

## SCECLB28-P Stonewall Cymru

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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 Stonewall Cymru | Evidence from Stonewall Cymru

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### **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)?**

This Bill is an important and necessary vehicle for empowering all women to seek election in the Senedd while reflecting the populace of Wales in our Government. We welcome and value the need for legislation to achieve this.

Though we appreciate that the choice to self-declare as a 'woman' or 'not a woman' a move from the binary decision offered by many gender quotas bills worldwide, we are disappointed that the definitions of gender in the Bill lack clarity on whether they are inclusive of trans and non-binary people.

Despite making up only 0.4% of the Welsh population, trans and non-binary people are a part of our diverse communities – and they face tangible barriers to engaging with politics, including active discrimination and exclusion. It is our view that without explicit inclusion in the wording of this Bill, trans and non-binary people who self-declare their gender as part of this initiative will be left open to legal challenge and/or harassment, for example facing pressure to make public personal documents pertaining to their legal gender recognition. We will address this point further in Section 4: Unintended Consequences.

The Explanatory Memorandum explicitly states an awareness that this legislation will have a direct impact on trans people and states as such: "It is recognised that some individuals may be impacted negatively by this legislation in terms of having to make a gender statement." (Explanatory Memorandum to the Senedd Cymru (Electoral Candidate Lists Bill) paras. 214, 217).

While we welcome a Bill intended to reflect the populace of Wales, it is worth noting that the requirements it poses are not equivalent to outreach and empowerment work designed to empower women to take part in politics, nor does it provide a basis

to equip candidates with protection from harassment or discrimination in an increasingly fraught political landscape. We will address this further in Section 4.

We strongly encourage work alongside this Bill, as part of wider Senedd reform, to introduce measures to increase diversity in the Senedd for under-represented groups including disabled people, BAME people and LGBTQ+ people. While this Bill is a valuable first step toward a Senedd which is representative of the Welsh population make-up, we do not believe it currently takes an intersectional approach to inclusion and representation in the Senedd.

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

As stated, we are disappointed by the lack of clarity on definitions within the bill, particularly whether the definitions of gender provided are inclusive of trans and non-binary people.

Without assurances of this inclusion, trans and non-binary candidates who declare themselves to be a 'woman' or 'not a woman' may be left open to legal challenge and/or harassment. It is unclear whether CROs, parties or the wider Senedd will be equipped to recognise or deal with this.

Please see Section 4 on Unintended Consequences for more.

### **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?**

N/A

### **Are any unintended consequences likely to arise from the Bill?**

As stated, we are disappointed by the lack of clarity on definitions within the bill, particularly whether the definitions of gender provided are inclusive of trans and non-binary people.

Without assurances of inclusion, trans and non-binary candidates may be left open to legal challenge and harassment or discrimination – with one example of this being facing pressure to make public personal documents pertaining to their legal gender recognition, or other threats to privacy.

Wider implications of opening trans and non-binary candidates up to such challenge are concerning when considering the fraught political landscape LGBTQ+ people currently operate within, where we see increasing anti-LGBTQ+ rhetoric. More widely in Wales, we are seeing increasing rates of anti-LGBTQ+ and particularly anti-trans hate crime – which has risen by 22% in the last year and 372% in the last 5 years

(ONS). A Bill which inadvertently opens trans and non-binary candidates up to increased scrutiny without providing the tools to individuals and parties to mitigate the threat of challenge, harassment and discrimination or physical violence places potential candidates at risk.

With an existing instance of a non-binary candidate citing transphobia as a reason for stepping down from election candidacy in Wales (former Mayor of Bangor Owen Hurcum, who stepped down from Senedd candidacy citing transphobia within their party), we know that barriers to trans and non-binary candidacy already exist, and this Bill risks heightening some of the challenges faced.

Furthermore, the Bill does not make clear any protection or guidance that would be provided to candidates who face legal challenge, harassment or discrimination due to their identity, and in fact the Explanatory Memorandum acknowledges that the Bill may have a direct effect on trans people. We would argue that the barriers and risks trans and non-binary candidates would face as a result of the wording in this Bill may be so profound as to be a barrier to their right to stand for election.

More widely, the Bill does not address the need for guidance and protection from discrimination, harassment or violence that all women candidates may face as a result of any backlash against the Bill. We would argue strongly for supplementary guidance for parties to help them to create safe and empowering environments for all of their candidates.

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

N/A

**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?**

N/A

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

N/A

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

N/A

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

N/A

**Anything else?**

N/A