

SCECLB24-P Chwiorydd Plaid

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 Chwiorydd Plaid | Evidence from Chwiorydd Plaid

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 accept the premise of the question. We do not believe in the concept of 'gender'.

Women are discriminated against - in politics as in much else - on the basis of their biological sex. We support the principle of legislating against sex discrimination and enshrining equal representation, but the language of the proposed legislation needs to be completely revised using the unambiguous term 'sex' - meaning biological sex - not the inaccurate and contested term 'gender.'

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

Clearly there is no point in legislating unless there is an enforcement mechanism. But this is not appropriate. By enabling a person simply to declare that they are a woman with no checks this legislation and this mechanism - or lack of it - would be introducing a system on 'gender' self identification by the back door. As the Llywydd's legal advice shows this would be unlawful, since the Senedd does not have the power to legislate in the field of equality, and this proposed mechanism is an attempt to change the provisions of the Equality Act.

This risks bogging the legislation down in legal conflict between the jurisdictions.

This also has the potential to completely undermine the stated purpose of the proposed Bill, because under this proposal it would be possible for Parties to field lists of candidates all of whom are biologically male, with some of them stating that they are 'women' because they 'identify' as women even though their biological sex is not female. We refer to our previous answer with regard for the need for the legislation to be redrafted to use the term 'sex' - meaning biological sex - which has

meaning in physical reality and in law in place of the term 'gender' which requires to adherence to a particular belief system if it is to make any sense and has no meaning in law.

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 likely barrier is a protracted and costly legal challenge between the UK and the Welsh Governments, since, but introducing 'gender' self identification into its provisions this proposed legislation would change the provisions of the Equality Act, which is outside the legislative powers of the Senedd.

Are any unintended consequences likely to arise from the Bill?

One consequence - whether unintended or not - in the unlikely event of the Bill passing unamended and surviving the inevitable legal challenge - would be to introduce the concept of 'gender' self identification into an important area of Welsh public life. This could be taken as a precedent, and make it even harder than it is now for women and girls in Wales to access their right to single sex services and spaces, such as public toilets, same sex personal care and single sex hospital wards. This right is enshrined in the Equality Act and this proposed legislation could undermine that, with extremely negative impacts on the rights of women and girls in Wales.

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

Any meaningful assessment of the cost of this proposed legislation, if it passes through the Senedd unamended, should include the huge costs that will be incurred if Welsh Government has to defend the legislation against a challenge by the UK Government.

An estimate of that cost could be made by looking at what the cost was to the Scottish Government of unsuccessfully defending its 'gender' recognition legislation.

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?

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

It seems highly unlikely that the Senedd has the power to legislate on this matter in this way.

If the term 'gender' was replaced by 'sex' – meaning biological sex - and if the proposed mechanism of allowing a person to self identify as a 'woman' regardless of their biological sex was removed, it is likely that the Senedd would have competence, because it has competence to legislate on its own electoral arrangements, and the Equality Act allows for affirmative action to promote the participation of women. Equality legislation is clearly a reserved matter.

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

This Bill, if passed unamended, will lead to direct conflict between the Welsh and the UK Governments over a matter that does not have wide public support in Wales.

This is likely to undermine the reputation of the Welsh Government and of the Senedd itself and this, ironically, might undermine attempts to devolve more powers to the Senedd.

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

Anything else?

This is a piece of legislation that says it is designed to improve women's rights in Wales, but if it is passed unamended it will do the opposite.

Male bodied people would be able to 'identify' as women, according to their personal feelings. It is possible that this legislation would actually reduce the representation of women - adult human females - in the Senedd if slots supposed to be reserved for women were taken by biological males 'identifying' as women.

This legislation needs a huge amount of amendment if it is to achieve its stated aim of improving women's representation.

It might be better to scrap the Bill and start again drafting a new piece of legislation within the Senedd's competence, using the word sex – meaning biological sex - not 'gender'.