

# Senedd Cymru (Electoral Candidate Lists) Bill

## Stage 1 Report

June 2024



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# **Senedd Cymru (Electoral Candidate Lists) Bill**

## Stage 1 Report

June 2024



# About the Committee

The Committee was established on 12 July 2023. Its remit can be found at:  
[www.senedd.wales/SeneddReform](http://www.senedd.wales/SeneddReform)

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Current Committee membership:



**Committee Chair:  
David Rees MS**  
Welsh Labour



**Heledd Fychan MS**  
Plaid Cymru



**Darren Millar MS**  
Welsh Conservatives



**Sarah Murphy MS \***  
Welsh Labour

\* Following her appointment as the Minister for Social Partnership on 17 May 2024, Sarah Murphy MS formally recused herself from all Committee activity.

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The following Member participated in all Committee activity in accordance with Standing Order 17.49:



**Jane Dodds MS**  
Welsh Liberal Democrats

The following Member attended as a substitute during the Committee's consideration of its report:



**Vikki Howells MS**  
Welsh Labour

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## Chair's foreword

Diversity among elected members of a nation's parliament is central to a well-functioning democracy. Bringing together people from all walks of life enriches our work and we support the aspiration for a truly representative Senedd. This Bill is a step towards delivering fully diverse representation by seeking to provide parity in the representation of men and women within the Senedd.

In 2003 the Senedd became the first legislature in the world to achieve that parity. While the proportion of women Members has never fallen below 42 per cent, it is disappointing that, despite the voluntary actions taken by some political parties, equal representation has not consistently been achieved. As we look towards the election of a 96-Member Senedd in 2026, it is right that we think about measures that could contribute to the election of a Senedd that truly reflects the people we serve.

The majority of Committee members are persuaded by the international and academic evidence that legislative quotas are an effective mechanism for increasing levels of women's representation in parliaments, and thus agree with the general principles of the Bill. In doing so, we recognise that the Bill cannot guarantee parity, and will require a commitment from political parties to place women in winnable places on lists in winnable seats. The Bill must also be supplemented by other, non-legislative action to address the barriers that women often face when seeking selection and election to the Senedd.

Significant attention has been drawn to the provision in the Bill to require candidates, as part of the process of being nominated by a political party, to make a statement about whether they are a woman or not a woman. A majority of Committee members are content with the provision and believe it to be a proportionate means of implementing and enforcing compliance with the quota rules. However, as a Committee, we all agree that it is necessary to protect against abuse of the process by including making a false statement within the corrupt practice offence that applies to the provision of any other false information on a nomination form.

Though there are different views about whether the general principles should be agreed and on other aspects of the Bill, we are united in our concerns about the potential risks that could arise if the uncertainty about the Senedd's legislative competence in relation to this Bill is not resolved prior to the Bill's implementation. If the Bill is passed by the Senedd, we believe that the Counsel

General must exercise his power under section 112 of the Government of Wales Act 2006 to refer the Bill to the Supreme Court in order to put any uncertainty beyond doubt.

A handwritten signature in black ink that reads "David F. Rees." The signature is written in a cursive style with a large initial 'D'.

**David Rees MS,**

Chair, Reform Bill Committee

## Recommendations

**Recommendation 1.** By majority, we recommend that the Senedd should agree the general principles of the Senedd Cymru (Electoral Candidate Lists) Bill, but, throughout their ongoing scrutiny of the Bill, Members of the Senedd should have regard to the issues highlighted in our report.....Page 39

**Recommendation 2.** The Member in charge should clarify which situations involving the removal of a candidate from a list will be detailed in the Conduct Order in accordance with new section 7D(1)(a) (to be inserted into the Government of Wales Act 2006), and provide detail of the Welsh Government’s policy intentions in relation to each circumstance.....Page 62

**Recommendation 3.** The Member in charge should bring forward amendments at Stage 2 to change the “may” in new section 7D(1) (to be inserted into the Government of Wales Act 2006) to a “must” as it relates to provision to be made in the Conduct Order in relation to the effect of the removal of a candidate from a list of candidates on compliance with sections 7A and 7B.....Page 62

**Recommendation 4.** The Member in charge should confirm that provision made in the Conduct Order in relation to the effect of the removal of a candidate from a list of candidates on compliance with sections 7A and 7B will require that where a candidate withdraws after a list had been submitted, the remaining list must be reassessed against the quota rules. If that assessment finds that the list is no longer compliant, the party should be given an opportunity to reorder their candidates to achieve compliance. If the party’s view is that they wish to stand an additional candidate to replace the withdrawn candidate, that additional candidate must have made the same statement as the withdrawn candidate on whether they are a woman or not a woman.....Page 63

**Recommendation 5.** The Member in charge should bring forward amendments at Stage 2 to include provision that requires vacancies arising between elections to be filled by the next eligible and willing person on the list who made the same statement as the outgoing Member on whether they are a woman or not a woman. If no such candidates remain on the list, the vacancy may be filled by the next eligible and willing person on the list who did not make the same statement. ....Page 63

**Recommendation 6.** When giving effect to our recommendations 4 and 5 in the Conduct Order, the Member in charge should undertake a data protection

impact assessment to ensure that any appropriate steps are taken in respect of the retention of candidates' statements on whether they are a woman or not a woman for an appropriate period (which, for casual vacancies, would be the duration of the relevant Senedd term).....Page 64

**Recommendation 7.** The Member in charge should bring forward amendments at Stage 2 to include a requirement on the face of the Bill that the Welsh Ministers must make provision in the Conduct Order for the designation of a deputy National Nominations Compliance Officer..... Page 74

**Recommendation 8.** The Member in charge should provide assurances that the performance standards and offence of breach of official duty that apply to Constituency Returning Officers will be extended to the National Nominations Compliance Officer (and deputy National Nominations Compliance Officer). In her response to our report, she should outline whether any primary or secondary legislative changes will be required to achieve this..... Page 74

**Recommendation 9.** The Member in charge should commit to making provision in the Conduct Order to extend the corrupt practice offence for providing false statements in nomination and other papers to include false statements made under section 7D(2) (to be inserted into the Government of Wales Act 2006). In her response to our report, she should outline whether any primary or secondary legislative changes will be required to achieve this.....Page 93

**Recommendation 10.** The Member in charge should bring forward amendments at Stage 2 to require that if the Senedd decides to establish a committee pursuant to a motion under section 2(1) of the Senedd Cymru (Electoral Candidate Lists) Act 2024, the Welsh Ministers must collect and publish sufficient data about the diversity of candidates and elected Members to inform the committee's review. If the Bill is amended in accordance with our recommendation 11 to place responsibility for reviewing the effect and operation of the Act and related provision on the Welsh Ministers, the requirement to collect and publish data should be incorporated within that statutory review provision.....Page 99

**Recommendation 11.** The Member in charge should bring forward amendments at Stage 2 to:

- Remove section 2 (review of operation and effect of the Act) from the Bill on the basis that the provision is constitutionally problematic and legally unnecessary.

- Require the Welsh Ministers to review and report on the operation and effect of sections 7A to 7D of the Government of Wales Act 2006 and any related provision made under section 13 of that Act or under the Senedd Cymru (Electoral Candidate Lists) Act 2024. The outcomes of this review will inform decisions to be taken by future Seneddau and their committees whether, and if so, when and how, they consider it appropriate to conduct post-legislative scrutiny. ....Page 100

**Recommendation 12.** If the Member in charge does not accept our recommendation 11, she should bring forward amendments at Stage 2 to remove section 2(2)(b) (which requires the motion tabled by the Presiding Officer to propose that the committee established to review the operation and effect of sections 7A to 7D of the Government of Wales Act 2006 and any related provision made under section 13 of that Act or under the Senedd Cymru (Electoral Candidate Lists) Act 2024 must complete a report on the review no later than twelve months after the first meeting of the first Senedd to be elected after section 1 of the Senedd Cymru (Electoral Candidate Lists) Bill comes into force).  
.....Page 100

**Recommendation 13.** If the Member in charge does not accept our recommendations 11 or 12, she should bring forward amendments at Stage 2 to section 2(2)(b) to replace the current requirement that the motion tabled by the Presiding Officer must specify that the committee’s work is to be completed within twelve months of the first meeting of the first Senedd to be elected after section 1 of the Senedd Cymru (Electoral Candidate Lists) Bill comes into force with provision that the motion may include a proposed deadline by which the committee’s report is to be completed. ....Page 101

**Recommendation 14.** As part of the development of and consultation on the Conduct Order, the Welsh Government should undertake, and publish, an equality impact assessment on the proposed election timetable. This should include assessment of any impacts on people from different socio-economic backgrounds..... Page 114

**Recommendation 15.** The Member in charge should detail all costs associated with implementing the Senedd Cymru (Electoral Candidate Lists) Bill discretely from the Senedd Cymru (Members and Elections) Bill in a revised Regulatory Impact Assessment. .... Page 114

**Recommendation 16.** The Member in charge should clarify whether the additional £6,000 cost identified since publication of the Regulatory Impact

Assessment will be borne by the Welsh Government or the Electoral Commission, and reflect the additional cost in a revised Regulatory Impact Assessment.

..... Page 115

**Recommendation 17.** The Member in charge should work with the Llywydd, the Electoral Commission, electoral administrators, political parties and such other stakeholders as she considers appropriate to develop and publish a clear pathway for identifying, managing and mitigating any risks to the conduct and/or outcomes of the 2026 Senedd election that may result from the lack of consensus about whether the Senedd has legislative competence to pass the Senedd Cymru (Electoral Candidate Lists) Bill. The pathway must be published prior to the Senedd being asked to pass the Bill at Stage 4 of the legislative process.

..... Page 141

**Recommendation 18.** The Member in charge should, after the current UK general election period, discuss with the UK Government the mechanisms through which the question of whether the Senedd Cymru (Electoral Candidate Lists) Bill would be within the Senedd’s legislative competence may be put beyond doubt, including any potential use of an Order in Council under section 109 of the Government of Wales Act 2006 or an Act of the UK Parliament with the objective of avoiding prolonged legal debate and ensuring that any uncertainty is resolved in advance of the 2026 Senedd election. The Member in charge must lay a statement before the Senedd providing an update on these discussions prior to the Senedd being asked to pass the Bill at Stage 4 of the legislative process.

..... Page 142

**Recommendation 19.** If the Senedd Cymru (Electoral Candidate Lists) Bill is passed by the Senedd at Stage 4 of the legislative process, then, in order to put the question of whether the Bill would be within the Senedd’s legislative competence beyond doubt, the Counsel General must exercise his power under section 112 of the Government of Wales Act 2006 to refer the Bill to the Supreme Court and request that the matter is considered, if possible, within an expedited timescale that would not, if the Bill is found to be within competence, prevent candidate quotas from being implemented for the 2026 Senedd election.

..... Page 143

While not related to the provisions in the Bill, the remaining recommendations address other barriers to selection and election and parliamentary business post-election.

**Recommendation 20.** The Senedd Commission should commission a gender sensitive audit of the Senedd’s culture, ways of working and facilities. The outcomes of the audit should be available in sufficient time to inform decisions on the Cardiff Bay 2032 project, and decisions to be taken by the Seventh Senedd about its ways of working. .... Page 161

**Recommendation 21.** The Senedd Commission should ensure that its Tŷ Hywel 2026, Siambr 2026 and Cardiff Bay 2032 projects are informed by engagement and consultation with diversity organisations to ensure that decisions are informed by best practice and are futureproofed in respect of the potential needs of currently underrepresented groups, in addition to the needs identified by current Members, support staff, Welsh Government staff, Commission staff and associated trade unions. Similar engagement and consultation should inform work to ensure that committees, their meetings and informal activities are fully accessible to Members, Commission staff and contributors to their work. .... Page 162

**Recommendation 22.** The Welsh Government should commission research on the best ways to provide financial support for women candidates from underrepresented groups. This should include consideration of how funding can be targeted and allocated, and the form that financial support should take. The research should be completed in time to ensure that new financial assistance schemes can be in place in sufficient time to enable potential candidates to make informed decisions about whether to put themselves forward for selection or election at the 2026 Senedd election..... Page 162

**Recommendation 23.** The Welsh Government should work with the Electoral Commission and other partners to ensure that sufficient guidance and support is in place for candidates and elected Members on handling abuse and harassment, including how to report it and what support is available for those affected by it. .... Page 163

**Recommendation 24.** The Welsh Government should make further representations to the UK Government seeking information about how the UK Government has kept section 106 of the Equality Act 2010 under review since 2020, and what further consideration it has given to the commencement of the provision. The Welsh Government should also reiterate its call for section 106 to be commenced in relation to Senedd elections (and/or for the power to do so to be transferred to the Welsh Ministers)..... Page 163

**Recommendation 25.** The Welsh Government should explain why section 30 of the Elections and Elected Bodies (Wales) Bill (as inserted by amendment at Stage 2) requires the guidance to be published by the Welsh Ministers in relation to the collection and publication of candidate diversity data by political parties to cover only Senedd elections, and not all devolved Welsh elections.....Page 164



# 1. Introduction

## The Bill

1. On 11 March 2024, the then Minister for Social Justice and Chief Whip, Jane Hutt MS ('the Member in charge'), introduced the Welsh Government's Senedd Cymru (Electoral Candidate Lists) Bill ('the Bill' or 'the SC(ECL) Bill') to the Senedd.<sup>1</sup> On the same day, she laid an accompanying Explanatory Memorandum ('the EM') (incorporating the Regulatory Impact Assessment ('RIA') and Explanatory Notes<sup>2</sup>, published a Statement of Policy Intent for Subordinate Legislation<sup>3</sup>, and made a written statement<sup>4</sup>. On 12 March 2024, she made an oral statement in Plenary.<sup>5</sup>
2. Following his appointment, the new First Minister wrote to the Llywydd to confirm that Jane Hutt MS, as Trefnydd and Chief Whip, would remain the Member in charge of the Bill.<sup>6</sup>
3. In accordance with Standing Order 26.9, the Business Committee referred the Bill to us for Stage 1 scrutiny of the Bill's general principles with a reporting deadline of 7 June 2024.

## Terms of reference

4. On 13 March 2024, we agreed to consider:
  - The general principles of the Bill and whether there is a need for legislation to deliver the Bill's stated policy objective, which is to make the Senedd a more effective legislature by ensuring it is broadly representative of the gender make-up of the population.
  - The system of enforcement and potential sanctions for non-compliance.

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<sup>1</sup> Information about the Bill and its passage through the Senedd is available on the [Bill's webpage](#).

<sup>2</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024

<sup>3</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Statement of Policy Intent for Subordinate Legislation](#), 11 March 2024

<sup>4</sup> Welsh Government, [Written statement: Senedd Cymru \(Electoral Candidate Lists\) Bill](#), 11 March 2024

<sup>5</sup> Plenary [RoP](#) [paras 121-130], 12 March 2024

<sup>6</sup> [Letter from the First Minister](#), 5 April 2024

- Any potential barriers to the implementation of the Bill’s provisions, and whether the Bill and accompanying EM and RIA take adequate account of them.
- Whether there are any unintended consequences arising from the Bill.
- The Welsh Government’s assessment of the financial and other impacts of the Bill as set out in Part 2 of the EM.
- The appropriateness of the powers in the Bill for the Welsh Ministers to make subordinate legislation (as set out in Part 1: Chapter 5 of the EM).
- Matters relating to the competence of the Senedd.
- The balance between the information contained on the face of the Bill and what is left to secondary legislation.
- Any matter related to the quality of the legislation.
- Any other matter related to the constitutional or other implications of the Bill.

## **Scrutiny timetable**

**5.** On 12 March 2024, the Business Committee determined the timetable for our consideration of the Bill’s general principles. It set a reporting deadline of 7 June 2024. This provided us with nine sitting weeks to complete our work, which is a departure from the usual twelve sitting weeks we would generally expect for Stage 1 scrutiny of Bills.

**6.** Prior to approving the timetable, the Business Committee asked the then Trefnydd, Lesley Griffiths MS, to provide some additional information on the need for an expedited scrutiny timetable for the Bill. In subsequent correspondence, she said the proposed timetable was “fundamental to maintaining a pathway to implementing the measures in time for the 2026 Senedd election” and reiterated the Welsh Government’s commitment to abide by the Gould Convention (that electoral law should not be changed within six months of an election that the change would impact).<sup>7</sup>

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<sup>7</sup> [Letter from the Llywydd](#), 15 March 2024 [see annexed letter]

## Our approach

7. On 15 March 2024 we issued a general call for written evidence. To ensure the evidence received could inform the majority of our oral evidence sessions, the deadline was 12 April 2024. We received 485 responses.<sup>8</sup>
8. We also commissioned a question in a YouGov Welsh political omnibus survey to test public attitudes on the principle of legislative candidate quotas for Senedd elections.<sup>9</sup>
9. Between 13 March and 1 May 2024 we held oral evidence sessions with the Member in charge and key stakeholders.<sup>10</sup>
10. We have engaged in correspondence with a range of stakeholders, including the Senedd Commission and the Independent Remuneration Board of the Senedd.<sup>11</sup>
11. We are grateful to everyone who has shared their views, experiences, evidence and expertise with us. We know not everyone who has contributed to our work will agree with our conclusions and recommendations. But, we would like to assure everyone who has taken part in our work that every contribution has been carefully considered and taken into account as we have conducted our scrutiny, reached our conclusions, and prepared this report.

## Participation of Jane Dodds MS

12. While Jane Dodds MS is not formally a member of the Committee, she has participated fully in our work in accordance with Standing Order 17.49.<sup>12</sup> This includes the development and agreement of the conclusions and recommendations set out in our report.

## Scrutiny of the Bill by other Senedd committees

13. In line with their usual practice, the Finance Committee and the Legislation, Justice and Constitution Committee scrutinised the Bill on their respective areas

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<sup>8</sup> The written responses we received may be read in full on the [Bill's webpage](#).

<sup>9</sup> [YouGov survey findings](#), April 2024

<sup>10</sup> Details of the oral evidence sessions, including links to the transcripts and Senedd.tv broadcasts, are available on the [Bill's webpage](#) and in Annex 3.

<sup>11</sup> All of the correspondence is available on the [Bill's webpage](#).

<sup>12</sup> Standing Order 17.49 provides that Members who are not members of a committee may, with the permission of the chair, participate in a committee meeting but may not vote.

of interest. Information about their work, and their conclusions, can be found on the Bill's webpage.

## **Our view**

**14.** The Bill is part of a package of electoral reform brought forward by the Welsh Government. While we acknowledge the interdependencies between this Bill and the Senedd Cymru (Members and Elections) Bill, and recognise the timescales for implementation ahead of the 2026 Senedd election, we are disappointed with the limited time available to conduct our scrutiny of the general principles.

**15.** The curtailed timetable has necessarily constrained our approach to scrutiny and the time available to gather and reflect on the evidence in reaching our conclusions. It has also restricted the time available for the public to engage with our work, and limited stakeholders' ability to conduct their own analyses and prepare evidence. This is particularly unfortunate given the significant public interest in the Bill and Senedd reform more generally, and because this is the first Bill that a Llywydd has said is, in their view, wholly outside the Senedd's legislative competence.

