



PROTECTING THE RIGHTS OF WOMEN & CHILDREN

David Rees MS - Chair
Reform Bill Committee
The Senedd
Cardiff
CF99 1SN

Sunday, 14th July 2024

**Women's Rights Network response to Senedd Cymru (Electoral Candidate Lists Bill):
Stage 1**

We refer you to our initial consultation response¹ in which we outlined the reasons we do not support the Electoral Candidate Lists Bill. As you are aware, we also gave oral evidence to the Reform Bill Committee and are grateful to have had that opportunity.

We have now read the report of that Committee. None of the 25 recommendations proposed at Stage 1 fully address our concerns. Given that the Bill is due to be debated on Tuesday, 16th July 2024 for support or otherwise on its 'general principles', we invite the Senedd to reject the general principles of this Bill.

We consider the Bill to be in breach of the Equality Act 2010 because it does not demonstrate how it is a proportionate means of achieving a legitimate aim. This would leave the Welsh Government open to the challenge of unlawful discrimination.

It is unclear if the definition of 'woman' as used in the Bill has the same definition as the Equality Act 2010 (i.e. a female of any age). If it does not, then it will not comply with UK wide equality legislation (a reserved matter) and is beyond the legislative competence of the Welsh Government².

The lack of definitions within the Bill has been referred to several times in the evidence given at Stage 1, including in questions to the Minister proposing the Bill. There has been a consistent failure to clarify terms which critically damages the stated intentions of the Bill and renders the question of legislative competence inevitable.

1

<https://business.senedd.wales/documents/s149494/Paper%204%20Written%20evidence%20Womens%20Rights%20Network.pdf>

² <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2024/2/1/a7eae3c4-71eb-4d56-b6bf-836715c99f68#:~:text=The%20Court%20of%20Session%20decided,position%20since%2019%20April%202022>

We also note that an earlier, leaked draft of this Bill made it very clear that the definition of 'woman' was being extended beyond that of the Equality Act. We wish to remind Senedd members that self identification is not the law in the UK and that ambiguity in definitions within the Bill as published does not overcome the inevitability of this being exploited by those making a 'gender statement' that does not concur with their sex.

We note that the Equality and Human Rights Commission (EHRC), an organisation whose expertise should have been considered essential for input and advice regarding the drafting and proposing of this Bill, do not appear to have been utilised effectively, and have also voiced their own concerns.³

It is clear from the consultation responses, including from those legally qualified in such matters, that we are not alone in our views regarding the lack of legislative competence for this Bill, and our concern regarding lack of definitions. Notably, the Reform Bill Committee share these concerns too, hence their recommendation for a Supreme Court review prior to this Bill being made law. It is our view that it would be better (and less financially prohibitive) for this deeply flawed Bill to be shelved. Members should also consider the legitimacy of Senedd elections, as well as the reputational damage for devolution and the legitimacy of the Welsh Government.

Whilst we are pleased to note that recommendation 9 would extend the corrupt practice offence to false statements in nomination or other papers, this is not sufficiently robust to prevent the falsification of a 'gender statement'. Without a clear definition of 'woman' within this Bill, it is not possible to know what would actually constitute falsification and it would be difficult, if not impossible, to establish that any such false statement has been made. This proposed safeguard therefore becomes meaningless in practice.

As we and others have pointed out previously, the Equality Impact Assessment⁴ (EIA) that accompanied the Bill at stage 1 is insufficient and badly flawed. This cannot be overcome at subsequent stages of the Bill. We therefore consider that a thorough and competent EIA needs to be undertaken before this Bill progresses, in order to better inform the extent to which it will achieve its stated objectives.

Women's Rights Network wants to see a more equal society that ensures equal opportunities for women by removing barriers. However, this Bill attempts to enforce an equality of outcome that runs counter to the provisions of the Equality Act 2010, and potentially unlawfully tinkers with the definition of 'woman'. For that reason, we cannot support it. We invite Senedd members to consider this to be a critically flawed Bill and to reject it.

Yours sincerely,

³ <https://www.equalityhumanrights.com/our-work/advising-parliament-and-governments/our-letter-senedd-reform-bill-committee>

⁴ <https://www.gov.wales/senedd-cymru-members-and-elections-bill-equality-impact-assessment-html>

Catherine Larkman
WRN founder member, Wales lead and national policing lead