

**SCECLB7 - P Rhwydwaith Hawliau Merched**

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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 Women's Rights Network | Evidence from Women's Rights Network (Saesneg yn unig)

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9 April 2024

Reform Bill Committee  
The Senedd  
Cardiff  
CF99 1SN

To whom it may concern,

Thank you for the invitation to give oral evidence on 24<sup>th</sup> April 2024 in an evidence session before the Reform Bill Committee, responsible for Stage 1 of the Senedd (Electoral Candidates Lists) Bill. As previously indicated, we will attend and provide this evidence directly to you on that date.

Our written submission in respect of that Bill is duly attached in advance of the closing date for consultation responses on 12<sup>th</sup> April 2024.

We look forward to the opportunity to address you further.

Yours sincerely,

**Heather Binning**  
**Founder, Women's Rights Network**

## General principles

1. 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 would be grateful if you could keep your answer to around 500 words)*

1. Our position is that this Bill to ensure equal representation of women is not required. However, if a Bill is brought, it must deliver improved representation of women. For the purpose of this response, we use the definition of woman supplied by the Equality Act 2010<sup>1</sup>: a female of any age. The UN Special Rapporteur on Violence against Women and Girls, Reem Alsalem<sup>2</sup> uses the same definition: women are biological females.
2. The Bill talks about "gender" which is not defined while the census information quoted by the Explanatory Memorandum talks of sex. There must be consistent use of terms and definitions for purposes of clarity and to avoid confusion. The definition of "gender" is disputed<sup>3</sup> and therefore sex as defined by the Equality Act 2010<sup>4</sup> should be used throughout.
3. If the Welsh Government finds itself unable to agree with the ordinary usage definitions stated above, then the Bill must clarify what is meant by the words "woman" and "gender".
4. An agreed definition of terms is required to ensure the objectives of the Bill are clear (*"to make the Senedd a more effective legislature by ensuring it is broadly representative of the gender make-up of the population"*) and so that success can be measured and demonstrated.
5. From the Explanatory Memorandum:

*The Expert Panel referred to evidence indicating that over half of the world's nations use some form of electoral quota and that their use is increasing internationally.*

*But Senedd reform: the next steps<sup>5</sup> acknowledges that "seven out of the ten best performing countries for female representation do not use quotas, Dr Fiona Buckley and Dr Meryl Kenny identified that of these, many had a well-established system of voluntary party quotas".*

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2010/15/section/212?view=plain>

<sup>2</sup> <https://www.ohchr.org/sites/default/files/documents/issues/women/sr/statements/20240404-Statement-sr-vawg-cedaw-convention.pdf>

<sup>3</sup> <https://www.ohchr.org/sites/default/files/documents/issues/women/sr/statements/20240404-Statement-sr-vawg-cedaw-convention.pdf>

<sup>4</sup> <https://www.legislation.gov.uk/ukpga/2010/15/section/11>

<sup>5</sup> <https://senedd.wales/laid%20documents/cr-ld13452/cr-ld13452%20-e.pdf>

6. In the National Assembly for Wales consultation report<sup>6</sup> we note that;
  - a. A total of 1340 responses were considered.
  - b. Overall, 39% of respondents **do not** support a change to the electoral system (400 do not support, 120 do not know).
  - c. Overall, only 16% (210) of respondents support formal measures such as gender quotas.
  - d. Other measures such as shortlists and financial incentives have been disregarded without explanation. The UK Labour party has used shortlists to great effect<sup>7</sup>.
  
7. Although there are more men than women currently elected, that has not always been the case. In 2003 the Senedd was 50% women, proving that it is possible to achieve a sex balance without quotas. The choice to implement mandatory quotas is not evidenced.
  
8. The mechanism chosen to achieve “parity” is:
  - complicated and likely to be poorly understood by the electorate;
  - breaks the democratic link between electorate and individual candidates;
  - might reduce turnout if lists include members that the electorate feel unable to vote for.
  
9. The rules around eligible lists could return a Senedd entirely composed of women. This would not be “*broadly representative of the gender make-up of the population*” and by the Welsh Government’s argument, this would make the Senedd less effective.
  
10. The rules around eligible lists could return a Senedd entirely composed of male people as long as 50% of them state they are women. (It could be 100% who state they are women). This is unlikely, but good laws don't rely on undesired outcomes being unlikely. Spanish soldiers and policemen have stated that they are women to gain employment benefits intended for women<sup>8</sup>. When the Scottish government voted through the GRRB they didn’t for a moment think that they would be defending a rapist calling himself Isla Bryson being placed in a women's prison.
  