**16.** Effective scrutiny needs sufficient time and, while we have done the best we can within the challenging timeframe, our view is that it must not set a precedent for the use of curtailed scrutiny timetables going forward.

## 2. General principles of the Bill

### Background

17. In an oral statement on the Bill's introduction, the Member in charge said:

*"This is the second Bill within a package of reforms whose purpose is to make the Senedd a more effective legislature that is better able to serve the people of Wales.*

*[...] the purpose of this Bill is to strengthen the Senedd by seeking to ensure that it broadly reflects the gender make-up of the population it serves, in particular with regard to the representation of women".<sup>13</sup>*

18. The Bill has been introduced as part of the Welsh Government's wider programme of electoral reform, which includes the Senedd Cymru (Members and Elections) Bill<sup>14</sup> ('the SC(ME) Bill') and the Elections and Elected Bodies (Wales) Bill<sup>15</sup> ('the EEB Bill').

19. The Bill should be read in conjunction with the provisions in Part 2 of the SC(ME) Bill relating to the proposed electoral system for Senedd general elections.

20. Rather than creating standalone legislation, most of the Bill's provisions amend the Government of Wales Act 2006 ('the GoWA 2006').

#### **Box 1 Summary of the SC(ECL) Bill provisions**

If passed, the Bill will:

- Introduce an integrated statutory gender quota to the closed list proportional representation electoral system expected to be introduced by the SC(ME) Bill.
- Where a registered political party chooses to submit a list or lists of candidates for election to the Senedd, require that those lists comply with quota rules set out in the Bill.

<sup>13</sup> Plenary RoP [paras 121 and 123], 12 March 2024

<sup>14</sup> [Senedd Cymru \(Members and Elections\) Bill](#)

<sup>15</sup> [Elections and Elected Bodies \(Wales\) Bill](#)

- Require at least half of the candidates on a party's list in each Senedd constituency to be women (in cases where the list contains two or more candidates). In addition, require that a list must be ordered such that a candidate on a list who is not a woman must be followed immediately by a candidate who is a woman (unless they are last on the list). This is known as the vertical placement criteria.
- Require the first or only candidate on at least half of the lists submitted by a party to be a woman (in cases where a party has submitted lists in two or more Senedd constituencies). This is known as the horizontal placement criteria.
- Provide for the creation of a National Nominations Compliance Officer ('NNCO') to oversee compliance with the horizontal placement criteria.
- Require all candidates on a party's list to state either whether they are, or are not, a woman.
- Provide for the review of the operation and effect of the new legislative provisions (by requiring the Presiding Officer<sup>16</sup> to propose the establishment of a Senedd committee to review specified matters).

## **Consideration of legislative competence**

**21.** The Llywydd has stated that, in her view, the provisions of the Bill would not be within the Senedd's legislative competence because it:

- Relates to the reserved matters of 'equal opportunities'.
- Modifies the law on reserved matters, namely the Equality Act 2010.<sup>17</sup>

**22.** We sought our own legal advice to inform our consideration. We discuss issues relating to legislative competence in detail in chapter 8.

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<sup>16</sup> Throughout this report, when referring to a potential holder of the office of Presiding Officer in a future Senedd, we use the term 'Presiding Officer' or 'PO'. When referring to evidence given by the current officeholder, we use the term 'Llywydd'.

<sup>17</sup> [Presiding Officer's statement on legislative competence](#), 11 March 2024

## General principles of the Bill

**23.** In accordance with Standing Order 26.10, our role is to consider the general principles of the Bill and report to the Senedd in order to inform decisions about whether the Bill should proceed to the next stages of the legislative process.

**24.** We received mixed views on the general principles of the Bill. Those sharing their personal views were predominantly opposed to the Bill (see Box 2), whereas there was more support for the proposals from organisations and people sharing their professional views (see Box 3).

### **Box 2 Examples of views on the general principles of the Bill provided by people who contributed to our work in a personal capacity<sup>18</sup>**

Among the most dominant themes were:

- Suggestions that any candidate quotas (or other legislative measures) should be on the basis of sex not gender.
- Candidates should be selected/elected on merit, not on the basis of their characteristics (whether sex, gender or other protected characteristics).
- As a candidate's statement on whether they are a woman or not a woman is to be taken at face value, whether this would allow male candidates to declare themselves as women (with reference to matters including potential for abuse of the process, risks to women and girls, erosion of women's and girls' rights, a precedent for permitting gender self-identification in other aspects of life and/or a decrease in female representation).
- Calls for candidates to be required to provide birth certificates or other documents to evidence their statements.
- Calls for a referendum before the proposals could come into force.

Other issues raised included:

- Support for the principle of a more representative Senedd, but scepticism about whether legislative candidate quotas are the appropriate way to achieve it (with reference to the Senedd's record of women's representation).

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<sup>18</sup> Responses may be found in full on the [consultation webpage](#).

- All Members should be able to represent all of their constituents regardless of their characteristics.
- Whether the Bill would increase the quality of representation (with reference to potential for less-qualified candidates to be placed higher on lists to comply with quotas).
- Women Members could be perceived as being elected only as a result of candidate quotas, and not on their own merits.
- Calls for a focus on removing barriers that discourage or prevent women from standing for election (including matters such as childcare, harassment and abuse, working conditions, the nature of the role of Member, and the extent to which political parties were welcoming to women).
- Whether there would be a disproportionate impact on smaller parties who may have smaller candidate pools on which to draw.
- Whether the Bill is sufficiently inclusive of non-binary people and trans women.
- Whether the Bill discriminates against men.
- Reference to wider debates about gender identity.
- Whether the NNCO's powers to reorder lists are appropriate.
- Implications for the perception/reputation of the Welsh Government and/or Senedd domestically and internationally (with reference to matters including the lack of consensus on legislative competence; compliance with equalities and human rights legislation; potential unintended consequences; implications for Welsh democracy and voter engagement; and prioritisation relative to service delivery/policy areas such as health, education, transport and economic development).
- Costs (with reference to matters including opposition to the Bill and/or concern about legal challenges).
- Public information and awareness-raising.
- Opposition to the SC(ME) Bill, especially the number of Members and the closed list electoral system.



**Box 3 Examples of views on the general principles of the Bill provided by organisations and people who contributed to our work in a professional capacity**

Among the most dominant themes were:

- The benefits that improved representation would bring in terms of more diverse perspectives and lived experiences, better policy-making, improved decision-making and greater legitimacy.<sup>19</sup>
- Calls for wider diversity and inclusion measures to address women experiencing intersecting discrimination, and to improve representation of people with other protected characteristics/from marginalised groups.<sup>20</sup>
- The parameters of the statement on whether a candidate is a woman or not a woman (with reference to whether a more defined approach was needed, and the potential for legal challenge).<sup>21</sup>

Other issues raised included:

- The importance of the Bill as part of the wider package of electoral reform, (with reference to matters including the influence of political parties in the proposed closed list electoral system and the aim of achieving a more representative Senedd as well as one with increased capacity).<sup>22</sup>
- The widespread use of candidate quotas worldwide and suggestions that candidate quotas are the most effective way to increase women's representation.<sup>23</sup>
- The Senedd's strong record of women's representation as context for whether the Bill was required.<sup>24</sup>

<sup>19</sup> For example: SCECLB2-P Electoral Reform Society Cymru, SCECLB9-P Fawcett Society, SCECLB23-P Dr Ola Abdelaal, University of Manchester, SCECLB37-P Dr Maarja Lühiste, Newcastle University

<sup>20</sup> For example: SCECLB5-P Diverse5050, SCECLB12-P Athina Mara, SCECLB14-P Professor Meryl Kenny, University of Edinburgh, SCECLB36-P Welsh Women Speak Out

<sup>21</sup> For example: SCECLB7-P Women's Rights Network, SCECLB8-P Equality and Human Rights Commission, SCECLB16-P Dr Larissa Peixoto Vale Gomes, University of Edinburgh, SCECLB20-P Lesbian, Gay & Bisexual Alliance Cymru, SCECLB22-P Merched Cymru, SCECLB23-P Dr Ola Abdelaal, University of Manchester, SCECLB24-P Chwiorydd Plaid, SCECLB28-P Stonewall Cymru, SCECLB37-P Dr Maarja Lühiste, Newcastle University, SCECLB39-P Welsh Young Liberals

<sup>22</sup> SCECLB2-P Electoral Reform Society Cymru, SCECLB5-P Diverse5050

<sup>23</sup> SCECLB5-P Diverse5050, SCECLB25-P Dr Anne Jenichen

<sup>24</sup> SCECLB7-P Women's Rights Network, SCECLB36-P Welsh Women Speak Out

- The potential vulnerability of the Senedd’s record of women’s representation, and its susceptibility to inconsistency if it relies on the voluntary action taken by, and electoral success of, certain political parties.<sup>25</sup>
- The need to attract women to stand as candidates and to address the range of barriers facing women seeking election (with reference to matters including harassment and abuse, caring responsibilities, and political culture) and calls for measures including financial assistance, job-sharing, and mentoring/training.<sup>26</sup>
- Whether the Bill could deter transgender and gender non-conforming people from standing for election.<sup>27</sup>
- Whether the Bill appears to introduce a system of gender self-identification and/or could result in men being overrepresented (with reference to matters including the lack of sanctions for falsifying a statement and the grounds for challenge).<sup>28</sup>
- Whether or not the Bill is within the Senedd’s legislative competence.<sup>29</sup>

## Alternative approaches

**25.** Our terms of reference included consideration of whether legislation is needed to deliver the Bill’s policy objectives. We explored whether legislative candidate quotas are needed or whether the actions that political parties can currently take voluntarily are sufficient.

**26.** Written evidence from Welsh Labour highlighted that it has equality measures in place already, including operating candidate quotas for regional lists.<sup>30</sup> Plaid Cymru explained that it has taken different types of action over the last 25 years to achieve a better mix of candidates, including twinning its top 20 constituencies at the last Senedd election.<sup>31</sup>

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<sup>25</sup> SCECLB2–P Electoral Reform Society Cymru, SCECLB5–P Diverse5050

<sup>26</sup> For example: SCECLB5–P Diverse5050, SCECLB7–P Women’s Rights Network, SCECLB9–P Fawcett Society, SCECLB22–P Merched Cymru, SCECLB41–P Plaid Cymru

<sup>27</sup> SCECLB11–P Little Brighthouse, SCECLB28–P Stonewall Cymru

<sup>28</sup> For example: SCECLB7–P Women’s Rights Network, SCECLB20–P Lesbian, Gay & Bisexual Alliance Cymru, SCECLB22–P Merched Cymru, SCECLB24–P Chwirydd Plaid

<sup>29</sup> For example: SCECLB1–P Keith Bush KC, SCECLB6–P Professor Emyr Lewis, SCECLB35–P Elisabeth Jones, SCECLB42–P Thomas Glyn Watkin KC

<sup>30</sup> SCECLB29–P Welsh Labour

<sup>31</sup> RoP [para 263], 18 April 2024

**Table 1 Representation by party since 1999<sup>32</sup>**

		Women		Men		Total
		Number	Per cent	Number	Per cent	
<b>1999</b>	Welsh Labour	16	57	12	43	28
	Welsh Conservatives	0	0	9	100	9
	Plaid Cymru	6	35	11	65	17
	Welsh Liberal Democrats	3	50	3	50	6
	<b>Total</b>	<b>25</b>	<b>42</b>	<b>35</b>	<b>58</b>	<b>60</b>
<b>2003</b>	Welsh Labour	19	63	11	37	30
	Welsh Conservatives	2	18	9	82	11
	Plaid Cymru	6	50	6	50	12
	Welsh Liberal Democrats	3	50	3	50	6
	Independent	0	0	1	100	1
	<b>Total</b>	<b>30</b>	<b>50</b>	<b>30</b>	<b>50</b>	<b>60</b>
<b>2007</b>	Welsh Labour	16	62	10	38	26
	Welsh Conservatives	1	8	11	92	12
	Plaid Cymru	7	47	8	53	15
	Welsh Liberal Democrats	3	50	3	50	6
	Independent	1	100	0	0	1
	<b>Total</b>	<b>28</b>	<b>47</b>	<b>32</b>	<b>53</b>	<b>60</b>
<b>2017</b>	Welsh Labour	15	50	15	50	30
	Welsh Conservatives	4	29	10	71	14
	Plaid Cymru	4	36	7	64	11
	Welsh Liberal Democrats	2	40	3	60	5

<sup>32</sup> Representation as at the relevant election. Does not take account of subsequent changes in group membership, by-elections or the filling of regional vacancies. Source for 1999-2016: [A Parliament that works for Wales](#), November 2017. Figures for 2021 are assumptions based on the information available.

		Women		Men		Total
		Number	Per cent	Number	Per cent	
	Total	25	42	35	58	60
2016	Welsh Labour	15	52	14	48	29
	Welsh Conservatives	3	27	8	73	11
	Plaid Cymru	4	33	8	67	12
	Welsh Liberal Democrats	1	100	0	0	1
	UKIP	2	29	5	71	7
	<b>Total</b>	<b>25</b>	<b>42</b>	<b>35</b>	<b>58</b>	<b>60</b>
2021	Welsh Labour	17	57	13	43	30
	Welsh Conservatives	3	19	13	81	16
	Plaid Cymru	5	38	8	62	13
	Welsh Liberal Democrats	1	100	0	0	1
	<b>Total</b>	<b>26</b>	<b>43</b>	<b>34</b>	<b>57</b>	<b>60</b>

**27.** Some contributors supported the introduction of statutory candidate quotas. For example, Professor Meryl Kenny said legal quotas “ensure that representation is everybody’s responsibility”, stating that levels of women’s representation in the Senedd vary significantly across parties, have fluctuated over time, and are largely due to voluntary candidate quotas adopted by some parties.<sup>33</sup> Diverse5050<sup>34</sup> highlighted that the adoption of voluntary quotas by some parties has “failed to deliver consistent, long-term results”.<sup>35</sup> The Electoral Reform Society Cymru (‘the ERS Cymru’) said voluntary quotas rely on parties opting in (and the electoral success of those parties), and is “something that you can’t really leave to chance”.<sup>36</sup> This was echoed by Joyce Watson MS, Rhianon Passmore MS and Sioned Williams

<sup>33</sup> RoP [paras 415-416], 18 April 2024

<sup>34</sup> A coalition campaign in partnership between the Women’s Equality Network (WEN) Wales, Electoral Reform Society Cymru, Race Council Cymru, and EYST Wales (Ethnic Youth Support Team)

<sup>35</sup> SCECLB5-P Diverse5050

<sup>36</sup> RoP [para 45], 24 April 2024

MS, providing evidence as members of the Senedd Women’s Caucus.<sup>37</sup> Joyce Watson MS, Chair of the Senedd Women’s Caucus said:

*“The evidence is clear, and I’ve presented it, that wherever you leave something to a party, the governing body of that party can change and their views can change, so it’s subject to change, subject to individuals supporting that position. What this does—and why I support this—is that it puts it in legislation. And I think that’s helpful to the parties as well, because the parties don’t have to say, ‘We’re doing this’, and you have all of the internal wrangling about it. What the parties will then say is, ‘The law determines that we have to do this’, and I think that’s very helpful”.*<sup>38</sup>

**28.** In contrast, another member of the Senedd Women’s Caucus, Janet Finch-Saunders MS, said she did not see the need for legislation, indicating that “parties should be encouraging women, but I feel that [the Welsh Conservatives are] doing that”.<sup>39</sup>

**29.** Merched Cymru and the Women’s Rights Network dismissed the need for legislative quotas, arguing that relatively high levels of women’s representation in the Senedd have been achieved through the actions taken by political parties on a voluntary basis.<sup>40</sup> In its written evidence, the Women’s Rights Network referred to the findings of the Special Purpose Committee on Senedd Reform (‘the SPCSR’):

*“But [Reforming our Senedd: A stronger voice for the people of Wales] 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’”.*<sup>41</sup>

**30.** Professor Mona Lena Krook told us the effectiveness of voluntary candidate quotas in countries such as Sweden is due to the measure being adopted by almost all parties. In the absence of this context, she said:

<sup>37</sup> RoP [paras 278, 280-281 and 285], 24 April 2024

<sup>38</sup> RoP [para 278], 24 April 2024

<sup>39</sup> RoP [para 291], 24 April 2024

<sup>40</sup> SCECLB22-P Merched Cymru and SCECLB7-P Women’s Rights Network

<sup>41</sup> SCECLB7-P Women’s Rights Network

*“I think that legal quotas are really the best mechanism, because it ensures that all parties do it. It also provides a means for imposing sanctions for non-compliance. So, with a voluntary quota, it’s just voluntary, so if a party wants to ignore that commitment that they made, they’re free to do that. And I think, also, legal measures allows us to think about specific details about what’s required by the measure. The idea of alternating between women and men candidates is something that, if you put that in the law, is part of the expectation of compliance with the measure. With a voluntary quota, some parties might commit to that, but they may not, so I think just for a more solid way to institutionalise this commitment to parity, legal quotas are really the way to go”.<sup>42</sup>*

## The principle of legislative candidate quotas

### The effectiveness of legislatures with higher levels of women’s representation

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**31.** The EM states that the Bill’s overall purpose is to make the Senedd:

*“[...] a more effective legislature for, and on behalf of, the people of Wales. To achieve this, the Bill aims to ensure the Senedd is broadly representative of the gender make-up of the population”.<sup>43</sup>*

**32.** We explored how legislative candidate quotas would lead to a more effective Senedd with the Member in charge. She highlighted evidence and research which “shows that gender-balanced legislatures can be more effective legislatures because of women’s focus on different policy areas, collaborative leadership styles and approaches to work”. She added:

*“Evidence relating to North America, Sweden, Latin America, Africa—what a difference it’s made in Africa, in terms of women’s leadership—and south Asia is that there’s a difference between male and female citizens in terms of the issues they consider as most important, with*

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<sup>42</sup> RoP [para 418], 18 April 2024

<sup>43</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 3

*women tending to report more concern about healthcare and poverty than men”.*<sup>44</sup>

**33.** In its written evidence, the Fawcett Society referenced research conducted by the King’s Global Institute for Women’s Leadership<sup>45</sup>:

*“Their findings show that:*

- *Women policy makers prioritise issues that benefit the most vulnerable in society (healthcare, welfare, education etc)*
- *That women work harder than men to represent their constituencies – linked to a stronger sense among voters that the government is responsive to their needs*
- *Women bring more collaborative and inclusive leadership into political environments that are often characterised by division and one-upmanship”.*<sup>46</sup>

**34.** Research demonstrating the positive impact of women’s representation on policy-shaping and decision-making was raised in the written evidence received from a number of academics.<sup>47</sup> Professor Kenny also referred to extensive evidence on the impact of quota measures on women’s numerical representation, and the perception and work of political institutions more broadly.<sup>48</sup>

### **The impact of legislative quotas on the number of women elected**

**35.** The EM states that “men generally make up a greater proportion of the pipeline of new politicians compared to women”, noting that 69 per cent of candidates for the 2021 Senedd elections were men. The Welsh Government suggests that:

