

SCECLB36-P Welsh Women Speak Out

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 Welsh Women Speak Out | Evidence from Welsh Women Speak Out

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)?

We do not believe that this Bill is the appropriate mechanism for achieving the state objective of making the Senedd a more effective legislature or the best approach to ensure that it is broadly representative of the population of Wales.

The Bill appears to ignore the National Assembly and then the Senedd's track record in terms of election of broadly equal numbers of men and women. Where numerical equality has been achieved, this has been through initiative within political parties. Women have throughout the life of the Assembly and Senedd held positions of strategic importance within the administration or government. They have also been well represented as chairs of committees.

Nevertheless, the rights of women and girls have been significantly eroded over the past 10 years, significantly this is through the adoption of a regressive definition of gender, rather than an approach that acknowledges that women and girls experience violence, abuse, discrimination and underrepresentation in public life globally because of their sex. It is being born female that is the salient factor, not the acquisition or expression of femininity. It is regrettable that this roll back in the rights has occurred while what Charles and Aull Davies (2010) describe as 'strategic women' are in positions of influence.

This legislation does nothing to address the barriers women of many backgrounds face in Welsh society and is likely to deflect focus and funding away from initiatives to promote social change that would give more women of diverse backgrounds the opportunity to improve skills and confidence and acquire the skills and knowledge that would equip them to be effective members of the Senedd. There are also improvements that could be considered to the working practices of the Senedd, including the possibility of Job Sharing. Academics and organisations such as WEN have undertaken research into these issues which needs to be taken seriously.

Focusing on quotas may appear to be an easy win for Welsh Government, but it should not ignore the necessity of structural and societal change. Tinkering at the top is not the answer.

For these reasons we cannot support the proposals in this legislation. In addition the lack of a clear definition of 'woman' or 'gender' and the potential for secondary legislation to undermine women's rights under the Equality Act 2010 is of considerable concern.

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

Given the lack of clear information about how the provisions of the Bill would be implemented and the reliance on secondary legislation to introduce key measures, we feel unable to comment on the system of enforcement.

More information is needed, in particular regarding a Returning Officer's ability to scrutinise nominations to ensure that those included on a list of women are indeed female and therefore likely to have experienced the barriers and discrimination for which the proposals are a proportionate means of achieving a legitimate aim as understood in equality legislation.

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?

The most obvious potential barrier is that the Bill is outside the Senedd's competence and we are baffled by the insistence of the Minister that it is Welsh Government's position that it is not. If it is passed by the Senedd it will be open to legal challenge for a variety of reasons and the validity of any elections undertaken under its rules will be seriously undermined. In addition to constitutional uncertainties, there may also be grounds for legal action by individuals who experience detriment from the implementation of the legislation due to its non-compliance with current Equality Law.

Are any unintended consequences likely to arise from the Bill?

Significant risk of legal challenge and associated expenditure.

Disadvantage to both female prospective candidates who lose their place to a male person who identifies as being of 'woman' gender; and a similar disadvantage to male candidates who are unable to benefit from a mechanism that a male person who identifies as a 'woman' for the purposes of the Bill is unable to access.

Reputational damage to the Senedd, as well as to Welsh Government at a time when there is much public discontent, for pursuing legislation that is beyond its competence.

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

The assessment of financial impacts is pure guesswork, since there would need to be extensive amendments to the legislation as the Bill progresses if it has any hope of becoming workable law. The clearest summation of our view would be that it has been a colossal waste of government and civil service resources to get it to this point, and is a colossal waste of the Senedd's time and resources to continue to push for its introduction when there are other priorities.

The Integrated Impact Assessment appears to be narrowly focused and based on a flawed understanding (or perhaps a deliberate fudging or misrepresentation) of the Equality Act 2010 and the Government of Wales Acts. The hand-wringing over the impact on transgender or non binary candidates is disproportionate and suggests Welsh Government has misunderstood, or is misrepresenting deliberately by conflation, the protected characteristics of Gender Reassignment and Sex in the Equality Act 2010.

So much of the supporting documentation appears to be based on a sexist and outdated view of women's interests and contribution to public life and legislation, and is also ignorant of the various developments which have occurred since devolution under the leadership of women in the Cabinet or due to the hard work and diligence of current and past female MSs and AMs.

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?

Too much is left to subordinate legislation. There are already published concerns about the quality and rigour of the process of drafting. We do not have confidence in Welsh Ministers' ability to make subordinate legislation that will not disadvantage women.

Despite a commitment from the previous First Minister in 2022 to meet with grassroots women's organisations cabinet members have refused to meet with them on several occasions.

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

We have mentioned in our answers to previous questions that we do not believe that the legislation is compatible with equality legislation that applies across Great Britain. Neither is it compatible with the European Convention on Human Rights.

We agree with the view of Y Llywydd and several eminent legal academics that is not within the legislative competence of the Senedd.

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

Please refer to our previous answers where our views on quality are clear. In summary, the legislation is poorly drafted, incompatible with the constitutional settlement, ill-conceived, is not in the best interests of women or democracy, and if passed by the Senedd will have a significant negative reputational impact on the Senedd and Welsh Government.

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

We believe that we have covered all relevant concerns in previous responses.

We strongly support efforts to make the Senedd's membership more representative of the Welsh population and to increasing diversity and the representation of minority and marginalised voices. We are supporters of electoral reform and fair voting systems such as STV, and these proposals coupled with the new Senedd election system cause great concern. The approach of the current Welsh Government is very narrow and controlling, not pluralist or democratic, and the Explanatory Memorandum and Impact Assessment implies that the legislation is seen as a vehicle to get self-ID of sex on the statute books without any consideration of the impact.

This appears dishonest, ideologically motivated and an irresponsible approach to law-making which should concern the Committee and all Members of the Senedd on principle regardless of their position on whether transwomen should be able to access the hard-won rights of women.

Tempting though it may be to be grateful for crumbs from the table, like many grassroots women's groups not reliant on Welsh Government funding we do not support this Bill.

Anything else?