11. From the Explanatory Memorandum:

*29. Theory of change research published by the Welsh Government specifically identifies male incumbency as a barrier faced by women in the context of access to*

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<https://business.senedd.wales/documents/s79146/Full%2520consultation%2520report%2520PDF%25201.1MB.pdf&sa=D&source=docs&ust=1712219621924071&usg=AOvVaw0xsNK3zcMrs-PH622WIfOv> questions 4 & 5

<sup>7</sup> <https://www.democraticaudit.com/2016/02/19/gender-quotas-do-not-pose-a-threat-to-merit-at-any-stage-of-the-political-process/>

<sup>8</sup> <https://www.telegraph.co.uk/news/2024/03/05/spanish-soldiers-change-gender-benefits-for-women/#:~:text=Spain's%20Left%20Dwing%20government%20introduced,of%20Ceuta%20in%20North%20Africa.>

*elected office. The research report notes that the costs of campaigning can be significant for women as they 'are more likely to have caring responsibilities, work part-time, and take career breaks to raise children' compared with men. The report also identified that 'fear of violence, abuse and harassment from the public ... [is] a significant barrier for women' standing for election in local elections.*

The proposed Bill does nothing to address these acknowledged barriers that prevent or discourage talented women from standing as candidates. Maternity, caring responsibilities and financial constraints are likely to be the real challenges. This Bill will simply make selection easier for women who do not face such barriers or have already overcome them.

## Enforcement and compliance

As part of the nominations process, candidates would be required to make a statement about whether they are a woman or not a woman. This statement will be used as the basis for enforcing the rules. Constituency Returning Officers (CROs) will take these statements at 'face value', meaning that they would not undertake any investigation into whether the information provided by a candidate is correct. CROs would be responsible for verifying that a minimum of 50% of candidates on each list have made a statement that they are women, and that the vertical rule is met. If a list does not comply, the CRO will be able to invalidate the nomination papers.

For the national quotas, the Bill gives the Welsh Government the power to appoint a National Nominations Compliance Officer (NNCO). This role would oversee compliance with the horizontal rule. If a political party's lists do not comply with the rule, they will be given the opportunity to re-order one or more list to make them compliant. If they do not, then one or more lists would be chosen by the NNCO and re-ordered by the relevant CRO.

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

*(we would be grateful if you could keep your answer to around 500 words)*

12. Assertions that women are 51% of the population is based on their sex according to the 2021 census. There is a legal requirement to be truthful when completing the census, with a penalty for deliberate falsehoods.
13. For this Bill, sanctions only apply for failing to follow the rules about zipping, ordering, and horizontal and vertical list compliance. There is no sanction for falsely stating that a person is a woman to prioritise their name on a list.
14. There is no mention of what would constitute a false statement – no mention of a person's sex, a GRC, or even having an "intention to live as a woman". In this Bill, making a statement with no evidential requirement is deemed sufficient. Self-declaration such as this is not UK law. <sup>9</sup>
15. From the Explanatory Memorandum:

*236. Existing electoral law provides for a number of electoral offences relating to the fair running of elections targeted at electoral administrators and participants. One such offence is breach of official duty by Returning Officers and other electoral officials and this may be amended to cover the NNCO. For participants, there are various offences which are corrupt or illegal practices, one of which involves providing false statements in nomination and other papers. **Making a false gender statement will not be part of that corrupt practice offence.***

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This explicitly recognises that a false gender statement is possible. As a key criterion for candidate selection, there is no justification for excluding falsification from sanction.

16. There are obvious benefits for a man to claim he is a woman even if he does not believe it and has every intention to desist as soon as elected. In Mexico, 15 men identified as transgender in order to occupy candidacies designated for women<sup>10</sup>.
17. Men might reasonably feel that they are being discriminated against by these rules that cap the number of men at 50% but do not cap the number of women, incentivising them to falsify their gender statement.
18. The current Senedd sex balance is 43% women to 57% men, and in 2003 the sex balance was 50:50, so abuse of the “gender statement” could make the sex balance worse.
19. If a person stated they were a woman when registering as a candidate for election, but stated they were a man after the election, would that person be required to stand down? The proponents of this Bill have not made that clear.<sup>11</sup>
20. Our view is that enforcement is weak or non-existent on this point and will encourage men who would game the criterion.