<sup>44</sup> RoP [para 119 and 121], 13 March 2024

<sup>45</sup> [King’s Global Institute for Women’s Leadership, Women Political Leaders: The Impact of Gender on Democracy](#)

<sup>46</sup> SCECLB9–P Fawcett Society

<sup>47</sup> SCECLB14–P Meryl Kenny, University of Edinburgh, SCECLB15–P Jennifer Piscopo, Royal Holloway University of London, SCECLB23–P Dr Ola Abdelaal, University of Manchester, SCECLB37–P Dr Maarja Lühiste, Newcastle University, SCECLB38–P Dr Louise K. Davidson-Schmich, University of Miami

<sup>48</sup> Rop [para 409], 18 April 2024

*“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”.<sup>49</sup>*

**36.** Referring to the statement above, the Women’s Rights Network argued that it is “unevidenced and, presumably, there is potential that more women will be elected”.<sup>50</sup>

**37.** Professor Sarah Childs, former member of the Expert Panel on Assembly Electoral Reform (‘the Expert Panel’) told us the integration of candidate quotas is “absolutely fundamental” to the Senedd’s increase in size and changes to its electoral system.<sup>51</sup> This was echoed by Professor Kenny, who said that without integrated quotas alongside the other Senedd electoral reforms:

*“[...] there’s a risk that Wales, which has had a leading representation on women’s representation, might see fallback or stagnation in those numbers”.<sup>52</sup>*

**38.** External research conducted by Dr William T Daniel for Senedd Research noted that a major barrier to women’s entry into elected office is the “outsized benefits” that incumbent politicians have when seeking re-election. He concluded that the combination of an increased number of seats (without any incumbents in place) and the new quota law should “further facilitate access for women”.<sup>53</sup>

**39.** Diverse5050 highlighted that “men currently significantly outnumber women as candidates at all levels of Welsh elections” and suggested that an increase in the overall number of Members of the Senedd in the absence of quota measures “could easily result in men securing an even greater share of seats than in previous Senedd elections”. It also suggested that the incumbency overhang (the advantage experienced by existing Members of the Senedd compared to

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<sup>49</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 31

<sup>50</sup> SCECLB7-P Women’s Rights Network

<sup>51</sup> RoP [para 11], 18 April 2024

<sup>52</sup> RoP [para 411], 18 April 2024

<sup>53</sup> Modelling of Proposed Gender Quotas, Dr William T Daniel, University of Nottingham



other candidates) which is already working against women and other marginalised groups, would amplify the existing underrepresentation of women.<sup>54</sup>

### Removing barriers to women’s political representation

**40.** Joyce Watson MS said statutory candidate quotas would remove the psychological barrier for women as “the first thing it puts in people’s minds is, ‘I’ve got a real opportunity, rather than a chance’”.<sup>55</sup>

**41.** While not taking a firm position in terms of advocating for candidate quotas, Elect Her acknowledged both the “wealth of academic and global research that indicates that gender quotas do have an impact on gender-balanced political representation” and the “need to be putting forward as many measures as possible in order to improve our democracy and make it a more welcoming place for women”.<sup>56</sup>

**42.** The Fawcett Society told us a wider set of changes is needed to make politics inclusive, but recognised that:

*“[...] the evidence is really clear and consistent that women are systematically disadvantaged and excluded from our political processes and structures, and that quotas with the right conditions are a really important tool in overcoming that and rebalancing and creating, frankly, a more equal playing field. So, we’re really supportive, both of the commitment that we’re seeing from the Senedd to women’s equal representation and to equality, and to the approach of using quotas as a really evidence-based mechanism”.<sup>57</sup>*

**43.** However, Merched Cymru described candidate quotas as a “blunt instrument that does little to address the structural inequalities that prevent women from being fully represented in politics” and suggested that the Bill would assist women “who are already politically engaged and active within their parties and who would likely face few barriers to selection as candidates”.<sup>58</sup>

<sup>54</sup> SCECLB5-P Diverse5050

<sup>55</sup> RoP [para 313], 24 April 2024

<sup>56</sup> RoP [para 128], 18 April 2024

<sup>57</sup> RoP [para 132], 18 April 2024

<sup>58</sup> SCECLB22-P Merched Cymru

## Maintaining women's representation

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**44.** We asked Professor Laura McAllister, former Chair of the Expert Panel, whether the Bill will deliver the diversity in the Senedd that the Expert Panel had hoped would occur. She said diversity was a very important principle that was integrated in all of the Expert Panel's considerations, as was ensuring that any interventions were "prescriptive and legislatively protected". She added:

*"I feel that the intentions of this Bill are honourable ones and that they chime—there is a definite synergy with the thinking that we had during our expert panel process. I mean, clearly, there are some differences and this piece of legislation goes in a slightly different direction to the one that we'd promoted. But nevertheless, I think in terms of purpose, goal objective, then, there is a very clear commitment to sustaining some of the already impressive levels of gender representation that we have, but making it more secure and more permanent".<sup>59</sup>*

**45.** Dr Larissa Peixoto Vale Gomes expressed the view that candidate quotas "are just something that should be done as a rule to create representation that is proportional to our systems" rather than being considered a "shortcut" or "remedy".<sup>60</sup>

**46.** Professor Krook also highlighted the importance of parity being treated as a "permanent feature of political institutions" and felt that "legal constitutional measures are really the way to do that".<sup>61</sup>

**47.** This was echoed by Joyce Watson MS, who emphasised the importance of legislative quotas being a permanent feature to avoid the possibility of regression.<sup>62</sup>

## Legislative quotas and meritocracy

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**48.** While the Women's Rights Network told us it did not have an agreed position on the principle of legislative quotas on the basis of sex<sup>63</sup>, it argued that:

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<sup>59</sup> RoP [paras 8-9], 18 April 2024

<sup>60</sup> RoP [para 407], 18 April 2024

<sup>61</sup> RoP [para 413], 18 April 2024

<sup>62</sup> RoP [para 322], 24 April 2024

<sup>63</sup> RoP [para 200], 24 April 2024

*“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”.<sup>64</sup>*

**49.** Professor Kenny said there is very little research evidence to support claims that quota measures dilute ‘merit’. She referenced studies which found that quotas can improve candidate quality and experience, and that ‘quota women’ are not penalised by voters at the ballot box and have equally successful career trajectories once in office.<sup>65</sup>

**50.** The Fawcett Society also challenged the claim that candidates elected on a quota are of a lower quality, and referred to evidence that:

*“[...] once women are elected, they are more likely to spend more time working in their local areas, they spend more time on legislative sessions, and raise and advocate for different issues in a way that’s really beneficial to politics”.<sup>66</sup>*

**51.** Addressing concerns that women elected through legislative quotas may be perceived as less competent or deserving, Diverse5050 said:

*“We are not aware that this has been the experience of women elected on All-Women-Shortlists in the Senedd. In Sweden, the introduction of quotas increased the number of women perceived as qualified for political leadership positions.<sup>67</sup> Even if the concern was founded in evidence, it is a challenge that dwarfs by comparison with the major challenges to being elected in the first place, which this Bill would be the single most important step in addressing”.<sup>68</sup>*

**52.** We discussed the issue of meritocracy with the Senedd Women’s Caucus. Reflecting on her own career, Janet-Finch Saunders MS told us that she would “like to think that I’ve got there on merit” and wanted to see other women do the

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<sup>64</sup> SCECLB7-P Women’s Rights Network

<sup>65</sup> SCECLB14-P Meryl Kenny, University of Edinburgh

<sup>66</sup> RoP [para 223], 18 April 2024

<sup>67</sup> O’Brien, D. & Rickne, J. (2016), Gender quotas and women’s political leadership, *American Political Science Review* 110(10):112.-26

<sup>68</sup> [Additional information provided by Diverse5050 following the evidence session on 24 April 2024](#)

same.<sup>69</sup> While acknowledging that some women may be confident, have networks in place and feel ready to put their names forward, Sioned Williams MS noted that “there are many who aren’t”.<sup>70</sup>

## Consultation

### Public consultation

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**53.** The EM states that “it was not possible for the Welsh Government to undertake its own open public consultation on either the general concepts of Senedd Reform or a draft Bill” given the time available to develop the legislation for the 2026 election.<sup>71</sup>

**54.** In developing the Bill, the Welsh Government states that it has considered “the wealth of information on the public’s views on Senedd Reform, as expressed in a series of consultations undertaken in recent years”.<sup>72</sup> However, the last full-scale public consultation exercise was held in 2018 by the then Assembly Commission on the proposals recommended by the Expert Panel (which differ from the proposals in the Bill).<sup>73</sup>

**55.** In addition to considering the views shared by members of the public who responded to our consultation, we have reflected on the petitions titled ‘Diverse and equal representation in the Senedd’<sup>74</sup> and ‘Make the Senedd More Representative of the Welsh Population’.<sup>75</sup> We also commissioned a question in an online YouGov Welsh political omnibus survey to test public attitudes on the principle of legislative candidate quotas for Senedd elections.<sup>76</sup> The findings are summarised in Table 2 and a full breakdown (including details of the survey methodology) is provided in Annex 1.<sup>77</sup>

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<sup>69</sup> RoP [paras 287 and 291], 24 April 2024

<sup>70</sup> RoP [para 301], 24 April 2024

<sup>71</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 123

<sup>72</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 127

<sup>73</sup> Assembly Commission, [Creating a Parliament for Wales: Consultation report](#), October 2018

<sup>74</sup> [Petition ‘Diverse and equal representation in the Senedd’](#) [accessed 26 April 2024]

<sup>75</sup> [Petition ‘Make the Senedd More Representative of the Welsh Population’](#) [accessed 22 May 2024]

<sup>76</sup> A sample size of 1050 adults in Wales (aged 16+) nationally and politically weighted.

<sup>77</sup> [YouGov survey findings](#), April 2024

**Table 2 Summary of YouGov survey findings**

<b>To what extent, if at all, would you support or oppose political parties being required to use gender quotas to choose candidates for Senedd Cymru (Welsh Parliament) elections?</b>	<b>Total (per cent)</b>
<b>Strongly support</b>	3
<b>Somewhat support</b>	11
<b>TOTAL SUPPORT</b>	14
<b>Neither support nor oppose</b>	43
<b>Somewhat oppose</b>	15
<b>Strongly oppose</b>	28
<b>TOTAL OPPOSE</b>	43

### Stakeholder engagement

**56.** The Welsh Government did undertake “targeted bilateral engagement with external stakeholders to discuss key policy considerations”. This included engagement with:

- The Electoral Commission.
- The Senedd Commission.
- The electoral administrator community (including Returning Officer and Electoral Administrator representatives).
- Academics in the field of diverse representation in politics.
- A “small number” of third sector organisations.<sup>78</sup>

**57.** The Electoral Commission told us it has had a constructive working relationship with the Welsh Government throughout the development of the Bill, including sitting on the Senedd reform delivery board with other key stakeholders.<sup>79</sup>

**58.** The Wales Electoral Co-ordination Board (‘the WECB’) confirmed that electoral administrators had played an extensive role in the Bill’s development

<sup>78</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 124

<sup>79</sup> RoP [para 6], 21 March 2024

through an official-level task and finish group, and that the Bill largely reflected their professional advice.<sup>80</sup>

**59.** Professor Krook and Professor Kenny said they previously provided the SPCSR with a technical briefing and, like other academics, had sent literature and evidence on the use of candidate quotas to assist the Welsh Government’s development of the Bill. Professor Krook confirmed that she also met with the Senedd’s Cross Party Group on Women to discuss intersectional quotas and ways to incorporate diversity into quotas for women.<sup>81</sup>

**60.** The Diverse5050 partners confirmed that they had engaged with the Welsh Government during the development of the Bill.<sup>82</sup>

**61.** The EM refers to engagement with the Information Commissioner’s Office on elements of the Bill relating to the privacy of people’s information and with the Ministry of Justice on impacts on the justice system. It also notes that the Electoral Commission facilitated engagement with political party representatives on “high-level proposals”.<sup>83</sup> The Electoral Commission confirmed that this engagement was facilitated through its Welsh Parliament Parties Panel<sup>84</sup> (‘WPPP’), which consists of representatives from the Welsh Conservatives, Welsh Labour, Welsh Liberal Democrats and Plaid Cymru.<sup>85</sup> In its subsequent written evidence, the Electoral Commission confirmed that it had not arranged any meetings between the Welsh Government and smaller political parties.<sup>86</sup>

**62.** The Member in charge’s official elaborated on the discussions with representatives of the WPPP:

*“I think it’s fair to say that some of that conversation has led us to where we are in terms of the enforcement mechanism and the different approaches to the enforcement at the vertical level and the horizontal level, which is more proportionate, you could say, at the horizontal level, given that some parties don’t have such a strong,*

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<sup>80</sup> RoP [para 4], 21 March 2024

<sup>81</sup> RoP [paras 423-424], 18 April 2024

<sup>82</sup> RoP [paras 37, 39 and 41-42], 24 April 2024

<sup>83</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, paras 124-125

<sup>84</sup> Electoral Commission, [Welsh Parliament Parties Panel](#)

<sup>85</sup> RoP [paras 6 and 24], 21 March 2024

<sup>86</sup> SCECLB32-P The Electoral Commission

*maybe, national co-ordination function. So, that's just a flavour of the discussions we've had".<sup>87</sup>*

**63.** Other than the engagement facilitated through the WPPP, the representatives from Welsh Labour, Plaid Cymru and the Welsh Conservatives told us their political parties were not consulted formally on the Bill's proposals.<sup>88</sup>

**64.** Some contributors highlighted a lack of engagement from the Welsh Government on the Bill. Wales Assembly of Women said there has been "insufficient collaboration with NGOs".<sup>89</sup> Welsh Women Speak Out said that "despite a commitment in 2022 from the previous First Minister to meet with grassroots women's organisations cabinet members have refused to meet with them on several occasions".<sup>90</sup> The Women's Rights Network suggested that the "women's groups that have been listened to have come from a very small cohort of particular beliefs and a particular consensus".<sup>91</sup>

**65.** When asked whether the Welsh Government has engaged with women's organisations that oppose the Bill, the Member in charge said:

*"Well, we haven't been approached by those organisations for a meeting. Obviously, we ought to be engaged with them. We've engaged with established networks, and I've given some indication of the sort of representation of those, and the basis of the membership of those networks that we have engaged with—but, obviously, full consultation".<sup>92</sup>*

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<sup>87</sup> RoP [para 225], 13 March 2024

<sup>88</sup> RoP [paras 253-255], 18 April 2024

<sup>89</sup> SCECLB17-P Wales Assembly of Women

<sup>90</sup> SCECLB36-P Welsh Women Speak Out

<sup>91</sup> RoP [para 232], 24 April 2024

<sup>92</sup> RoP [para 178], 1 May 2024



## **Consultation on secondary legislation**

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**66.** The Welsh Government has said that it will undertake a public consultation to inform its planned remaking of the Conduct Order<sup>93</sup> (which will provide much of the detail on the practical implementation of the Bill's proposals).<sup>94</sup>

### **Our view**

**67.** As a Committee, we all agree that the Senedd needs to better reflect the people it serves. Bringing together people from all walks of life enriches our work and is central to a well-functioning democracy. While we acknowledge that the Senedd has a higher than average level of women Members in comparison to other parliaments around the world<sup>95</sup>, we all support the aspiration for parity of representation. It is disappointing that equal representation has not consistently been achieved in the Senedd, and that there has been a slow decline since the then Assembly became the first parliament in the world to achieve parity in 2003.

**68.** We recognise that levels of women's representation to date are largely due to the voluntary actions taken by some political parties, and the subsequent electoral success of those parties. We also recognise that changes in the leadership, priorities or candidate selection approaches of those parties could affect the extent to which women's representation is supported by voluntary measures in the future.

**69.** It is disappointing that the Welsh Government did not consult on the specific proposals in the Bill prior to its introduction, and that the engagement it undertook during the Bill's development was limited. We acknowledge that there has been discussion and debate more generally on women's representation and the barriers to women standing for election through the work of the Expert Panel, the Committee on Senedd Electoral Reform ('the CSER'), and the SPCSR. However, the proposals in the Bill differ from the recommendations made by the SPCSR and endorsed by the Senedd in 2022. The high level nature of the SPCSR's

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<sup>93</sup> The National Assembly for Wales (Representation of the People) Order 2007 (as amended) is commonly known as the Conduct Order. It was originally made by the Secretary of State for Wales in 2007. Power to amend or make the Conduct Order was transferred to the Welsh Ministers by the Wales Act 2017 which substituted a new section 13 into the GoWA 2006. The Conduct Order includes provision for a range of matters, including rules for the conduct of the election and the election campaign.

<sup>94</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 126

<sup>95</sup> Compared to the [global average level of women's representation](#) as at 1 April 2024 in lower chamber and unicameral national parliaments of 27.0 per cent, and the European regional average of 31.5 per cent.



recommendations also means that some detailed implementation issues underpinning the Bill's purpose have not been tested, which we address later in this report.

**70.** We understand that there are different views about the Bill and we thank everyone who has assisted our consideration. We received a significant amount of evidence and heard a range of views, which you will see reflected in this report. While we acknowledge that the majority of individuals who responded to our consultation did not support the general principles, a majority of Committee members are persuaded by the international and academic evidence that legislative candidate quotas are an effective mechanism for increasing levels of women's representation in parliaments. On this basis, they agree that the Senedd should vote in favour of the general principles of the Bill at Stage 1 to enable it to progress to the amending stages of the legislative scrutiny process.

**71.** Darren Millar MS does not agree that the Senedd should support the general principles of the Bill as he does not believe the Bill is within the Senedd's legislative competence. Neither does he believe there is sufficient public support for the Bill or justification for the action proposed to address the gender imbalance in the Senedd. In reaching this view, he has considered the views members of the public have shared with the Committee, the findings of the YouGov polling commissioned by the Committee, and the previous gender balance achieved in the Senedd without statutory gender quotas in 2003. He is also of the view that, should a quota system be implemented, it ought to seek to address other protected characteristics such as disability, race and religion, not just sex.

**72.** As a Committee, we all agree that if the Bill progresses to the next stage of the legislative process, there are aspects of the Bill that need to be amended and improved. These issues, the evidence regarding them, and our recommendations are addressed in the remaining chapters of the report. Our report also discusses the evidence received in relation to the Senedd's legislative competence.

**Recommendation 1.** By majority, we recommend that the Senedd should agree the general principles of the Senedd Cymru (Electoral Candidate Lists) Bill, but, throughout their ongoing scrutiny of the Bill, Members of the Senedd should have regard to the issues highlighted in our report.

## 3. Quota rules

### Provisions in the Bill

**73.** Under the provisions set out in the SC(ME) Bill, there will be 16 Senedd constituencies and political parties will be able to put forward a list of up to eight candidates per constituency.

**74.** Section 1 of the Bill inserts new section 7A into the GoWA 2006 to introduce two types of quota rules that will apply to an electoral list submitted by a registered political party in a Senedd constituency (but only in cases where the list contains two or more candidates):

- At least half of the candidates on a party's list must be women. This is known as a 'minimum threshold'.
- Any candidate on a list who is not a woman must (unless that candidate is last on the list) be immediately followed by a woman. This is known as the 'vertical placement criteria'.

