand.

The IAs that have been undertaken state that there will be no unintended consequences with this Bill which is mind boggling. I don't believe these IAs were undertaken correctly if this is the case.

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

This Bill is outside of the legislative competence of Welsh Government. The Llywydd has already made a clear statement about this. That Welsh Government is intent on pushing this Bill through even though it has been told it does not have the legislative competence is indicative of its deafness to public opinion and its true purpose of pushing through gender ideology.

To spend such a large amount of money on a Bill that is ultimately going to fail and not achieve its stated aims is shameful. We are going through dire financial circumstances in Wales and Welsh Government would rather spend money pushing through its gender ideology and queer theory than supporting Welsh citizens who are living in poverty, or supporting our run down and failing schools.

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?

I believe that too much is being left to subordinate legislation. I note the concern raised by the Justice, Legislation and Constitutional Committee in its annual report about the high volume of errors in subordinate legislation drafted by Welsh Government. The Committee's report highlighted a range of issues, including inconsistencies within texts, unclear definitions, and incorrect references. I do not

have confidence in the quality and clarity of subordinate legislation in relation to this Bill. I see these faults reflected in the Bill and the Explanatory Memorandum, neither of which define the key terms of 'gender' or 'woman'. Further, there is no indication in the Explanatory Memorandum of how the proposed 'gender statement' would be phrased and what definitions would be used for 'a woman' and 'not a woman'.

The need for clarity on this is essential as Returning Officers will be obliged to take candidates' statements at face value. They would be responsible for verifying that a minimum of 50% of candidates on each list have made a statement that they are women; not that those statements are accurate or truthful. I believe that the drafting of the gender statement will be used as a further attempt to redefine 'woman' via subordinate legislation so that men who identify as women can be included. Self ID is not law in the UK.

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

Welsh Government states that it has the legislative competence to deliver this Bill, however the Llywydd has stated otherwise.

As it appears that men who self-declare themselves to be women can put themselves on the women-only shortlist, this would mean self-identification would be in place. There is no human right to self-identification as a member of the opposite sex of which you were born.

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

It is clear from the Equality Impact Assessment that individuals will be able to self ID as women to gain advantage in selection. This is not the law in the UK.

There is only one reference to the correct protected characteristic of 'sex' in the Explanatory Memorandum, which refers otherwise entirely to 'gender'. This is a term that has no stable or consistent definition in law.

It is not within the Senedd's competence to redefine the category of 'women' to include men. This had been demonstrated by the judgment in the judicial review brought by For Women Scotland of the Scottish Government's Gender Representation on Public Boards Act (Scotland), of which the Welsh Government would have been aware.

It is my belief therefore that Welsh Government is creating a legal loophole through which men that identify as women can slip through to the detriment of women.

Considering Welsh Government's public declarations of its intentions on this issue, this is a serious concern.

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

The lack of definitions in the Bill and Explanatory Memorandum will result in poor legislation. This legislation could be open to challenge or ultimately quashing at a UK Government level. The reputational damage to the Welsh Government and the Senedd will not be easy to erase. There is no convincing case for this Bill and there is no attention to addressing the structural barriers that women face in becoming involved in politics.

Anything else?