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<sup>10</sup> <https://www.theguardian.com/world/2018/jun/22/mexico-elections-fake-transgender-candidates-disqualified>

<sup>11</sup> <https://record.senedd.wales/Committee/13793> Paras 143-146

## The Bill's implementation

The Regulatory Impact Assessment is set out in Part 2 of the **Explanatory Memorandum** (<https://senedd.wales/media/xp4dqjto/pri-ld16394-em-e.pdf>). This includes the Welsh Government's assessments of the financial and other impacts of the Bill and its implementation.

**3. 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?**

*(we would be grateful if you could keep your answer to around 500 words)*

21. The direction of travel for this Bill is towards the Supreme court. There is dispute around the legislative competence of the Welsh Government to implement this Bill. The Llywydd has stated her opinion<sup>12</sup> based on legal advice that the necessary legislative competence is lacking. The scrutiny committee headed by David Rees makes the same point<sup>13</sup>.
22. The definition of a person as a woman or not-a-woman based on a "gender statement" does not align to the definition of a woman in the Equality Act 2010, nor with the Gender Recognition Act 2004. The For Women Scotland ruling published 1 Feb 2024<sup>14</sup> confirms that this is a reserved matter.
23. To carry out positive action on behalf of any protected characteristic, it must be shown to be a proportionate means to a legitimate aim<sup>15</sup>. No such case has been made. Action to remove the challenges faced by women or implementation of voluntary shortlists, for example, would be more proportionate.
24. It has not been demonstrated that women are being treated unfairly. Nor that having more than 50% women elected is proportionate or would achieve the desired outcome (of a more accountable and effective Senedd).
25. **Government of Wales Act** Equal Opportunities provision<sup>16</sup> (Excerpt below):
  - Does not permit regulation for equal opportunities.
  - Requires Equal Opportunity provisions to comply with the Equality Act 2010.
  - Requires provision to be based on the EA2010 PCs (gender is not a PC).

<sup>12</sup> <https://www.google.com/url?q=https://senedd.wales/media/jmeascd1/pri-ld16394-pos-e.pdf&sa=D&source=docs&ust=1712502893905665&usg=AOvVaw1wOJytYKaM6qqYBGxjHkGB>

<sup>13</sup> <https://business.senedd.wales/documents/s146028/Paper%203%20-%20Letter%20from%20the%20Llywydd%20regarding%20the%20Senedd%20Cymru%20Electoral%20Candidate%20Lists%20Bill%20-%202011%20M.pdf>

<sup>14</sup> <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.>

<sup>15</sup> <https://www.legislation.gov.uk/ukpga/2010/15/schedule/3/part/7> para 26

<sup>16</sup> <https://www.legislation.gov.uk/ukpga/2006/32/schedule/7A> Para 187



### *Exceptions*

- The encouragement (other than by prohibition or regulation) of equal opportunities, and in particular of the observance of the equal opportunity requirements.
- Equal opportunities in relation to the functions of any devolved Welsh authority, other than a function that relates to the inclusion of persons in non-executive posts on boards of devolved Welsh authorities. The provision falling within this exception does not include any modification of the Equality Act 2010, or of any subordinate legislation made under that Act, but does include—

(a) provision that supplements or is otherwise additional to provision made by that Act;

(b) in particular, provision imposing a requirement to take action which that Act does not prohibit;

(c) provision that reproduces or applies an enactment contained in that Act, with or without modification, without affecting the enactment as it applies for the purposes of that Act.

### *Interpretation*

- ““Equal opportunities”” means the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions, but not including language.
- ““Protected characteristic”” has the same meaning as in the Equality Act 2010.
- The references to the Equality Act 2010 and any subordinate legislation made under that Act are to be read as references to those enactments, as at the principal appointed day, but treating any provision of them that is not yet in force on that day as if it were in force.

4. Are any unintended consequences likely to arise from the Bill?  
(we would be grateful if you could keep your answer to around 500 words)

26. Women who do not believe in Gender Identity Ideology may be unwilling to make a “gender statement”. Women who believe in the reality of biological sex consider women to be adult human females, which is a protected belief<sup>17</sup>. A “gender statement” is incompatible with sex-realist beliefs, and women holding sex-realist beliefs may self-exclude.

27. There is a clear risk of fewer women (females) in the Senedd if women are displaced by men with a gender statement claiming to be a woman.