**75.** New section 7B of the GoWA 2006, as inserted by section 1 of the Bill, requires that the first or only candidate on at least half of the lists submitted by a party must be a woman (but only where a party stands lists in two or more constituencies). This is known as the 'horizontal placement criteria'.

**76.** New section 7D(1) of the GoWA 2006 provides that the Conduct Order may make provision relating to compliance with section 7A (at least half of the candidates on a list must be women) and section 7B (the first or only candidate on at least half of the lists submitted by a party must be a woman) if a candidate is removed from a list after its submission (for example as a result of the death or withdrawal of a candidate).

### Minimum threshold

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**77.** New section 7A(1) applies the minimum threshold to a list submitted by a party that includes two or more candidates. The minimum threshold will not apply to independent candidates or a party list with only one candidate.

**78.** Where a list has an even number of candidates, new section 7A(2) requires parties to ensure that women make up at least half of the list. Where a list has an

odd number of candidates, new section 7A(3) requires that the majority of candidates must be women.

**79.** Once parties have achieved the minimum threshold, the EM states that “the remaining candidates can be any gender, including women, in any proportion”.<sup>96</sup>

### Vertical placement criteria

**80.** New section 7A(4) sets out the vertical placement criteria a party must follow when placing candidates on an electoral list. It stipulates that a candidate on a list who is not a woman must be immediately followed by a woman (other than when a candidate who is not a woman is placed in the final position on a list). This allows a party to place more than one candidate who is a woman in succession on a list.<sup>97</sup>

**81.** Figure 1 provides examples of compliant and non-compliant candidate lists.

**Figure 1 Examples of lists that are compliant and non-compliant with the vertical placement criteria and minimum threshold<sup>98</sup>**



<sup>96</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 94

<sup>97</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 101

<sup>98</sup> List B does not comply with the vertical placement criteria because there is a candidate who is not a woman followed by another candidate who is not a woman. List E does not comply with the minimum threshold as fewer than half of the candidates on the list are women.



## Horizontal placement criteria

**82.** While the vertical placement criteria will ensure that at least half of candidates on a constituency list are women and placed in winnable positions on the list, the EM states:

*“[...] it is still possible that a greater number of candidates who are not women than those who are women are returned as a consequence of a candidate who is not a woman being placed in first position on each list”.<sup>99</sup>*

**83.** Therefore, section 7B(1) imposes the horizontal placement criteria where a registered political party has submitted lists of candidates in two or more Senedd constituencies. If a party submits a list in only one constituency, the first or only candidate on that list can be either a woman or not a woman.

**84.** Where a party has submitted an even number of lists, section 7B(2) requires that the first or only candidate on at least half of those lists must be a woman. For example, if a party submits a list in all 16 Senedd constituencies, a woman must be the first candidate on at least eight of the constituency lists.







**85.** Where a party has submitted an odd number of lists, section 7B(3) requires that the first or only candidate on the majority of those lists must be a woman. For example, if a party submits a list in 15 constituencies, a woman must be the first candidate on at least eight of the constituency lists.

**86.** Figure 2 illustrates some possible combinations of party candidate lists that would and would not be compliant with the horizontal placement criteria in an

<sup>99</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum, incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 105

example with six constituencies (based on the candidate at the top of each constituency list).

**Figure 2 Examples of combinations of lists that are compliant and non-compliant with the horizontal placement criteria<sup>100</sup>**

	Constituency 1	Constituency 2	Constituency 3	Constituency 4	Constituency 5	Constituency 6	
Example A	Woman	Not a woman	Woman	Not a woman	Woman	Woman	
Example B	Woman	Not a woman	Woman	Not a woman	Not a woman	Woman	
Example C	Not a woman	Woman	Not a woman	Not a woman	Woman	Not a woman	
Example D	Not a woman						
Example E	Woman	Woman	Woman	Woman	Woman	Woman	
Example F	Not a woman	Not a woman	Woman				

## Alternative options

### Mandatory zipping

**87.** In 2017, the Expert Panel concluded that if a proportional list system (in its recommendation, a flexible list system) was adopted:

*"[...] parties should be required to ensure that 50 per cent of their candidates in each constituency are female and 50 per cent are male, and that their lists are zipped".<sup>101</sup>*

<sup>100</sup> Figure 2 shows the statement made by the candidate at the top of the list for each constituency. Example A has four candidates who are women and two candidates who are not women in first position on their lists across the six constituencies so these lists would be compliant, whereas Example C has four candidates who are not women and two candidates who are women in first position and Example F has two first placed candidates who are not women and one who is a woman, so these Examples would not be compliant. As Example D is only putting forward a list in one constituency, the horizontal placement criteria do not apply.

<sup>101</sup> Expert Panel on Assembly Electoral Reform, [A parliament that works for Wales: the report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 13.49

**88.** Zipping would require parties to alternate between women and men on their candidate lists, meaning that half of the candidates are women and half are men.

**89.** Professor Rosie Campbell, former member of the Expert Panel, explained the rationale for the Panel's conclusion:

*"[...] globally, the international literature shows a strong association between having proportional representation and zipping and higher representation of women. There are different patterns in the data, but that's the overall finding".<sup>102</sup>*

**90.** The SPCSR later concluded that "legislative integrated gender quotas and mandatory zipping should be developed" as part of the new closed list electoral system.<sup>103</sup>

**91.** Some contributors reflected on the operation of the candidate quotas in the context of closed lists. Both Professor McAllister and Professor Childs stated that candidate quotas can work effectively in closed list electoral systems.<sup>104</sup> Dr Daniel's research noted that while the academic literature can be mixed, it "tends to expect that closed lists produce more gender-equal outcomes". He added that proportional representation systems can favour women's representation compared to majoritarian systems. The research concluded that as a result of the electoral system, as long as parties compose lists that follow the quota law, "candidates will not be disadvantaged by voters during the election".<sup>105</sup>

**92.** The EM states that mandatory zipping carries "a slightly higher risk of failing to secure a minimum of 50% representation of women" than the quota system proposed in the Bill. The EM goes on to say that zipping offers no flexibility for women to be placed in successive positions on party lists where there is an expectation that candidates in those positions may win seats. It also states that zipping would place a limit on the number of women candidates who may stand, which would appear counter to the aim of electing more women to the Senedd.<sup>106</sup>

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<sup>102</sup> RoP [para 47], 18 April 2024

<sup>103</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, paragraph 109

<sup>104</sup> RoP [paras 17 and 20], 18 April 2024

<sup>105</sup> Modelling of Proposed Gender Quotas, Dr William T Daniel, University of Nottingham

<sup>106</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 100

**93.** In her written evidence, Professor Jennifer Piscopo explained that the Bill:

*“[...] only prohibits consecutive men candidates, but it does not prohibit zipping: it allows either zipping or consecutive women, or a combination where the list is zippered in part and has consecutive women in part.*

*Men can occupy 50 percent of the list (a full zipper) or less (if you break the zipper to allow consecutive women), whereas women can have 50 percent of the list (a full zipper) or more (because you can break the zipper to have consecutive women but not consecutive men).<sup>107</sup>*

**94.** We explored why the Bill does not include mandatory zipping as recommended by the Expert Panel and SPCSR. The Member in charge told us:

*“[...] there are different ways in which gender quotas are delivered across the world. The expert panel recommended zipping—that’s usually commonly used on a 50:50 model. But we feel a minimum 50 per cent model is the right way forward. So, it’s a slightly different model. And the rules in this Bill don’t prevent a zipping approach.”<sup>108</sup>*

**95.** Over the past 18 months the ERS Cymru has been exploring what effect closed lists with integrated statutory quotas and mandatory zipping might have on the representation of women at future Senedd elections. It has modelled the effects quotas might have if implemented. The modelling shows a range of outcomes based on which method of quota is used. Reflecting on the Bill’s provisions, the ERS Cymru said “what this modelling highlights is that there is a range of outcomes even under the strictest zipping method, which this legislation falls short of” and that:

*“[...] the number of women elected even under legislative quotas will vary depending on [...] how many seats each party wins in a constituency. For example, if a party standing a man on the top of a list in one constituency wins three seats they will have two male and one female candidate successfully elected and vice versa. All of this will have an impact on the whole makeup of the Senedd but is*

<sup>107</sup> SCECLB15-P Professor Jennifer Piscopo, Royal Holloway University of London

<sup>108</sup> RoP [para 83], 13 March 2024

*entirely reliant on votes actually cast and not something that can or should be controlled”.<sup>109</sup>*

**96.** When asked how the system proposed in the Bill compares with the zipping approach recommended by the SPCSR, the ERS Cymru said:

*“Essentially, this legislation doesn’t rule out zipping. It is largely likely that parties will zip their lists, but it also adds a little bit of flexibility, which we think is appropriate in this instance. We know straightforward zipping does not guarantee 50:50; our modelling has demonstrated that. So, it’s right to have the flexibility for parties to stand more women in areas if they want to, either to adjust that drive further to 50:50 or to account for a historical imbalance”.<sup>110</sup>*

## ‘Twinning’

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**97.** The EM states that consideration was given to applying the horizontal criteria at a more local level, for example, through informally ‘twinning’ two or more constituencies and requiring parties to ensure that at least half of the lists in these constituencies had a woman in first position. However, the Welsh Government discounted this option “as it would have complicated the rules, imposed constraints on political parties with no obvious gain, and also potentially caus[ed] issues for parties not intending to stand candidates in all constituencies”.<sup>111</sup>

## Rationale for the quota rules

### Overall approach

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**98.** Addressing the Senedd on the Bill’s introduction, the Member in charge said the Bill “maximises the chances of delivering a Senedd that is broadly reflective of the gender make-up of Wales”. She added:

*“Introducing a minimum 50 per cent threshold for women will lead to an increase in women candidates at Senedd elections, and the additional step of introducing placement criteria increases the*

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<sup>109</sup> SCECLB2-P Electoral Reform Society Cymru

<sup>110</sup> RoP [para 61], 24 April 2024

<sup>111</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 106



*likelihood that a greater proportion of elected candidates are women”.*<sup>112</sup>

**99.** In developing the Bill, the Member in charge told us the Welsh Government looked extensively at the design of quotas in other countries.<sup>113</sup> The Member in charge’s official explained that the Welsh Government has examined quotas in Belgium, France, Spain and Catalonia, as well as in North and South America:

*“From what we’ve gathered, it is very important to have a minimum threshold of 50 per cent or whatever. It’s also important to have rules in terms of where women are placed on lists, because countries such as Spain and Catalonia have learnt that, if they have rules for certain parts of lists—for example, no more than 60 per cent and no less than 40 per cent—then political parties can still place women lower down those lists, and that doesn’t lead to the desired outcome. So, we have looked at what happens elsewhere, but, more than that, I think, we’ve looked at the evidence and we’ve spoken to academics and experts in order to understand what the main elements are that lead to effective quotas”.*<sup>114</sup>

### **Rationale for the minimum threshold**

**100.** The EM sets out the rationale for setting the minimum threshold at 50 per cent:

- It is a proportionate quota in relation to the percentage of the Welsh general population who are women.<sup>115</sup>
- 43 per cent of the Members of the Senedd elected in 2021 were women, so a quota set below 50 per cent is unlikely to lead to the election of a significantly higher proportion of women.

<sup>112</sup> Plenary RoP [para 125], 12 March 2024

<sup>113</sup> RoP [para 94], 13 March 2024

<sup>114</sup> RoP [para 98], 13 March 2024

<sup>115</sup> On the latest Census Day, 21 March 2021, there were 1,586,600 women (51.1 per cent of the population) and 1,521,000 men (48.9 per cent) in Wales.

- A minimum threshold of 50 per cent is not anticipated to lead to candidate lists being overrepresented by women given the historically low proportion of women candidates at Senedd elections.<sup>116</sup>

**101.** Addressing the minimum threshold set in the Bill, the ERS Cymru said:

*“I think that’s actually a really positive thing. We’ve obviously seen internationally quotas at a lower level, but I think 50 per cent recognises the benchmark that we, as a Parliament, hit in 2003, and it also essentially aims for that parity, I think, which is what we’re really looking for.”<sup>117</sup>*

**102.** Professor Kenny’s written evidence highlighted comparative evidence<sup>118</sup> which generally finds that quotas with higher candidate thresholds result in higher levels of women’s representation.<sup>119</sup> She supported the at least 50 per cent threshold, describing it as “substantively and symbolically” important, and told us that:

*“Quotas are more effective if they have high thresholds, if they fit the electoral system that they come alongside and if they are accompanied by sanctions for non-compliance, and I think this Bill has those elements, which have been identified in the wider literature as essential.”<sup>120</sup>*

**103.** Research conducted by Dr Daniel found that when a 50 per cent quota is in place within a given political party, it is likely to result in at least 10 per cent more women being elected for that party, relative to when the quota was not in place. It also concluded that quotas continue to have a positive impact at a party level through multiple election periods.<sup>121</sup>

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<sup>116</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, paras 97-98

<sup>117</sup> RoP [para 55], 24 April 2024

<sup>118</sup> [The Increasing Effectiveness of National Gender Quotas, 1990-2010. Pamela Paxton and Melanie M. Hughes](#)

<sup>119</sup> SCECLB14-P Meryl Kenny, University of Edinburgh

<sup>120</sup> RoP [para 410], 18 April 2024

<sup>121</sup> Modelling of Proposed Gender Quotas, Dr William T Daniel, University of Nottingham

**104.** Addressing the potential adverse impact on the balance of the Senedd as a result of the Bill permitting parties to put forward a greater number of women than men on their lists, Professor McAllister suggested that:

*“[...] parties, if they’re sensible, make strategic choices about the overall profile of their candidates for that legislature. I think it would be [...] odd if parties chose to have completely unbalanced lists, because that might punish them in terms of voter acceptance. But that’s not to say that we shouldn’t have the conversation over whether that is an appropriate mechanism, or whether there should be some constraints put on the issue”.<sup>122</sup>*

**105.** Professor Campbell agreed that it is “not something that we’ve witnessed happening elsewhere in the world” but suggested that any scope to avoid it happening would be an improvement.<sup>123</sup> Professor Childs added:

*“I think it’s most unlikely. I don’t think parties would act in that way. And, of course, it could be that a party might choose to try to significantly rebalance at this election, because of a historical under-representation. So, I don’t think a one-off election would be a test of whether this is necessarily operating to skew in the way you suggest, because there does need to be a redress, because the skewing has been to men historically, and particularly there will be party asymmetry. But I think the likelihood of it becoming a permanent feature would be problematic, for sure. We’re looking for diversity and parity, and the language of parity is the language that is increasingly being used globally, whether that’s with United Nations Women or other international scenarios. It’s about women’s full, equal, effective participation, and that’s really what the quota should be delivering”.<sup>124</sup>*

**106.** When asked why the Welsh Government has proposed a quota permitting lists to be made up of all women, the Member in charge told us:

*“We’ve come up with a system, an approach, that we think will, with the backing of political parties—. If we don’t get the message over to women in Wales that we’re welcoming them, and this is the way that*

<sup>122</sup> RoP [para 57], 18 April 2024

<sup>123</sup> RoP [para 59], 18 April 2024

<sup>124</sup> RoP [para 62], 18 April 2024

*we're going to get fair representation of women of Wales, then obviously we're in a very difficult position, there's no question about it. But I think this is the fairest way".<sup>125</sup>*

**107.** The Member in charge's official highlighted that 31 per cent of candidates at the last Senedd election were women, suggesting that:

*"[...] it would seem very unlikely that [over-representation of women] would occur, certainly over the short to medium term. And actually, there's no evidence of that taking place elsewhere either. We believe the model that we're putting forward provides the best chance of maximising the number of women candidates, and therefore achieving that representation of the gender balance".<sup>126</sup>*

### **Rationale for the placement criteria**

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**108.** The EM states that without the introduction of vertical placement criteria women could be placed in inferior positions on a list. It will ensure that candidates who are women are placed on party lists in positions where they are typically at least as likely to win a seat as candidates who are not women.<sup>127</sup>

**109.** A number of contributors commented on the Bill's criteria for the placement of women on lists. Dr Anne Jenichen stated that the vertical placement criteria, whether a zipped system or the model proposed in the Bill, has proven to be "essential" to avoid parties undermining the quota by placing women low down on a list.<sup>128</sup> Professor Kenny indicated that it is "the global norm for quota laws to include not only threshold requirements, but also placement mandates". She noted that the inclusion of both vertical and horizontal placement criteria is "broadly in line with international practice and is more likely to deliver on its intended aims".<sup>129</sup>

**110.** Dr Maarja Lühiste suggested the design of the quota would make it "impossible for parties to systematically place women on less viable list positions

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<sup>125</sup> RoP [para 105], 13 March 2024

<sup>126</sup> RoP [paras 102-103], 13 March 2024

<sup>127</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, paras 103-104

<sup>128</sup> SCECLB25-P Dr Anne Jenichen, Aston University

<sup>129</sup> SCECLB14-P Meryl Kenny, University of Edinburgh

than men or only in unwinnable constituency placements”.<sup>130</sup> Dr Daniel concluded that requiring women to appear as ‘list leaders’ on an equal number of constituency lists could avoid the scenario where women candidates routinely come in second place to men, even if they are ultimately both elected.<sup>131</sup>

**111.** Dr Gomes described the horizontal placement criteria as “an innovation of recent years” that has been adopted in countries such as Portugal.<sup>132</sup> Professor Krook also highlighted the impact of horizontal placement criteria in Tunisia:

*“[...] they had a 50 per cent gender quota; it was introduced in the wake of the Arab Spring. And for the parliament, it didn’t work as well, because it was only a vertical, so it was because parties tended to top their list with men that it ended up electing only about 25 per cent women into parliament, even though they had 50 per cent women candidates. But when they introduced the horizontal parity provision together with it at the local level, it was like 49 per cent women elected. So, it’s really crucial, I think. Vertical and horizontal parity is very important, and I think other international evidence will support that”.<sup>133</sup>*

**112.** The Women’s Rights Network expressed concerns that the candidate placement criteria could lead to an overrepresentation of women.<sup>134</sup> When asked whether candidate quotas are an appropriate mechanism to provide a greater balance of representation, the Women’s Rights Network said:

*“In terms of the drafting of the Bill, where we are, really, is that the Bill caps, as I understand it, the number of men at 50 per cent, but doesn’t cap the number of women. [...] So, if you cap the men at 50 per cent and you don’t cap the women at 50 per cent, it may be thought that it would be unlikely to have 100 per cent women representation, but that’s not the way law should be drafted—on the basis that something might not happen and is likely and probably won’t happen. Good law, surely, should consider the consequences and even the unintended consequences. And unfortunately, because, in our view, it’s not a proportionate means to achieve a legitimate*

<sup>130</sup> SCECLB37-P Dr Maarja Lühiste, Newcastle University

<sup>131</sup> Modelling of Proposed Gender Quotas, Dr William T Daniel, University of Nottingham

<sup>132</sup> RoP [para 448], 18 April 2024

<sup>133</sup> RoP [para 450], 18 April 2024

<sup>134</sup> SCECLB7-P Women’s Rights Network

*aim, it's just plain old sex discrimination then, under the Equality Act".<sup>135</sup>*

**113.** When asked whether they would support a legislative quota system which zipped the number of men and women equally, the Women's Rights Network told us:

*"[...] I think we'd have to look at the Bill on its own merits as drafted then, and I would say this for our members of the Women's Rights Network in Wales, and I'm sure it's the case for the other women's groups as well: we will have members who will be very much in favour of legislative quotas on the basis of sex, and we'll have members who won't be in favour of legislative quotas on the basis of sex".<sup>136</sup>*

**114.** In the absence of the horizontal placement criteria alongside the vertical placement criteria, the EM highlights the possibility of a party electing up to 16 more candidates who are not women if such candidates are routinely placed in first position on lists.<sup>137</sup> Nevertheless, the Welsh Government acknowledges that the inclusion of the horizontal placement criteria in the Bill "will not eliminate the possibility that a greater number of candidates who are not women will be returned as MSs than women". The EM explains that a party could fulfil the minimum threshold, vertical and horizontal placement criteria and still see the election of eight more candidates who are not women than candidates who are women:

*"This would occur where a party wins an odd number of seats in exactly half of the 16 new constituencies, wins an even number of seats in the other constituencies, and has placed a candidate who is not a woman in first position on the lists of each constituency where it wins an odd number of seats, while placing women in first position elsewhere. This extreme outcome is unlikely to occur in practice, either unintentionally or through intentional engineering by political parties".<sup>138</sup>*

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<sup>135</sup> RoP [para 171], 24 April 2024

<sup>136</sup> RoP [para 200], 24 April 2024

<sup>137</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 105

<sup>138</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 107

**115.** Referring to the “extreme outcome” outlined in the EM, Diverse5050 suggested the Bill’s provisions may not “go far enough to secure 50% representation for women” and recommended that this aspect should be closely monitored as part of the post-implementation review.<sup>139</sup>

**116.** Professor Kenny’s written evidence highlighted the experience of the Scottish Greens in Scottish Parliament elections to demonstrate the interplay between horizontal rules, district magnitude (the number of members to be elected in each electoral district) and party magnitude (the number of seats a party wins in a specific electoral district):

*“In Scotland, for example, in the 2016 Scottish Parliament elections, the Scottish Greens zipped their regional list candidates—alternating men and women—and paired its lists, ensuring that 50% of them were topped by women. In the end, however, only 1 of 6 Green MSPs elected were women (17%) [...] In 2021, Scottish Green women topped every regional list not being contested by an incumbent (five out of eight lists) and were placed second in six regions—with five women ultimately elected (63% of the parliamentary party)”.*<sup>140</sup>

**117.** Professor Kenny argued that while the Bill allows for flexibility in decisions on whether to zip the list or place multiple women candidates in succession, the decision ultimately rests in the hands of the parties.<sup>141</sup>

**118.** Professor Krook explained how parties in Mexico addressed its 50:50 quota laws which require parties not to place women exclusively in unwinnable districts:

*“[...] many parties, rather than doing a very detailed analysis, subjected the choice of those districts to a lottery, so then whichever district got chosen for women was filled by women candidates and those that were for men were for men candidates. They ended up with exactly 50 per cent women elected, and now with various adjustments and things like that, it’s gone a little bit up or a little bit down over time. But I thought that was a really interesting issue—that maybe that*

<sup>139</sup> SCECLB5-P Diverse5050

<sup>140</sup> SCECLB14-P Meryl Kenny, University of Edinburgh

<sup>141</sup> SCECLB14-P Meryl Kenny, University of Edinburgh



*horizontal parity needs to be done on a random allocation basis to ensure greater parity in outcomes”.*<sup>142</sup>

## Candidate selection

### Candidate availability

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**119.** Some contributors considered whether there are sufficient women candidates to meet the minimum threshold. One Voice Wales identified the availability of women candidates as a risk and suggested that parties will need to ensure they adopt a strategy which aims to attract more women and develop a culture which is favourable to women.<sup>143</sup> The Welsh Young Liberals called for guidance on “how parties should manage the national 50% rule if the party is short of female candidates”.<sup>144</sup>

**120.** In contrast, Dr Lühiste suggested that parties should face few challenges with the recruitment of candidates, highlighting the relatively high levels of women’s representation in the Senedd since 1999.<sup>145</sup> The Fawcett Society said “the evidence is clear that where there are quotas, actually, it turns out that there are often more women than the level”.<sup>146</sup> Professor Kenny also told us that:

*“[...] evidence in the UK and across the devolved nations convincingly demonstrates that the problem is not candidate supply; it’s party demand, and, then, also Wales has achieved gender parity or better already in its history. So, the evidence is there”.*<sup>147</sup>

**121.** Joyce Watson MS reflected on previous drives by Welsh Labour to encourage female candidates:

*“There was an awful lot of training that happened in the Labour Party to get women forward, because the argument was that we wouldn’t have enough women. I remember being in a photograph with over*

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<sup>142</sup> RoP [para 509], 18 April 2024

<sup>143</sup> SCECLB27-P One Voice Wales

<sup>144</sup> SCECLB39-P Welsh Young Liberals

<sup>145</sup> SCECLB37-P Dr Maarja Lühiste, Newcastle University

<sup>146</sup> RoP [para 139], 18 April 2024

<sup>147</sup> RoP [para 484], 18 April 2024



*100 women, in 1998 I think it was, where they had said, 'Where will all these women come from?' Well, there they were".<sup>148</sup>*

**122.** Referring to quotas as a 'demand-side intervention', Professor Childs highlighted that evidence in other places shows that they are also likely to lead to an increase in supply. However, she said parties will need to take an active approach to recruitment which will require resources.<sup>149</sup> Professor McAllister acknowledged that it may be more difficult to recruit female candidates, emphasising "the winnability incentive of quotas" as an important mechanism to increase candidate supply.<sup>150</sup> WPPP representatives for Welsh Labour and the Welsh Conservatives also suggested that finding enough women candidates may be a potential challenge, particularly for smaller parties.<sup>151</sup>

**123.** Dr Gomes referred to Wales having more success with women's representation nationally than at the local level and suggested that parties should consider internal quotas for their council elections "to build a consistent pipeline of candidates towards the national level".<sup>152</sup>

### The influence of political parties

**124.** A number of contributors stressed the important role of political parties in the composition of their lists. Professor McAllister highlighted the "jeopardy of giving too much power to the political parties in terms of how they structure their candidate choices" in the closed list electoral system.<sup>153</sup> Dr Daniel's research also supported the position that political parties are the "key deciders" on candidate selection.<sup>154</sup>

**125.** Dr Lühiste noted that "the main barrier to efficiently implementing legislative candidate quotas tends to come from political parties" and, while acknowledging that the overall levels of women's representation in the Senedd has been relatively high, she noted the "considerable cross-party variation".<sup>155</sup>

**126.** The ERS Cymru argued that even in the event of mandatory vertical and horizontal zipping, "parties may still play a huge role in determining the outcomes

<sup>148</sup> RoP [para 313], 24 April 2024

<sup>149</sup> RoP [paras 31 and 36], 18 April 2024

<sup>150</sup> RoP [para 32], 18 April 2024

<sup>151</sup> RoP [paras 260 and 267], 18 April 2024

<sup>152</sup> SCECLB16-P Dr Larissa Peixoto Vale Gomes, University of Edinburgh

<sup>153</sup> RoP [para 16], 18 April 2024

<sup>154</sup> Modelling of Proposed Gender Quotas, Dr William T Daniel, University of Nottingham

<sup>155</sup> SCECLB37-P Dr Maarja Lühiste, Newcastle University

through where individuals are placed on the top of the list”.<sup>156</sup> The Women’s Equality Network Wales (‘WEN Wales’) described the power of political parties as a “risk and an opportunity”, adding:

*“It can work to great advantage for the system, but it also does mean that, technically, mathematically, it is actually possible that this legislation will work in such a way that there would not be 50 per cent women in the Senedd, which obviously is not a position that we would support, hope for or advocate for. In fact, we think the flip side of that is that there is, I guess, some latitude left in this legislation, which is a positive thing”.*<sup>157</sup>

**127.** Race Council Cymru said the Bill forces a long overdue cultural shift within parties:

*“I think there is something there around trust also, about trust around your parties: ‘We’re going to do the right thing, we’re going to lead from the front’”.*<sup>158</sup>

**128.** Some contributors highlighted the bias within political parties towards male candidates. Professor McAllister suggested that the threshold and placement criteria will act as an incentive to “women who are maybe considering being an election candidate, but feel that there would be difficulties with them actually proceeding through the process”.<sup>159</sup> The Fawcett Society similarly told us:

*“A big part of the obstacles to women’s participation is actually at selectorate level in the local parties, and so when you kind of remove that power for those individuals to express a preference or a bias towards men, you unleash a kind of pool of talent. But also, we know that quotas and equality rhetoric have an important impact on the pool—the supply of women. So, in our research, which looked UK wide, we found that a lot of women cited equality guarantees or rhetoric from leadership about commitment to equality as being a really*

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<sup>156</sup> SCECLB2-P Electoral Reform Society Cymru

<sup>157</sup> RoP [para 53], 24 April 2024

<sup>158</sup> RoP [para 76], 24 April 2024

<sup>159</sup> RoP [para 38], 18 April 2024

*important signal to them that they were needed and wanted in the party, and encouraged them to step forward”.*<sup>160</sup>

**129.** Elect Her said it is estimated that women only make up a third of the membership of political parties and suggested that action was needed to address the culture within political parties in terms of the ‘selectorate’, the participation of their membership, and more clarity on how women can engage with political parties.<sup>161</sup>

**130.** Some contributors discussed ways in which political parties could be encouraged to select more women candidates. Dr Gomes noted incentives in other countries whereby additional funding is provided if parties elect more women, or create training for women.<sup>162</sup> Professor Krook also highlighted that in some countries where political parties receive public funding, a percentage is earmarked “to go towards activities that support the development of women’s leadership and women’s political participation”.<sup>163</sup>

**131.** We explored how political parties are encouraging more women and people from underrepresented groups to come forward and stand to be candidates. The Welsh Labour representative confirmed that work was already underway with the party to encourage Black, Asian, Minority Ethnic and LGBTQ+ women to come forward and to shape training and support, as well as working with trade unions and party affiliated socialist societies to “encourage their members to stand or express an interest and engage in the process”.<sup>164</sup>

**132.** Similarly, the Plaid Cymru representative referred to work undertaken by different sections of the party to encourage its members to stand, as well as formal and informal mentoring. He added:

*“[...] we can see that, where we have internal rules to ensure that women have certain places on lists or certain positions, then we find that women are more willing to stand”.*<sup>165</sup>

**133.** The representative for the Welsh Conservatives told us the party has various outreach groups to encourage and address people’s reluctance to stand. He

<sup>160</sup> RoP [para 139], 18 April 2024

<sup>161</sup> RoP [para 143], 18 April 2024

<sup>162</sup> RoP [para 512], 18 April 2024

<sup>163</sup> RoP [para 515], 18 April 2024

<sup>164</sup> RoP [para 320], 18 April 2024

<sup>165</sup> RoP [para 322], 18 April 2024

noted success in relation to standing at least 50 per cent women candidates for election to Monmouthshire County Council in 2022, achieved “through the efforts of people locally” rather than through selection rules.<sup>166</sup>

### The effect of the removal of candidates from a list

**134.** The Association of Electoral Administrators (‘the AEA’) emphasised the need to consider the possibility of a candidate withdrawing or dying during the election process or timetable, and the impact this will have on candidate placement on party lists. Without this clarity, the AEA said confidence in the democratic process could be affected.<sup>167</sup> The AEA elaborated on this issue during oral evidence:

*“[...] we currently have a withdrawals process where a candidate can withdraw before the close of nominations, or the nominating officer can withdraw a party list, and what we’re concerned about is that it’s unprecedented in the sense that a candidate could withdraw their nomination and, at the moment, that would have no impact. But, if it were a woman candidate who was to withdraw, you’ve suddenly got a valid nomination that would then become invalidated, and obviously, there’s a risk of that, potentially, being abused by people, as well, to almost invalidate a whole party list”.*<sup>168</sup>

**135.** The AEA’s written evidence stated that a clear process will need to be set out in secondary legislation for the CRO to follow to provide “consistency and an assurance of fairness”. It suggested that consideration could be given to only allowing withdrawals to be made via the political party, rather than individual candidates. However, the AEA acknowledged that a process would still be needed in the case of a candidate’s death. Furthermore, it noted that a candidate’s withdrawal or death could also impact the horizontal placement criteria, and that the NNCO would need a legislative framework to follow to make sure they take the correct steps.<sup>169</sup>

**136.** The processes to be followed in the case of either a candidate’s withdrawal or death during the nomination process will be set out in secondary legislation. The Statement of Policy Intent for Subordinate Legislation states the following in relation to a candidate’s death:

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<sup>166</sup> RoP [paras 317-318], 18 April 2024

<sup>167</sup> SCECLB13-P Association of Electoral Administrators

<sup>168</sup> RoP [para 83], 21 March 2024

<sup>169</sup> SCECLB13-P Association of Electoral Administrators

*“The policy intention is to include provision in the section 13 order to address the situation when a woman candidate dies during the nominations process, where this affects compliance with the rules. This may involve the list being treated as compliant if, but for the death, it would have been compliant (i.e. for CROs and the NNCO to consider compliance as if the death had not occurred)”.*<sup>170</sup>

**137.** The Statement of Policy Intent for Subordinate Legislation indicates that “other situations involving the removal of a candidate from a list may also be addressed”, but does not indicate the Welsh Government’s policy intentions in relation to a candidate’s late withdrawal.<sup>171</sup>

**138.** When questioned on the Welsh Government’s intentions in this regard, the Member in charge said:

*“[...] we’re working through the process with key stakeholders on this, on how withdrawals could be handled in terms of the compliance with the rules in this Bill, in terms of the quotas. I mean, obviously, there are some events that could be beyond a party’s control that could impact on compliance. So, we do need to look to ensure that we’ve got safeguards in the conduct Order, in the secondary legislation, so that the returning officers and the national nominations compliance officer can respond appropriately and proportionately, but as far as possible aligning this with current rules and processes”.*<sup>172</sup>

## Vacancies

**139.** Section 9 of the SC(ME) Bill, which substitutes a new section 11 into the GoWA 2006, makes arrangements for filling vacant seats arising between general elections. It provides that vacancies will be filled by the next eligible and willing candidate on the list, or for the seat to remain vacant if the list has been exhausted or the outgoing Member was elected as an independent.

<sup>170</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Statement of Policy Intent for Subordinate Legislation](#), 11 March 2024

<sup>171</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Statement of Policy Intent for Subordinate Legislation](#), 11 March 2024

<sup>172</sup> RoP [para 94], 1 May 2024

**140.** Dr Gomes suggested the quota rules could:

*“[...] create incentives for faux candidacies by women, whereupon parties ask women to run and resign once the election is over, doing so willingly whether by financial incentive or by promise of another position. This can also create incentives for pressuring women to resign in favour of men, including physical violence”.<sup>173</sup>*

**141.** Consequently, Dr Gomes suggested that “rules should be in place for alternates to be of the same gender, discouraging political violence (including psychological pressure to resign)”.<sup>174</sup> Professor Krook also addressed the filling of vacancies:

*“[...] globally, there’s been a really interesting trial-and-error process to work out some of exactly these cases, and when this started happening in a number of countries, either because a woman resigned, or there was some other reason she was replaced, and then maybe replaced by a man, it affected the overall gender composition of the assembly, they did change the legislation or there was jurisprudence that was created to say that a women had to be replaced by a woman and a man had to be replaced by a man. So, that’s very much in line with international practice, as it has developed over time. [...] The idea of it’s the next person on the list, but the next person on the list of the same sex, would, I think, be a good way to ensure that the level of parity is maintained over time”.<sup>175</sup>*

**142.** Diverse5050 acknowledged that “the provisions on filling casual vacancies could potentially have a negative impact on achieving gender parity”.<sup>176</sup>

**143.** We explored whether any consideration had been given to the impact of vacant seats on the overall balance of the Senedd. The Member in charge confirmed that vacancies arising during a Senedd term would be offered to the next eligible and willing person on the list, which she said gave “at least a 50 per cent chance for a replacement by a woman”. She added:

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<sup>173</sup> SCECLB16-P Dr Larissa Peixoto Vale Gomes, University of Edinburgh

<sup>174</sup> SCECLB16-P Dr Larissa Peixoto Vale Gomes, University of Edinburgh

<sup>175</sup> RoP [para 473], 18 April 2024

<sup>176</sup> [Additional information provided by Diverse5050 following the evidence session on 24 April 2024](#)

*"[...] we know that there are very few casual vacancies of that kind. But I think it's important that we recognise that we're talking here about candidate quotas in this Bill, so the rules apply to candidates on party lists and not beyond the point at which they stand nominated for their party. But we think that to introduce further rules could be quite complex and disproportionate in terms of the low number of vacancies that are likely to occur and also the nature and rigour of existing rules that apply to lists at nomination stage, and we're keen to get this Bill through in terms of the main purpose".<sup>177</sup>*

## Our view

**144.** We have heard evidence about the opportunities and risks of different quota system designs. We acknowledge that the Bill does not deliver exactly the design of quota recommended by the SPCSR. However, the majority of Committee members are persuaded that the minimum threshold proposed in the Bill, coupled with its vertical and horizontal placement criteria, presents the best opportunity to deliver parity of representation in the Senedd. We recognise that the quota rules cannot guarantee parity, and will require commitment from parties to place women in winnable places on lists in winnable seats. We also recognise that other non-legislative action is needed to support and encourage greater representation of women alongside the Bill. These issues are discussed further in chapter 9.

**145.** Darren Millar MS does not agree with the quota rules proposed in the Bill. He supports the view that the proposed quota system in the Bill does not represent a proportionate response to the challenges of gender balance in the Senedd given the fact that gender parity has previously been achieved without quotas and that the Senedd continues to have significantly and consistently higher levels of women's representation than other parliaments. He is concerned that the rules undermine the Bill's objective of seeking parity of representation as they would place limits on the number and placement of men but not on the number or placement of women. While he does not support the general principles of the Bill, he believes that if a legislative quota were to be implemented it should be in line with the SPCSR recommendation, endorsed by the Senedd in 2022 i.e. it should require 50 per cent ( $\pm 1$  candidate) of candidates in each constituency to be

<sup>177</sup> RoP [paras 99 and 101], 1 May 2024



women and 50 per cent ( $\pm 1$  candidate) men, with lists zipped (i.e. alternating women and men).

**146.** The risks that the quota rules may be open to abuse could result in women standing for election in order to comply with the quota rules with the intention of withdrawing their candidacy or resigning if elected, or people being pressurised to withdraw, must be mitigated by ensuring there is clarity about the impact on compliance with the quota rules of the removal of a candidate from the list. We note that the Bill provides that the Conduct Order "may" make provision relating to compliance with the quota rules when a candidate is removed from a list after its submission. We do not consider this to be sufficient, and want to see the "may" changed to "must".