28. From the Explanatory Memorandum:

*30. A further concern in the context of Senedd elections is that men generally make up a greater proportion of the pipeline of new politicians compared with women, as was visible at the 2021 Senedd election at which 69% of the 470 candidates who stood for election were men.*

69% of the candidates were men, but 57% of those elected were men. That suggests the electorate are happy to elect women when they are the best candidates. If worse candidates are selected on the basis of sex, this would undermine the respect that competent women have accrued.

29. Most women (like most men) want to be elected on merit, not because they tick a box. The use of quotas is likely to drive the belief that successful candidates are not good enough to be elected otherwise, reducing respect for MSs.

30. From the Explanatory Memorandum:

*31. As men typically outnumber women as candidates at Senedd elections, there is a risk that without the introduction of quotas the planned significant expansion of the Senedd, increasing the number of MSs from 60 to 96, will lead to a greater gender imbalance than at present.*

This suggestion is unevidenced and, presumably, there is the potential that more women will be elected.

31. The asymmetry of the proposed quotas which is designed specifically to favour people willing to provide a gender statement that says they are women is likely to cause discontent among men who find themselves excluded.

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<sup>17</sup> <https://www.gov.uk/employment-appeal-tribunal-decisions/maya-forstater-v-cgd-europe-and-others-ukeat-slash-0105-slash-20-slash-joj>

32. The evidence for specific intended outcomes resulting from quotas is weak, and predominantly rests on two academic papers, (Clayton, 2021<sup>18</sup> and Cowper-Coles 2021<sup>19</sup>).

Clayton herself says *“the positive consequences of quotas are not guaranteed. Entering into men-dominated parliaments, quota-elected women often face gendered constraints in their legislative work, particularly when they attempt to reform policies that uphold traditional male authority. As such, researchers would do best to avoid any variant of the old “add women and stir” expectation that might predict universally salutary effects following women’s rising numbers”*.

33. As referenced at paragraph 10 there is every likelihood of the Welsh Government suffering significant embarrassment from the adoption of this Bill. In not requiring evidence to support the truth (or otherwise) of a candidate’s statement, and then promoting said candidates on the basis of that statement alone, there is scope for the failures of the Bill to become known, if that statement is subsequently proven to be false.

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<sup>18</sup> <https://www.annualreviews.org/doi/abs/10.1146/annurev-polisci-041719-102019>

<sup>19</sup> <https://www.kcl.ac.uk/gjwl/assets/women-political-leaders.pdf>

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

*(we would be grateful if you could keep your answer to around 500 words)*

**34. From the Explanatory Memorandum:**

*150. Increasing the gender diversity of the Senedd is expected to lead to more effective representation. This, in turn, may reasonably be anticipated to maximise the value for money delivered through public expenditure, and thereby lead to financial savings.*

The link between financial savings and more effective representation has not been made. Spending money better (for instance on more valuable projects) is not the same as spending less money. Better representation might lead to additional funding requirements being identified.

**35. No costs are identified for:**

- debating and drafting amendments
- communicating the change to the public – e.g. via leaflets and TV advertising
- effort to enact the Bill, update statute etc
- subordinate legislation

**36. No provision has been made for any legal challenge. If the legal challenge comes from Westminster, then the Westminster government might seek to recover their costs too (should they win) as is happening in relation to the Scottish GRRB<sup>20</sup>.**

**37. The expectation that “Greater gender balance will potentially result in a Senedd that features a broader range of perspectives and a greater range of expertise” has no place in the section on costs. It is entirely unevidenced and unquantifiable.**

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<sup>20</sup> <https://www.holyrood.com/news/view,scottish-ministers-wont-contest-calls-to-pay-uk-government-grr-legal-costs-21374>

## Subordinate legislation

The powers to make subordinate legislation are set out in Part 1: Chapter 5 of the **Explanatory Memorandum** (<https://senedd.wales/media/xp4dqjto/pri-ld16394-em-e.pdf>).

The Welsh Government has also set out its **statement of policy intent for subordinate legislation**

(<https://business.senedd.wales/documents/s146049/Statement%20of%20Policy%20Intent%20PDF.%20313KB.pdf>).

**6. 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?**

*(we would be grateful if you could keep your answer to around 500 words)*

38. The Explanatory Memorandum is vague around the management of gender statements, leaving questions of scrutiny, challenge and enforcement to subordinate legislation. This Bill implements gender quotas, and as such, management of gender statements is key to its success, and should not be left to subordinate legislation.