**Recommendation 2.** The Member in charge should clarify which situations involving the removal of a candidate from a list will be detailed in the Conduct Order in accordance with new section 7D(1)(a) (to be inserted into the Government of Wales Act 2006), and provide details of the Welsh Government's policy intentions in relation to each circumstance.

**Recommendation 3.** The Member in charge should bring forward amendments at Stage 2 to change the "may" in new section 7D(1) (to be inserted into the Government of Wales Act 2006) to a "must" as it relates to provision to be made in the Conduct Order in relation to the effect of the removal of a candidate from a list of candidates on compliance with sections 7A and 7B.

**147.** In the event of a woman candidate's death, we understand that the Welsh Government's intention is to provide that CROs and the NNCO consider compliance as if the death had not occurred. But, no policy intentions have been provided in respect of other reasons for a candidate's removal from the list, for example as a result of a candidate's decision to withdraw or the party's decision to withdraw their nomination. To protect all candidates from threats of violence or intimidation and guard against women standing for the purposes of apparent compliance (with the intention of subsequently withdrawing or resigning), we believe the Bill must include provision setting out what would happen if a candidate withdraws after a list has been submitted. In the first instance, if a candidate withdraws, the remaining list must be reassessed against the quota rules. If that assessment finds that the list is no longer compliant, the party should be given an opportunity to reorder their candidates to achieve compliance. If the party's view is that they wish to stand an additional candidate to replace the withdrawn candidate, that additional candidate must have made the same



statement as the withdrawn candidate on whether they are a woman or not a woman.

**Recommendation 4.** The Member in charge should confirm that provision made in the Conduct Order in relation to the effect of the removal of a candidate from a list of candidates on compliance with sections 7A and 7B will require that where a candidate withdraws after a list had been submitted, the remaining list must be reassessed against the quota rules. If that assessment finds that the list is no longer compliant, the party should be given an opportunity to reorder their candidates to achieve compliance. If the party's view is that they wish to stand an additional candidate to replace the withdrawn candidate, that additional candidate must have made the same statement as the withdrawn candidate on whether they are a woman or not a woman.

**148.** The same safeguard should also be afforded to Members, who could also face pressure to resign once elected. We understand that vacancies arising during a Senedd term will be offered to the next eligible candidate on the list, and we note the Member in charge's view that further rules could be "complex and disproportionate in terms of the low number of vacancies". However, we have noted, for example, four vacancies<sup>178</sup> in the Fourth Assembly and two vacancies<sup>179</sup> in the Fifth Senedd, for reasons other than the death of a Member. A larger Senedd will also increase the likelihood of vacancies arising in future. Therefore, to protect Members from pressure to resign, and to maintain the balance of representation throughout a Senedd term, a person on a party's list should initially only be eligible to fill a casual vacancy if, at the point at which they were nominated as a candidate for the election, they made the same statement as the outgoing Member on whether they are a woman or not a woman. If no such candidates remain on the list, the vacancy may then be filled by the next eligible and willing person on the list who did not make the same statement.

**Recommendation 5.** The Member in charge should bring forward amendments at Stage 2 to include provision that requires vacancies arising between elections to be filled by the next eligible and willing person on the list who made the same statement as the outgoing Member on whether they are a woman or not a woman. If no such candidates remain on the list, the vacancy may be filled by the next eligible and willing person on the list who did not make the same statement.

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<sup>178</sup> Three regional vacancies (John Dixon, Antoinette Sandbach and Byron Davies) and one constituency vacancy (Ieuan Wyn Jones)

<sup>179</sup> Two regional vacancies (Nathan Gill and Simon Thomas)

**149.** We recognise that our recommended approach to addressing the removal of candidates during the election timetable or casual vacancies arising during a Senedd term would require the statements on whether a candidate is a woman or not a woman made at the point of their nomination as a candidate to be retained for an appropriate period. In the case of casual vacancies, this would be for the duration of the relevant Senedd term.

**Recommendation 6.** When giving effect to our recommendations 4 and 5 in the Conduct Order, the Member in charge should undertake a data protection impact assessment to ensure that any appropriate steps are taken in respect of the retention of candidates' statements on whether they are a woman or not a woman for an appropriate period (which, for casual vacancies, would be the duration of the relevant Senedd term).

## 4. Enforcement and compliance

### Provision in the Bill

**150.** New section 7C of the GoWA 2006, inserted by section 1 of the Bill, provides for the creation of a National Nominations Compliance Officer ('NNCO') and for the enforcement of section 7B (the horizontal placement criteria).

**151.** Section 7C(1) and (2) requires the Welsh Ministers to make provision in the Conduct Order for the designation of an NNCO and their functions related to ensuring compliance with section 7B.

**152.** Section 7C(3) allows the Welsh Ministers to make provision in the Conduct Order about steps that may or must be taken when candidate lists do not comply with section 7B, and the functions of the Constituency Returning Officer ('CRO') in relation to ensuring compliance with section 7B.

**153.** Section 7C(4) permits Welsh Ministers to make provision in the Conduct Order:

- Setting out how the NNCO may or must determine which list or lists are subject to change in order to ensure compliance with section 7B.
- Requiring or enabling the CRO to make changes to a list selected by the NNCO.
- Requiring or enabling the CRO to hold that where the only candidate on that selected list is not a woman, that candidate no longer stands nominated.

### National Nominations Compliance Officer

**154.** The EM states that the "new and unique role" of the NNCO is required solely for the purpose of implementing the candidate quotas. It states that, as is the case for the role of CROs, much of the operational detail relating to the practical steps that must or may be taken by the NNCO will be set out in the Conduct Order, rather than being on the face of the Bill.<sup>180</sup>

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<sup>180</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 113

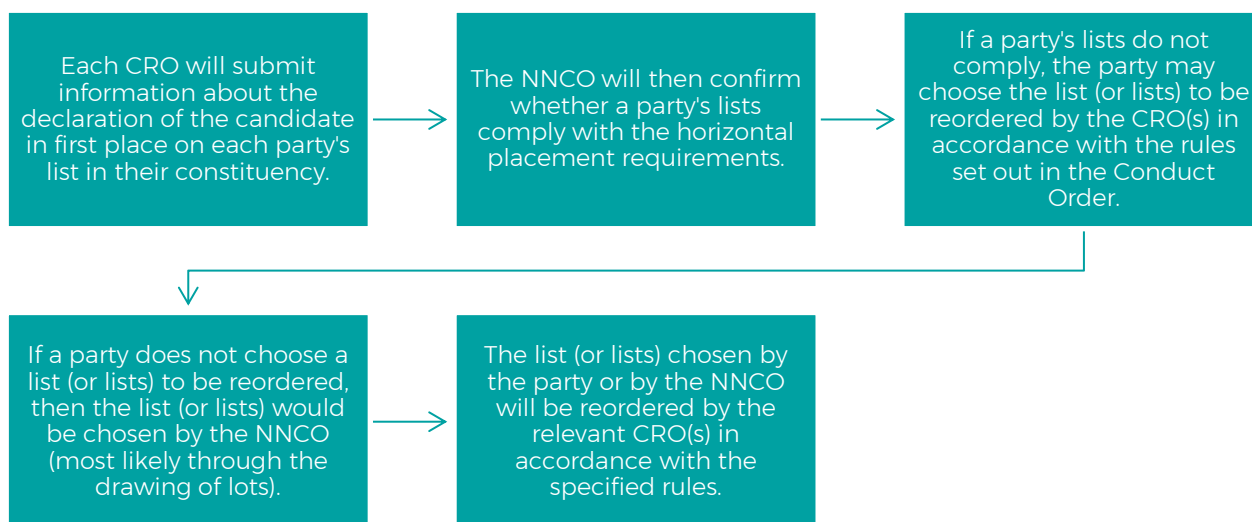
**155.** The Statement of Policy Intent for Subordinate Legislation indicates the Welsh Government’s intention to fill the role with someone from the pool of Local Authority Returning Officers who will not be serving as a CRO in Senedd elections.<sup>181</sup>

**156.** The Statement of Policy Intent for Subordinate Legislation also states that changes to the election timetable will be needed “to allow for adequate time to complete the necessary compliance checks”, with a period of up to three days envisaged for this purpose.<sup>182</sup> Changes to the election timetable are discussed further in chapter 7.

**157.** The EM refers to the offence of breach of official duty by Returning Officers and other electoral officials, and suggests that this “may be amended to cover the NNCO”.<sup>183</sup>

**158.** While the detail about the NNCO’s role will be set out in the Conduct Order, the EM outlines the intended process that the NNCO will follow to assess compliance and resolve any issues of non-compliance.<sup>184</sup> This is summarised in Figure 3.

**Figure 3 Intended process to assess compliance and resolve any issues of non-compliance with section 7B**



<sup>181</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Statement of Policy Intent for Subordinate Legislation](#), 11 March 2024, page 5

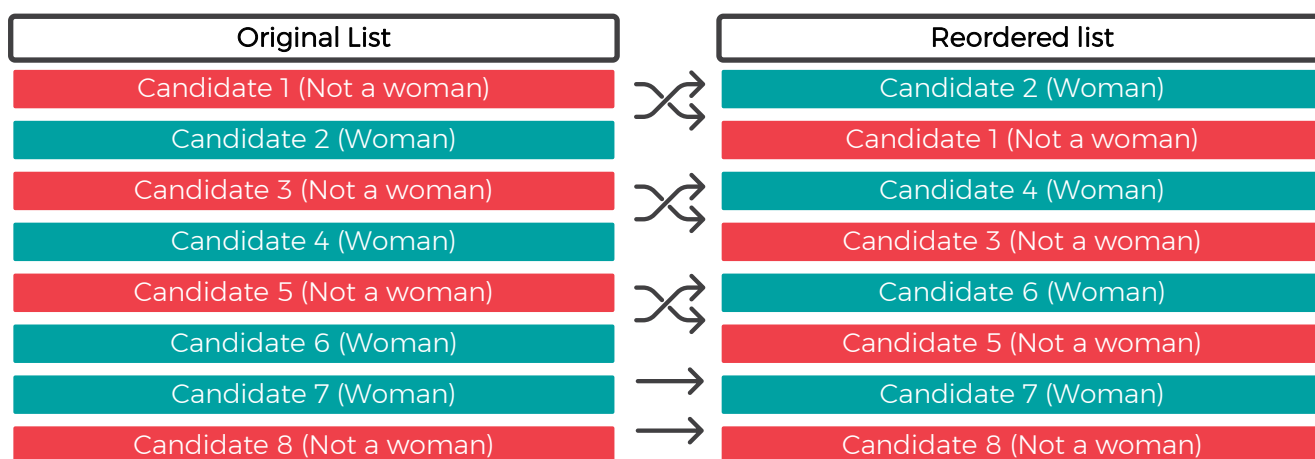
<sup>182</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Statement of Policy Intent for Subordinate Legislation](#), 11 March 2024, page 5

<sup>183</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 236

<sup>184</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 113

**159.** Figure 4 demonstrates the impact that reordering a list might have on the subsequent candidates on the list in order to maintain compliance with the vertical placement criteria. As a result of the candidate who is not a woman at the top of the list being moved to second place, the third placed candidate (also not a woman) must swap positions with the fourth placed woman candidate, as the vertical placement criteria prevents two candidates who are not women from appearing in succession on the list.

**Figure 4 Reordering a candidate list**



## Methods of enforcing quotas

### Rejection of candidate lists

**160.** The evidence we heard from academics supported the rejection and subsequent reordering of lists, should a party fail to comply with the placement criteria. Professor Kenny and Professor Piscopo both described this model of enforcement as following international best practice.<sup>185</sup> Professor Kenny told us that electoral sanctions of invalidating (or reordering) non-compliant lists is likely to be “much more effective” at ensuring compliance than financial penalties.<sup>186</sup>

**161.** Diverse5050 also described the rejection of non-compliant lists as a “highly effective enforcement mechanism”.<sup>187</sup> The ERS Cymru supported parties being given the opportunity to revise a non-compliant list in the first instance, noting

<sup>185</sup> SCECLB14-P Professor Meryl Kenny, University of Edinburgh and SCECLB15-P Professor Jennifer Piscopo, Royal Holloway University of London

<sup>186</sup> RoP [para 504], 18 April 2024

<sup>187</sup> SCECLB5-P Diverse5050

that “flexibility when we’re introducing a brand-new system is really key” and that the approach would “ensure that mistakes aren’t made”.<sup>188</sup>

**162.** Dr Daniel’s research concluded that the sanction proposed is “among the strongest possible sanctions for quota enforcement”. Furthermore, he noted that it is unlikely to feature heavily in the daily operation of the quotas, as political parties in democratic systems are already more likely to abide by legislation than in other contexts. When looking at elections to the European Parliament, Dr Daniel’s research found that countries that have strong enforcement mechanisms as part of their quotas have more women Members of the European Parliament than those with weak or no enforcement. At the political party level, his research found the effect to be even stronger, with political parties in countries that have strong enforcement mechanisms as part of their quotas having 9.94 per cent more women among their elected representatives compared to those with weak or no enforcement.<sup>189</sup>

**163.** Electoral administrators were also supportive of the proposed approach. The AEA noted that CROs would verify compliance with the vertical rules as part of their usual nomination checks and, while it would be an “additional burden”, it said it is appropriate for CROs to undertake this role.<sup>190</sup> The Electoral Commission stated that there is a “relatively clear process for the Constituency Returning Officer to follow in order to determine whether a list is compliant or not”.<sup>191</sup>

**164.** Dr Gomes explained that “most countries that have achieved successful results with gender quotas have imposed strong sanctions”, with the most common being rejection of the whole list. However, she emphasised that compliance relies on sanctions being enforced, suggesting that parties “will not comply” if they believe they will not be punished.<sup>192</sup> This was echoed by Dr Jenichen, who highlighted that parties will find ways to “undermine the quota regulations” if sanctions are absent.<sup>193</sup>

**165.** In practice, Professor Piscopo said lists rarely need to be reordered or invalidated after the first election where the quota is implemented and enforced. She argued that:

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<sup>188</sup> RoP [para 151], 24 April 2024

<sup>189</sup> Modelling of Proposed Gender Quotas, Dr William T Daniel, University of Nottingham

<sup>190</sup> SCECLB13-P Association of Electoral Administrators

<sup>191</sup> SCECLB32-P The Electoral Commission

<sup>192</sup> SCECLB16-P Dr Larissa Peixoto Vale Gomes, University of Edinburgh

<sup>193</sup> SCECLB25-P Dr Anne Jenichen, Aston University

*“[...] in the first implementation, if parties attempt to defy the rule and find that their lists are ordered to be reordered or are invalidated, this enforcement creates a cost for the party and sends a signal that the authorities are serious”.<sup>194</sup>*

**166.** Dr Louise K Davidson-Schmich also supported the view that without enforcement and sanctions, parties tend to “‘play with’ quotas rather than ‘playing by them’”.<sup>195</sup>

**167.** Dr Lühiste highlighted an inconsistency in the Bill’s proposals as “parties are provided with a ‘second chance’ to correct non-compliance with the horizontal rule but not with the vertical rule”.<sup>196</sup>

**168.** When asked whether parties would be given support to ensure they have time to comply with the vertical placement criteria, the Member in charge said she hoped it would not be necessary for CROs to reject a list for failing to meet the vertical rules. She added:

*“We’ve considered vulnerability of parties to potential non-compliance [...], this is possibly higher for the horizontal rule, and that’s where it’s important that, for political parties that perhaps don’t have a strong national co-ordination function, we’re proposing that slightly different approach in terms of compliance, which will allow political parties to stand as many of their candidates as possible, but in a different order on their list”.<sup>197</sup>*

**169.** In terms of the intended approach to reordering the selected list, which will be specified in the Conduct Order, the Member in charge’s official confirmed that the principle would be to have “minimum impact on the reordering of the list”.<sup>198</sup>

## Financial penalties

**170.** We heard that some countries impose financial penalties on parties that do not comply with quota rules rather than rejecting candidate lists. The EM refers to the system in the Republic of Ireland, where political parties lose 50 per cent of

<sup>194</sup> SCECLB15-P Professor Jennifer Piscopo, Royal Holloway University of London

<sup>195</sup> SCECLB38-P Dr Louise K. Davidson-Schmich, University of Miami

<sup>196</sup> SCECLB37-P Dr Maarja Lühiste, Newcastle University

<sup>197</sup> RoP [para 19], 1 May 2024

<sup>198</sup> RoP [para 130], 13 March 2024

their state funding if they fail to meet the electoral quota. However, the EM notes that such a mechanism would not operate effectively in Wales as parties do not receive state funding in the same way.<sup>199</sup>

**171.** Nevertheless, financial sanctions were generally considered to be less effective than the rejection of candidate lists. Referring to the experience in countries like France, Professor Kenny explained that financial penalties are “often ineffective for big parties because they can afford to take the financial hit and just not follow the law”.<sup>200</sup> Diverse5050 also recognised that financial sanctions would “allow parties to proceed to an election with non-compliant lists if they are willing and able to make the financial sacrifice”.<sup>201</sup> The same point was made by Dr Gomes and Professor Campbell.<sup>202</sup> Professor Krook referred to her own research which demonstrated that:

*“[...] if there is no sanction or if there is a financial sanction, these usually create a lot of loopholes for political parties to avoid implementation, but if they are forced to comply, then not surprisingly they do”.<sup>203</sup>*

**172.** The Member in charge said consideration was given to the possibility of imposing financial penalties but that it would require “a whole new set-up of independent bodies” to issue fines.<sup>204</sup>

### **Role of party agents**

**173.** The WECB emphasised the important role of party agents locally and nationally in managing the vertical and horizontal placement rules, and added:

*“[...] it’s going to be critical that parties have a single, named responsible national agent who the NNCO could work with, should there be a problem over the weekend post nomination. So,*

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<sup>199</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 110

<sup>200</sup> RoP [para 504], 18 April 2024

<sup>201</sup> SCECLB5-P Diverse5050

<sup>202</sup> SCECLB16-P Dr Larissa Peixoto Vale Gomes, University of Edinburgh and RoP [para 85], 18 April 2024

<sup>203</sup> RoP [para 508], 18 April 2024

<sup>204</sup> RoP [para 201], 13 March 2024



*streamlining of roles, role clarity and preparation of agents at national and local levels are more important than ever”.*<sup>205</sup>

**174.** Political party representatives explained that currently the local nomination procedures are predominantly run by party volunteers. We heard that training would be needed to ensure that local and national agents understand the new rules and requirements and it was also suggested that some volunteers may be deterred by the increased responsibilities.<sup>206</sup>

**175.** When asked how parties would manage any potential reordering of candidate lists to comply with the horizontal rules, party representatives indicated that they would consider their procedures and standing orders once the legislation is finalised.<sup>207</sup>

**176.** The Member in charge said it would be in every party’s interest to understand the requirements:

*“It will be in their interest to submit nominations early in the window so that there’s an opportunity to correct any errors before the nominations deadline. This is standard practice anyway in terms of electoral arrangements. But the rules aren’t complex. The legislation is clear. And training and guidance [...] in advance of the election, will be updated to reflect the changes”.*<sup>208</sup>

## Role of the National Nominations Compliance Officer

### Functions

**177.** In its written evidence, the Electoral Commission noted that it was unable to provide a detailed response on the role of the NNCO without seeing further details about what may be included in secondary legislation. However, it expected the process to be followed by the NNCO to be “deliverable” and indicated that “the Welsh Government has designed the proposed system in consultation with electoral administrators”.<sup>209</sup>

<sup>205</sup> RoP [para 64], 21 March 2024

<sup>206</sup> RoP [paras 294, 296 and 393], 18 April 2024

<sup>207</sup> RoP [paras 311, 313 and 315], 18 April 2024

<sup>208</sup> RoP [para 16], 1 May 2024

<sup>209</sup> SCECLB32-P The Electoral Commission

## **Transparency and accountability**

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**178.** The AEA said it must be clear that actions taken by the NNCO to direct a CRO to reorder candidates are made objectively, without any real or perceived political interference. It added that any “drawing of lots’ to determine [which] list is to be re-ordered [...] should be done under appropriate scrutiny”.<sup>210</sup>

**179.** Both the Electoral Commission and the AEA raised questions about the accountability of the NNCO. The Electoral Commission stated that it currently sets performance standards for Returning Officers. While it has had early discussions with the Welsh Government about how these performance standards could be extended to cover the NNCO, the Electoral Commission indicated that this would require further consideration.<sup>211</sup>

**180.** When asked whether the offence of breach of official duty should apply to the NNCO, the AEA said it would first need to consider the “full nature and functions” of the NNCO role in subordinate legislation, but added:

*“[...] if they are acting in a similar function to a returning officer, and a returning officer is always subject to a breach of official duty, then it would seem reasonable that that would be exactly the same for the national nominations compliance officer”.*<sup>212</sup>

## **Appointment of a deputy NNCO**

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**181.** The Bill makes no provision for the appointment of a deputy NNCO.