39. From the Explanatory Memorandum

*114. The powers in the legislation also include powers for the Welsh Ministers to make specific provision in an Order under section 13 in respect of the right to inspect candidates' gender statements. Currently, restricted groups of people (including other candidates standing in the same constituency and their agents) are permitted to inspect nomination papers during the pre-electoral period.*

*115. The Bill provides the powers for these operational matters to be addressed through subordinate legislation*

*224 ... the Bill, together with the subordinate legislation to be made under it, will require the processing of personal information about candidates, which may be sensitive for some people.*

*226. The information about gender will be received by the CRO and their staff in the same way as personal and potentially sensitive information is currently received and processed. UK GDPR law will apply in these circumstances and it is anticipated that policies and guidance similar to those currently relating to how candidate information is to be protected and handled will be made relevant.*

*227. The Bill gives power to make provision in subordinate legislation about the inspection of candidate gender statements.*

40. It is not clear who will be able to inspect candidates' gender statements. Without visibility by other candidates, not only would there be no sanction for falsifying a gender statement, but there would be no grounds for challenging a gender statement either. This needs to be clarified in the Bill, not in subordinate legislation.

41. Sex is not sensitive information and will nearly always be obvious<sup>21</sup>. The Bill should not, therefore, treat gender statements as sensitive information which will prevent scrutiny.

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<sup>21</sup> <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/lawful-basis/a-guide-to-lawful-basis/lawful-basis-for-processing/special-category-data/#scd1>

## Other considerations

'Legislative Competence' is the term used to describe the scope of the Senedd's power to legislate. The 'Reserved Powers Model' established by the **Wales Act 2017** (<https://www.legislation.gov.uk/ukpga/2017/4/contents>) allows the Senedd to legislate on matters that are not reserved to the UK Parliament. A provision in a Senedd Bill is unable to modify the law on **reserved matters** (<https://www.legislation.gov.uk/ukpga/2006/32/schedule/7B/paragraph/1>).

**7. 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 would be grateful if you could keep your answer to around 500 words)

42. The introduction of mandatory gender quotas must be compliant with the Equality Act 2010 since Equality Opportunities legislation is reserved.
43. The mandatory quotas as defined by this Bill do not comply with the Equality Act 2010 because;
- Men suffer a detriment. To allow up to 100% women but only up to 50% men is unlikely to be considered a proportionate means of achieving a more effective Senedd. This is direct discrimination on the basis of sex.
  - Providing a statement that a person is a woman is not how the Equality Act 2010 defines "woman" (which is a female of any age)
  - Although the Gender Recognition Act 2004 allows for the concept of "legal sex", only those with a Gender Recognition Certificate (GRC) would qualify. A gender statement is not a GRC.
  - The Equality Act 2010 says this about shortlists: *These arrangements can include single-sex shortlists for election candidates, but not shortlists restricted to people with other protected characteristics*<sup>22</sup>.
    - A mandatory quota defined for people with the characteristics of sex and/or gender reassignment would fail this test.
    - A mandatory quota is not a short list.
    - Once parity is reached, single-sex short lists are not allowed.
  - Short lists as defined in the Equality Act 2010 are optional – something a political party can choose to do or not. This Bill would make shortlists mandatory which is beyond what the Equality Act 2010 permits.

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<sup>22</sup> <https://www.legislation.gov.uk/ukpga/2010/15/notes/division/3/7/5>

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

*(we would be grateful if you could keep your answer to around 500 words)*

44. The Equality Impact Assessment<sup>23</sup> is incomplete and badly flawed.

- There is no proper assessment of the protected characteristics.
- No evidence for many assertions made.
- Adverse impacts are not considered at all other than for gender reassignment.
- The protected characteristic of sex is misstated as sex/gender.
- Gender reassignment impacts are severe and lack appropriate mitigation.

45. An example of poor assessment of the protected characteristics - disability:

*An increase in women's representation may lead to more representation of women who are disabled by barriers in society.*

This is not a claim that more disabled people would be elected, but that women are more interested than men in the issues faced by disabled people. It is not clear why this is the responsibility of female MSs alone to take an interest in the welfare of disabled people. Despite recognising that disabled people need to be better served, as at 31 October 2023, the Welsh Government did not even know how many members of the Senedd were disabled.<sup>24</sup>

46. There is no consideration in the protected characteristic of religion or belief assessment that the gender statement might be considered a statement of gender identity and as a result would exclude anyone who does not share a belief that everyone has a gender identity.