**182.** The WECB called for the appointment of a deputy NNCO to act as a “standby” should the designated NNCO be “ill or indisposed” during the period they would undertake their duties.<sup>213</sup> This proposal was supported by the AEA and the Electoral Commission.<sup>214</sup>

**183.** Addressing the need for a deputy NNCO, the Member in charge’s official said discussions with electoral administrators were ongoing, but that Ministers had not yet taken a decision.<sup>215</sup>

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<sup>210</sup> SCECLB13-P Association of Electoral Administrators

<sup>211</sup> SCECLB13-P Association of Electoral Administrators and SCECLB32-P The Electoral Commission

<sup>212</sup> RoP [para 97], 21 March 2024

<sup>213</sup> RoP [para 10], 21 March 2024

<sup>214</sup> SCECLB13-P Association of Electoral Administrators and SCECLB32-P The Electoral Commission

<sup>215</sup> RoP [para 22], 1 May 2024

**184.** If the decision was taken to appoint a deputy NNCO, the Member in charge told the Finance Committee that the associated costs would be “around £250 per election cycle”.<sup>216</sup>

### **Our view**

**185.** We are content with the proposed system of enforcement and sanctions for non-compliance outlined in the Bill, recognising that it provides a strong mechanism which follows international best practice. We also welcome the decision to make provision in relation to the horizontal placement rule for the reordering of a non-compliant list rather than its outright rejection, to ensure that parties are able to stand as many candidates as possible.

**186.** Ultimately, it will be for parties to manage their compliance with the vertical and horizontal placement rules. While parties may choose to adapt their existing approach with the introduction of the new 16 six-Member constituency model, we recognise the additional burdens that may be placed on party volunteers currently tasked with managing the nominations process locally. We note the suggestion from electoral administrators that parties should identify a national party agent to coordinate candidate lists and manage the horizontal placement rule. Parties will need to think carefully about how they organise themselves, who will take responsibility for managing the party’s overall compliance, and the timing of submitting nomination forms to CROs. We do not underestimate the challenges involved, especially if it becomes necessary to select a list or lists to be reordered at short notice.

**187.** We are content with the provision for the designation of an NNCO in new section 7C and recognise electoral administrators’ involvement in its design. However, we are also mindful that much of the detail will be set out in secondary legislation and that some decisions about the NNCO remain outstanding. While we accept that the NNCO is intended to be a discrete and temporary role, we share the concerns expressed by electoral administrators regarding the lack of provision for a deputy NNCO. Given the significant role of the NNCO in the enforcement of candidate quotas, we believe it would be remiss not to formally designate a deputy NNCO who can undertake this crucial role with the same legitimacy, credibility and expertise, if needed. Our view is that provision for the appointment of a deputy NNCO should be included on the face of the Bill so that there is no doubt over whether such a deputy may be appointed.

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<sup>216</sup> Finance Committee RoP [para 144], 24 April 2024

**Recommendation 7.** The Member in charge should bring forward amendments at Stage 2 to include a requirement on the face of the Bill that the Welsh Ministers must make provision in the Conduct Order for the designation of a deputy National Nominations Compliance Officer.

**188.** Electoral administrators also highlighted outstanding decisions regarding the accountability arrangements for the NNCO. Given the nature of the role and the need to protect the integrity of the election process, our view is that the performance standards and the offence of breach of official duty that currently apply to CROs must be extended to the NNCO (and deputy NNCO).

**Recommendation 8.** The Member in charge should provide assurances that the performance standards and offence of breach of official duty that apply to Constituency Returning Officers will be extended to the National Nominations Compliance Officer (and deputy National Nominations Compliance Officer). In her response to our report, she should outline whether any primary or secondary legislative changes will be required to achieve this.

## 5. Statement on whether a candidate is a woman or not a woman

### Provision in the Bill

**189.** Section 1 of the Bill inserts new section 7D into the GoWA 2006 to specify particular provision relating to sections 7A (at least half of the candidates on a list must be women) and 7B (the first or only candidate on at least half of the lists submitted by a party must be a woman) that may or must be made in the Conduct Order.

**190.** Section 7D(2) provides that the Conduct Order must make provision requiring a person, as part of the process of being nominated by a political party as a candidate, to state whether they are a woman or not a woman (the ‘statement’).

**191.** Section 7D(1)(b) provides that the Conduct Order may make provision for the statement made under new section 7D(2) to be inspected by relevant persons.

### The requirement on candidates to make a statement

**192.** The EM explains that the “requirement for a candidate to state whether they are a woman or not a woman provides the information necessary, but no more, to implement and enforce the system”.<sup>217</sup> The Statement of Policy Intent for Subordinate Legislation states that a candidate’s nomination will be invalid if they fail to provide the statement.<sup>218</sup>

### Sex and gender

**193.** The Bill itself does not contain the words ‘sex’ or ‘gender’. Several women’s organisations raised concerns about the wording of the statement and the use of the terms ‘sex’ and ‘gender’ in the EM. They said it could lead to men who identify as women purely for the purposes of getting elected taking the places intended for women. This was echoed by many of those who responded to our consultation in an individual capacity.<sup>219</sup>

<sup>217</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 91

<sup>218</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Statement of Policy Intent for Subordinate Legislation](#), 13 March 2024, page 6

<sup>219</sup> Responses may be found in full on the [consultation webpage](#).

**194.** Labour Women’s Declaration Cymru<sup>220</sup> stated that sex refers to “biological difference and the fact that, in humans, whether an individual is male or female is determined at conception and is immutable” and gender is “infinitely mutable, between individuals, for individuals, over time and across cultures”.<sup>221</sup> The Women’s Rights Network said that the “definition of ‘gender’ is disputed and therefore sex as defined by the Equality Act 2010 should be used throughout”.<sup>222</sup> Chwiorydd Plaid<sup>223</sup> also called for the Bill “to be completely revised using the unambiguous term ‘sex’—meaning biological sex—not the inaccurate and contested term ‘gender’”.<sup>224</sup> The Lesbian, Gay and Bisexual Alliance Cymru (LGBAC) did not “believe ‘gender identity’ is a meaningful, lasting or evidence-based way to structure any legislature”.<sup>225</sup> While recognising that the terms sex and gender have in the past been used interchangeably to mean sex, Merched Cymru said the current debate “means that clarity about who is counted as a woman for the purposes of the Bill is vital”.<sup>226</sup>

**195.** Dr Ola Abdelaal, the Women’s Rights Network, the LGBAC, Welsh Women Speak Out and Merched Cymru all warned that, as currently drafted, the EM and Integrated Impact Assessment create “confusion” around the use of the terms sex and gender, which in their view means the proposed Bill is not compliant with the Equality Act 2010.<sup>227</sup> Merched Cymru said that the EM only refers to the “correct protected characteristic of ‘sex’” once and “refers otherwise to gender”.<sup>228</sup> The Labour Women’s Declaration Cymru also highlighted the following examples:

*“Paragraph 94 of the Explanatory Memorandum states: ‘While parties will be required to ensure that at least 50% of their candidates are women, the remaining candidates can be any gender, including women, in any proportion.’ The purpose of the Bill is to achieve equal representation between men and women, so even if the word ‘gender’ is deemed acceptable in this context - which we would argue it is not - this should read ‘either gender’, not ‘any gender’.*”

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<sup>220</sup> The [Labour Women’s Declaration](#) is the work of a movement started in autumn 2019 to raise the profile of women’s sex-based rights within the Labour Party and wider socialist movement.

<sup>221</sup> SCECLB19-P Labour Women’s Declaration Cymru

<sup>222</sup> SCECLB7-P Women’s Rights Network

<sup>223</sup> Chwiorydd Plaid is not an [official section or affiliated group of Plaid Cymru](#).

<sup>224</sup> SCECLB24-P Chwiorydd Plaid

<sup>225</sup> SCECLB20-P Lesbian, Gay and Bisexual Alliance Cymru

<sup>226</sup> SCECLB22-P Merched Cymru

<sup>227</sup> SCECLB23-P Dr Ola Abdelaal, University of Manchester, SCECLB7-P Women’s Rights Network, SCECLB20-P Lesbian, Gay and Bisexual Alliance Cymru, SCECLB36-P Welsh Women Speak Out and SCECLB22-P Merched Cymru

<sup>228</sup> SCECLB22-P Merched Cymru

*Another example lies in Paragraph 225 of the Explanatory Memorandum, which states: 'Political parties will need to know the stated gender of their candidates so that they can ensure that their party lists comply with the quota rules.' There is no need whatsoever for political parties to know whether their candidates have a gender identity, or what it is: they only need to know the candidate's sex, information which is routinely requested in public life and which is recorded on personal documents such as birth certificates, NHS cards, passports and driving licences".<sup>229</sup>*

**196.** Similar points were made by the Equality and Human Rights Commission ('the EHRC') which stated that "the relevant protected characteristic in the [Equality Act 2010] is sex not gender". The EHRC noted that:

*"The Explanatory Memorandum mentions the term 'sex' once and this is to reference the protected characteristic as set out above. Gender is otherwise the term used throughout. Whilst the Bill itself refers to 'women,' which is consistent with the terminology of the [Equality] Act, the repeated use of 'gender' throughout the Explanatory Memorandum may give rise to confusion about how this is defined and may lead to inconsistency with the principles of the Act".<sup>230</sup>*

**197.** The LGBAC argued that the Equality Impact Assessment has misrepresented the protected characteristic 'sex' by using the term 'sex/gender'. It expressed concerns that the Welsh Government has not identified any risk that men will identify as women in order to take women's places, yet it stated there is evidence of this happening in other domains (e.g. sports and prisons).<sup>231</sup> Addressing the Equality Impact Assessment, the Women's Rights Network said there is a "lack of rigour for the impact on protected characteristics that impact women specifically". It questioned why the assessment included 620 words on gender reassignment compared to 81 words on the protected characteristic of pregnancy and maternity (a characteristic which it suggested is "potentially a key reason for the lack of elected women").<sup>232</sup> While the EHRC was encouraged that an Equality Impact Assessment accompanied the Bill, it noted that it lacks detail "as to why

<sup>229</sup> SCECLB19-P Labour Women's Declaration Cymru

<sup>230</sup> SCECLB8-P Equality and Human Rights Commission

<sup>231</sup> SCECLB20-P Lesbian, Gay and Bisexual Alliance Cymru

<sup>232</sup> SCECLB7-P Women's Rights Network



gender was used as a term rather than sex”, and an “analysis of the potential impacts of this”.<sup>233</sup>

**198.** Addressing the requirement for candidates to make a statement, Professor McAllister acknowledged the need to carefully consider the advice received from the EHRC to give the Bill “every chance of being within competence by using the terminology that is fundamentally legally acceptable to organisations that police the Equality Act”.<sup>234</sup>

### Wording of the statement

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**199.** The Bill provides that the Conduct Order must make provision requiring a person, as part of the process of being nominated by a political party as a candidate, to state whether they are a woman or not a woman. It does not specify the meaning of ‘woman’ or ‘not a woman’.

**200.** Some contributors to our work supported the wording of the statement. The Fawcett Society said it is for parties to determine the position of candidates and is supportive of inclusive lists which include trans women.<sup>235</sup> Elect Her told us it is “not interested in defining what a woman is—the patriarchy has been doing that for long enough”.<sup>236</sup> WEN Wales told us the statement “does what it needs to do in terms of this legislation”, and added:

*“[...] if asking this question ensures representation for the full diversity of identities in Wales, then that can only be a good thing”.<sup>237</sup>*

**201.** External research conducted by Dr Andrea Aldrich for Senedd Research found that quota laws and rules usually refer to women as the target group but do not usually state what ‘women’ means. Dr Aldrich accepted that this could create ambiguity.<sup>238</sup>

**202.** When asked why the Bill does not define ‘woman’ for the purposes of the Bill, the Member in charge said:

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<sup>233</sup> SCECLB8–P Equality and Human Rights Commission

<sup>234</sup> RoP [paras 87 and 88], 18 April 2024

<sup>235</sup> RoP [para 180], 18 April 2024

<sup>236</sup> RoP [para 182], 18 April 2024

<sup>237</sup> RoP [para 96], 24 April 2024

<sup>238</sup> Candidate Selection and the Representation of Women: A Global Parliamentary Perspective, Dr Andrea S Aldrich, Yale University



*“I think it is important to recognise that over 130 countries use quotas and they use this terminology. Obviously, we’re learning from those countries, aren’t we. So, we don’t agree that this is needed. It does what it does, the legislation—I think that’s what WEN Wales says—and it recognises all identities in Wales”.<sup>239</sup>*

**203.** The Member in charge’s officials did not know whether statements in other countries are formulated in the same way as the statement proposed in the Bill. However, they confirmed that the quota system in the Republic of Ireland requires candidates to state whether they are a man or a woman with “no looking behind that as part of the nominations process”.<sup>240</sup>

### Trans and non-binary candidates

**204.** The LGBAC, Merched Cymru and Chwiorydd Plaid said the Bill creates a system of self-identification for gender “by the back door” and argued that this could lead to the erosion of women’s opportunities and rights.<sup>241</sup>

**205.** The Member in charge said it was “important to clarify and make the point that the Bill is not about the process of gender recognition; gender recognition is a reserved matter” and stressed that the statement is “solely for compliance with the vertical and horizontal rules for the candidate list”.<sup>242</sup>

**206.** While the Welsh Government’s wider policy ambition is to support trans inclusion (including making it easier to obtain a Gender Recognition Certificate), the EM acknowledges that gender recognition is a reserved matter under the GoWA 2006. It recognises that some individuals may be negatively impacted in terms of having to make the statement, although it states that the legislation does not preclude anyone from standing.<sup>243</sup>

**207.** The Women’s Rights Network suggested that “women holding sex-realist beliefs may self-exclude” from making a “gender statement”.<sup>244</sup>

<sup>239</sup> RoP [para 148], 1 May 2024

<sup>240</sup> RoP [paras 153 and 156], 13 March 2024

<sup>241</sup> SCECLB20-P Lesbian, Gay and Bisexual Alliance Cymru, SCECLB22-P Merched Cymru and SCECLB24-P Chwiorydd Plaid

<sup>242</sup> RoP [para 158], 13 March 2024

<sup>243</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 217

<sup>244</sup> SCECLB7-P Women’s Rights Network

**208.** The Integrated Impact Assessment says that some individuals “may feel anxious about stating whether or not they are a woman and may consider this a barrier to standing for election”. However, it states that the number of people who may be affected “is likely to be very small and the nature of the impact will vary depending on each individual’s particular personal circumstances”.<sup>245</sup>

**209.** Stonewall Cymru<sup>246</sup> and the Welsh Young Liberals<sup>247</sup> felt that the Bill lacks clarity on whether it is inclusive of trans and non-binary candidates. Stonewall Cymru argued 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”.<sup>248</sup>*

**210.** This view was supported by Dr Davidson-Schmich who argued that the eligibility of such candidates for a list place could be subject to challenge and their “personal medical information be made a matter of public controversy”.<sup>249</sup> Expressing concerns that the Bill leaves questions unanswered about the representation of non-binary persons, Dr Aldrich said:

*“Scholarship on how non-binary identities are incorporated into affirmative action programs based on gender remains mostly legal and addresses how national constitution law is or is not evolving to incorporate non-binary identities”.<sup>250</sup>*

**211.** Dr Athina Mara called for the Bill to include more “inclusive language and terminology” and expressed concerns that “non-binary people and trans women are excluded by ‘woman or not a woman’ wording”.<sup>251</sup> The Welsh Young Liberals questioned whether the legislation is compatible with the Equality Act 2010 if

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<sup>245</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Integrated Impact Assessment](#) [accessed on 11 April 2024]

<sup>246</sup> SCECLB28-P Stonewall Cymru

<sup>247</sup> SCECLB39-P Welsh Young Liberals

<sup>248</sup> SCECLB28-P Stonewall Cymru

<sup>249</sup> SCECLB38-P Dr Louise K. Davidson-Schmich, University of Miami

<sup>250</sup> Candidate Selection and the Representation of Women: A Global Parliamentary Perspective, Dr Andrea S Aldrich, Yale University

<sup>251</sup> SCECLB12-P Dr Athina Mara, University of Roehampton

non-binary candidates were “forced to gender themselves”.<sup>252</sup> Councillor Brighthouse said the Bill would exclude gender-nonconforming people and transgender people from standing for election in the future:

*“As the first Non-Binary person in Wales to be elected as a County Councillor, this Bill would force me to be listed under a gender that I do not identify with”.<sup>253</sup>*

**212.** To ensure fair and inclusive representation, Dr Abdelaal suggested that “a regulated approach, possibly through specific quotas or separate legislative measures” could be considered, for instance by ensuring transgender individuals are represented in proportion to the population.<sup>254</sup>

**213.** To overcome some of the challenges that may result from the inclusion of “gender identification”, Dr Jenichen suggested that:

*“Promising regular, retrospective reviews of the candidate selection process might be an interim solution to counter arguments against trans rights and to constructively address cases should they appear”.<sup>255</sup>*

**214.** Addressing the impact on some individuals of the requirement to make the statement, the Member in charge said:

*“[...] I think it is clearly the case that a party or candidate could seek advice, seek legal advice, if they're uncertain about how to state their gender. I have said again that that's ensuring that accurate statements are made. But I think, as I said, there will be times when a gender statement may be sensitive or personal, and that could be the case for a trans or non-binary candidate. I mean, this is highlighted in the equality impact assessment and, indeed, the data protection impact assessment as well”.<sup>256</sup>*

<sup>252</sup> SCECLB39-P Welsh Young Liberals

<sup>253</sup> SCECLB11-P Little Brighthouse, County Councillor, Powys County Council

<sup>254</sup> SCECLB23-P Dr Ola Abdelaal, University of Manchester

<sup>255</sup> SCECLB25-P Dr Anne Jenichen, Aston University

<sup>256</sup> RoP [para 150], 13 March 2024

**215.** The Member in charge also recognised that it might be possible to “predict what a particular candidate has said in their statement” from the published list. She added:

*“[...] we’ve obviously had that discussion already on how we can acknowledge that sensitivity and also consider, perhaps at subordinate legislation stage, restrictions, possibly, safeguards in terms of interference or inspection of nomination papers”.<sup>257</sup>*

## **Making false statements**

### **Accepting statements at ‘face value’**

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**216.** Under the current Conduct Order<sup>258</sup>, constituency and individual nomination papers for Senedd elections must include candidate particulars such as full name and home address. Nomination papers may also include the candidate’s commonly used names and a description.