47. The impact assessment for the protected characteristic of gender reassignment notes detriments resulting from the scrutiny of their gender statement both in the media and legally which could lead to negative mental health consequences. At 620 words, this is one of the longest assessments. By contrast, the protected characteristic of pregnancy and maternity (potentially a key reason for the lack of elected women) is dealt with in just 81 words. This demonstrates a lack of rigour for the impact on protected characteristics that impact women specifically.

48. The mitigation for the stress experienced by a candidate with the protected characteristic of gender reassignment is to ensure that gender statements are not available for scrutiny, but the implementation of a wholesale change to the Welsh system of election with this concept of gender statements at its core must operate in a transparent manner.

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<sup>23</sup> <https://www.gov.wales/senedd-cymru-electoral-candidate-lists-bill-equality-and-human-rights-impact-assessment>

<sup>24</sup> <https://www.gov.wales/senedd-cymru-members-and-elections-bill-equality-impact-assessment-html>



49. Furthermore, it is acknowledged that (certainly in lists with 50% men) the position of a candidate on a list will indicate their gender statement anyway. So the mitigation won't work.
50. The protected characteristic of sex is misstated as sex/gender. Gender is not a protected characteristic and is not defined<sup>25</sup>.

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<sup>25</sup> <https://www.legislation.gov.uk/ukpga/2010/15/contents>

**9. Are there any other issues that you would like to raise about the Bill, the accompanying Explanatory Memorandum and Regulatory Impact Assessment, or any related matters?**

*(we would be grateful if you could keep your answer to around 500 words)*

51. The UN Special Rapporteur on Violence against Women and Girls issued a statement<sup>26</sup> on 4 April 2024 regarding the CEDAW definition of “woman” (CEDAW being endorsed by the Welsh Government<sup>27</sup>). She is clear that women and girls are female people, and that “sex and sex-based discrimination is understood as a biological category”. This is at odds with a self-declared gender statement.
52. The Public Sector Equality Duty (PSED) requires public bodies – including the Welsh Government – to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act;
  - Advance equality of opportunity between people who share a relevant protected characteristic and those who do not;
  - Foster good relations between people who share a relevant protected characteristic and those who do not.

It’s a fundamental principle of the Equality Act single-sex exceptions that any positive action is “a proportionate means of achieving a legitimate aim”. Without that, it’s plain old sex discrimination. For the Bill to satisfy the PSED the proposal must show that there is a need for more women to be elected to the Senedd, and that the Bill would not cause undue detriment for other protected characteristics or damage relations. That the Explanatory Memorandum suggests that the Senedd would be improved is aspirational rather than required since current shortcomings are not evidenced.

53. This Explanatory Memorandum represents women as having a different set of interests than men, and because women are not like men, having more women elected will make the Senedd better. This is both sexist and unevidenced. Women should be fairly represented in government because it’s the right thing to do **for women**. Women are every bit as competent as men, with a wide range of policy interests. Just like men.
54. It’s important that issues faced by women but not by men – safety, healthcare, loss of earning due to childbearing – are given due regard. But most of all, creating equality of opportunity so that the best candidates are selected is good for everyone, and the best way to achieve this is to remove impediments that hold good women back. The Bill will not assist women who have been unable to overcome those impediments, rather it will actively assist those women who would already put

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<sup>26</sup> <https://www.ohchr.org/sites/default/files/documents/issues/women/sr/statements/20240404-Statement-sr-vawg-cedaw-convention.pdf>

<sup>27</sup> <https://www.google.com/url?q=https://www.gov.wales/violence-against-women-domestic-abuse-and-sexual-violence-strategy-2022-2026-html&sa=D&source=docs&ust=1712502893954543&usg=AOvVaw0OiS-coYNY1mSN1wF9nNR>

themselves forward as candidates, and those who are prepared to make a statement that they are a woman.

55. Improved child care would do more to help women in all walks of life. Better maternity pay would address financial issues. The Equality Act makes sex-based discrimination illegal (where not a proportionate means to a legitimate aim), but that needs to be properly enforced.
56. This Bill talks about women as if we are not full humans but instead a group of people with specific ways of working, interests, policy focus that is reliant on outdated sex-based stereotypes. This is very regressive.
57. The bell curves for human behaviour across the sexes have a huge overlap. The people who put themselves forward for public office are likely to be more similar to each other (male or female) than the population who choose *not* to put themselves forward, particularly within the tiny sample of those elected to the Senedd.