**217.** Returning Officers do not have powers to investigate the facts set out in a nomination paper and they do not have powers to make judgements of a politically sensitive nature. The powers of Returning Officers are limited to checking that the nomination paper is in proper form and is correct on its face.

**218.** However, where a nomination paper is “not as required by law” or “obviously fictitious” or “a sham document”, the Returning Officer can reject the nomination paper. For example:

- A nomination paper that does not include any name can be rejected.
- A nomination paper that is obscene, racist or incites crime can, based on case law, be rejected.
- A nomination paper that includes a name and address that is obviously fictitious can, based on case law, be rejected: “The law has always treated sham documents [...] as nullities”.<sup>259</sup>

**219.** One of the methods suggested to us for ensuring that false statements are not made is to empower CROs to verify a candidate’s statement upon their

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<sup>257</sup> RoP [para 192], 13 March 2024

<sup>258</sup> [The National Assembly for Wales \(Representation of the People\) Order 2007](#)

<sup>259</sup> [Sanders v Chichester \[1994\] EWHC 9 \(QB\)](#), which gave an example of a candidate who gave their name and address as Mickey Mouse of Disneyland.

nomination. Dr Gomes suggested that candidates could show identification, such as a drivers licence or Gender Recognition Certificate.<sup>260</sup> This view was shared by Dr Davidson-Schmich.<sup>261</sup> The LGBAC said “CROs must be empowered and encouraged to see a Gender Recognition Certificate or Birth Certificate if they have any doubt as to the legal sex of candidates”.<sup>262</sup> Dr Abdelaal also called for “CROs to verify that women candidates are either biologically female or have obtained legal gender recognition” to help “maintain the integrity of gender representation requirements”.<sup>263</sup>

**220.** Reflecting on practices elsewhere and the different ways of formulating quota laws, Professor Kenny told us:

*“[...] in other countries, electoral authorities do play, and have played, an oversight role validating that parties’ candidate registries comply with quota laws, which includes confirming that candidates are in the appropriate spot, based on their sex. But the mechanisms for doing this need to fit their wider context, I think—both the electoral system context and the wider legal context”.*<sup>264</sup>

**221.** The AEA<sup>265</sup> and the Electoral Commission<sup>266</sup> said it was critical that CROs continue to follow the legal precedent that information provided by candidates is taken at ‘face value’. The Electoral Commission stated that:

*“This is an important principle which must be maintained, with responsibility ultimately resting on political parties and candidates to ensure that the information they are providing is correct”.*<sup>267</sup>

**222.** The WECB told us it expected the “primacy of existing law to stand in the way we handle nominations, such as we take things at face value, for example, when papers are presented”. The WECB added that CROs should not have any role beyond checking that nominations are compliant with legislation and are complete:

<sup>260</sup> SCECLB16-P Dr Larissa Peixoto Vale Gomes, University of Edinburgh

<sup>261</sup> SCECLB38-P Dr Louise K. Davidson-Schmich, University of Miami

<sup>262</sup> SCECLB20-P Lesbian, Gay and Bisexual Alliance Cymru

<sup>263</sup> SCECLB23-P Dr Ola Abdelaal, University of Manchester

<sup>264</sup> RoP [para 443], 18 April 2024

<sup>265</sup> SCECLB13-P Association of Electoral Administrators

<sup>266</sup> SCECLB32-P The Electoral Commission

<sup>267</sup> SCECLB32-P The Electoral Commission

*“So, has the gender disclosure form, for example, been completed? Is the vertical list compliant, in the sense of sequencing that’s required? Provided those things are present, the CRO’s role [...] is to accept them on face value”.*<sup>268</sup>

**223.** When asked whether there would be any consequences for accepting nomination papers on ‘face value’ despite suspecting the statement to be false, the WECEB said CROs “would be indemnified”, and could “only go so far to protect the integrity of the system”.<sup>269</sup>

**224.** This was reiterated by the Member in charge, who told us the CRO’s role was to “check that a nomination paper is correct on its face”. She added:

*“They’re not going to investigate the accuracy of any of the information provided by candidates during that process. We aren’t asking you for your birth certificate, for example, but I think the point is that a party or a candidate will have an interest in ensuring—and you’ll be standing for your party—that accurate statements are made, or, otherwise, you would run the risk of challenge”.*<sup>270</sup>

**225.** The Member in charge also emphasised the role of political parties in “getting this right” and added:

*“A returning officer can reject a nomination if the candidate’s particulars are not as required by the law. Ultimately, of course, it could go to the courts, but parties and candidates will want to ensure that accurate statements are made, and this is about the reputation of the political parties and the candidates themselves”.*<sup>271</sup>

**226.** We asked representatives of the WPPP about the candidate checks undertaken by parties as part of the nomination process and how those checks might change as a result of the Bill. Plaid Cymru did not think the Bill would require the party to undertake any further checks on candidates and Welsh

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<sup>268</sup> RoP [paras 30 and 77], 21 March 2024

<sup>269</sup> RoP [paras 104 and 105], 21 April 2024

<sup>270</sup> RoP [para 146], 13 March 2024

<sup>271</sup> RoP [para 156], 1 May 2024

Labour did not know “what would be a practical or reasonable step” beyond its current candidate checks.<sup>272</sup>

### Sanctions for false statements

**227.** The current Conduct Order makes it an offence for false statements to be made in nomination papers. A person is guilty of a corrupt practice if they cause or permit to be included in a document false information delivered to a CRO in connection with the election.<sup>273</sup>

**228.** The Welsh Government’s Justice Impact Assessment for the Bill states that making a “false gender statement” will not be part of the corrupt practice offence that applies if candidates provide false statements about other information such as their name and address.<sup>274</sup> The Member in charge’s official explained that it was not being included in the corrupt practice offence because it is:

*“[...] a reflection of the personal nature and sensitivity associated with—for some individuals—stating their gender, and so it’s not seeking to criminalise that”.<sup>275</sup>*

**229.** Labour Women’s Declaration Cymru said it is “reasonable to require the statement to be truthful and that an untruthful statement is fraudulent”.<sup>276</sup> The Women’s Rights Network also stated that “there is no justification for excluding falsification from sanction” and suggested that there are “obvious benefits for a man to claim he is a women even if he does not believe it and has every intention to desist as soon as elected”. It argued that abuse of the statement could “make the sex balance worse” and that men may feel that they are being discriminated against, “incentivising them” to falsify their statements.<sup>277</sup>

**230.** Dr Davidson-Schmich suggested that “far-right, anti-gender parties” would “likely have men declare that they are women to either protest the idea of a quota or to avoid having to follow the quota”.<sup>278</sup> Dr Gomes referred to some men registering themselves as women in Bolivia “in order to secure better positioning and possibly to attempt an argument at how easy it would be to evade

<sup>272</sup> RoP [paras 362 and 368], 18 April 2024

<sup>273</sup> [The National Assembly for Wales \(Representation of the People\) Order 2007](#)

<sup>274</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: justice impact assessment](#) [accessed on 4 May 2024]

<sup>275</sup> RoP [para 204], 13 March 2024

<sup>276</sup> SCECLB19-P Labour Women’s Declaration Cymru

<sup>277</sup> SCECLB7-P Women’s Rights Network

<sup>278</sup> SCECLB38-P Dr Louise K. Davidson-Schmich, University of Miami



compliance”.<sup>279</sup> The Women’s Rights Network and Dr Gomes also highlighted a case in Mexico’s Oaxaca region in 2018, in which 15 men registered themselves as transgender in order to occupy electoral spaces reserved for women.<sup>280</sup> WEN Wales noted that the case “was dealt with through an electoral tribunal” and now the “quota system in Mexico remains in place and is working effectively”. WEN Wales added:

*“If parties or individuals decide to make a mockery of democracy and to play with the electoral system and undermine its integrity by this kind of trickery, then that’s problematic, but it will be dealt with either as it was dealt with in Mexico, or, actually, perhaps more powerfully, by the electorate. The electorate will be the judge of this, and I think will give very, very short shrift to any sort of attempt to make a mockery of this democratic process”.*<sup>281</sup>

**231.** The Women’s Rights Network said the Bill will “provide an incentive for men to make a false statement” with no sanction for falsifying the statement, and questioned the appropriateness of seeking resolution through the courts:

*“[...] surely the purpose of resolving something through the courts would be if a loophole is discovered subsequently, rather than to allow a loophole to be legislated [...] why not close it now, if you have the opportunity at a pre-legislative stage, rather than say, ‘Well, the courts will have to determine that?’”.*<sup>282</sup>

**232.** When asked what sanctions it would like to see for making a false statement, the Women’s Rights Network suggested that sanctions “should be commensurate with other sanctions for falsifying candidates’ details”.<sup>283</sup>

**233.** The AEA noted that no new offences are proposed and sought clarification on “what is being considered to deter or penalise candidates who make a false gender statement” and how a false statement will be determined. It asked that

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<sup>279</sup> SCECLB16-P Dr Larissa Peixoto Vale Gomes, University of Edinburgh

<sup>280</sup> SCECLB7-P Women’s Rights Network and SCECLB16-P Dr Larissa Peixoto Vale Gomes, University of Edinburgh

<sup>281</sup> RoP [paras 91-92], 24 April 2024

<sup>282</sup> RoP [paras 204 and 210], 24 April 2024

<sup>283</sup> RoP [para 226], 24 April 2024



provision for dealing with any challenges to nomination papers, including the statement, is clarified in secondary legislation:

*“For example, if another candidate objects because they believe a candidate is, or is not, a woman—does the CRO maintain their face-value decision based on the statement given? Can they refuse to hear any representation challenging such a statement? This would reflect the current limits to the objection process at UK Parliamentary and Police and Crime Commissioner elections”.*<sup>284</sup>

**234.** The WECB called for any material offence to be “comprehensive and proportionate”, and added:

*“We would expect the candidate selection and nomination processes within political parties to be robust and defensible, and for all parties to act with integrity at all times”.*<sup>285</sup>

**235.** The Member in charge’s official suggested that an election petition could be brought against a candidate that did not provide accurate information in their nomination papers.<sup>286</sup> While the general ability to bring an election petition already exists, the Bill’s Justice Impact Assessment states that the Welsh Government has no current plans to make specific provision on these matters in relation to the quotas.<sup>287</sup>

**236.** Although election petitions are not a matter for the Electoral Commission, it said it will:

*“[...] look to work with the Welsh Government moving forward to understand the potential impact of an election petition being brought forward on the basis of a false gender declaration”.*<sup>288</sup>

<sup>284</sup> SCECLB13-P Association of Electoral Administrators

<sup>285</sup> [Additional information provided by the Wales Electoral Coordination Board following the evidence session on 21 March 2024](#)

<sup>286</sup> RoP [para 148], 13 March 2024

<sup>287</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: justice impact assessment](#) [accessed on 4 May 2024]

<sup>288</sup> SCECLB32-P The Electoral Commission

**237.** The Chief Legal Adviser to the then Assembly between 2012 and 2019, Elisabeth Jones, commented on the proposed route to challenging the accuracy of nomination papers:

*"I am, however, somewhat concerned by the fact that an election petition under the Representation of the People Act 1983 appears to be the key mechanism to challenge election results that parties, or individuals, believe breach the Gender Quota provisions. The costs for such petitions are not insignificant – £677 in total per petition<sup>289</sup>, disregarding any legal fees. No doubt political parties can fund this easily, but democracy demands that individual citizens should also have real access to justice to ensure that electoral law is respected. Vexatious petitions should of course be discouraged, but there may be more democratic way to do so than financial requirements.*

*By contrast, electoral fraud can simply be reported to the police, free of charge".<sup>290</sup>*

**238.** Elisabeth Jones also highlighted the short timescales for lodging an election petition (21 days from the election) and the barrier this creates "for individuals, as opposed to political parties, who are no doubt well versed in the relevant procedures".<sup>291</sup>

**239.** When asked why she considered an election petition to be the appropriate route to protecting against abuse, the Member in charge said:

*"I don't think we've had any election petitions during the last 25 years of our Senedd, and we don't anticipate that there will be, but, obviously, we will address this in section 13, in terms of the conduct Order, in terms of timescales when a petition could be presented".<sup>292</sup>*

## Inspection of nomination papers

**240.** The current Conduct Order<sup>293</sup> allows for candidates, agents of candidates (or an individual of the candidate's choice if they are acting as their own agent),

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<sup>289</sup> [www.gov.uk/challenge-election-result/how-to-challenge](https://www.gov.uk/challenge-election-result/how-to-challenge)

<sup>290</sup> SCECLB35-P Elisabeth Jones

<sup>291</sup> SCECLB35-P Elisabeth Jones

<sup>292</sup> RoP [para 173], 1 May 2024

<sup>293</sup> [The National Assembly for Wales \(Representation of the People\) Order 2007](#)

registered nominating officers of political parties, and representatives of the Electoral Commission to inspect and object to the validity of nomination papers during the pre-election period.

**241.** Nomination papers currently include the candidate's full name, a description to appear on a ballot paper (for example, the name of the candidate's political party or 'independent') and their home address.

**242.** New section 7D(1)(b) gives the Welsh Ministers powers to make provision about who may inspect a statement. The EM states that this would allow the Welsh Ministers to add the statement on whether a candidate is a woman or not a woman to the information that can be inspected.<sup>294</sup>

**243.** Referring to the current provisions for the inspection of nomination papers, the WECEB said:

*"[...] if we're talking specifically about somebody's gender disclosure form, we would expect the existing provisions to apply for the new nomination packs, and those to be restricted to the current people. So, that would mean there's no greater risk than currently of any breach or somebody inappropriately sharing that information".<sup>295</sup>*

## Handling of personal data

**244.** The statements will need to be collected and processed to ensure compliance with the Bill's candidate list requirements. The EM states that existing arrangements are already in place for candidates to provide other personal information as part of the electoral process, such as their name, home address and date of birth.<sup>296</sup>

**245.** Table 3 summarises the Data Protection Impact Assessment's identification of the data controllers for the information contained in the statement.<sup>297</sup>

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<sup>294</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 114

<sup>295</sup> RoP [para 133], 21 March 2024

<sup>296</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 223

<sup>297</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Data Protection Impact Assessment](#) [accessed on 11 April 2024]

**Table 3 Data controllers for information in the statement on whether a candidate is a woman or not a woman**

<b>Data controller</b>	<b>Data</b>	<b>Purpose</b>
<b>Political parties</b>	For their nominated candidates	To ensure their lists are compliant with the quota rules
<b>CRO</b>	For all party candidates nominated in the constituency	To check compliance with the minimum threshold and vertical placement criteria (and to share limited data with the NNCO)
<b>NNCO</b>	Expected to be limited to information to determine whether or not the candidate in the first or only position on a party list submitted for the constituency is a woman	To perform their functions in relation to compliance with the horizontal placement criteria

**246.** The Data Protection Impact Assessment recognises that the information may be sensitive for some people and, while the information provided in statements will not be published, the order of candidates on a party list will be published in the statement of persons nominated. Therefore, it may on occasion be possible to ascertain whether a candidate has stated that they are a woman or not a woman.<sup>298</sup> The EM also recognises “the heightened risks for some individuals of having to state their gender for the purpose of effective implementation and enforcement of the legislation”.<sup>299</sup>

**247.** In contrast, the Women’s Rights Network said:

*“[...] the Information Commissioner’s Office say—sex is not sensitive information. Obviously, gender reassignment would be, but sex is not, so there is no need to hide that data if this Bill is based on a person’s sex”.<sup>300</sup>*

<sup>298</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Data Protection Impact Assessment](#) [accessed on 11 April 2024]

<sup>299</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 231

<sup>300</sup> RoP [para 217], 24 April 2024

**248.** In terms of managing any data protection impacts that may arise from the holding, and sharing, of data collected as a result of the Bill, the WECB explained:

*"[...] the only thing the CRO would be doing that's different to the norm is sharing in advance information on nomination lists to the NNCO. Well, those lists are eventually published anyway when they're signed off as being acceptable, following closure of nominations. So, all we're doing is furnishing that national officer with basic information for them to look at the horizontal compliance. So, basically, the information is only circulating within professionals, and available for inspection by the people who can currently inspect. Beyond that, we can't see any issues whatsoever, because we're sharing with very few people for legitimate purposes".<sup>301</sup>*

**249.** The AEA told us that the inspection of candidates' home addresses is limited to other candidates standing, their agents and the national nomination officers only, and indicated that it would:

*"[...] like to see the same being applied to the gender statements, due to the sensitive nature of that information, but still allowing transparency for those standing in an election to be able to make petitions if needs be, based on that information as well, which is currently the case with the home address".<sup>302</sup>*

**250.** The Electoral Commission confirmed that it will review and update its data protection guidance to electoral registration officers and Returning Officers in light of the Bill and secondary legislation.<sup>303</sup>

**251.** The WPPP representatives did not anticipate any issues in terms of maintaining GDPR protections during the nomination process, recognising that it would require the updating of guidance, privacy policies and training resources. However, the Welsh Conservatives suggested that party volunteers administering the nominations process may be discouraged from volunteering due to the additional data protection considerations.<sup>304</sup>

<sup>301</sup> RoP [para 133], 21 March 2024

<sup>302</sup> RoP [para 134], 21 March 2024

<sup>303</sup> RoP [para 136], 21 March 2024

<sup>304</sup> RoP [paras 388, 390 and 392-393], 18 April 2024

**252.** The Member in charge told us that data collected about candidates' statements "will be covered by the same safeguards as currently apply to any other personal data that is collected on the nomination forms".<sup>305</sup>

### **Our view**

**253.** The provision in new section 7D(2) requiring a person, as part of the process of being nominated by a political party as a candidate, to state whether they are a woman or not a woman has drawn significant attention to the Bill. We recognise the strength of feeling and have carefully considered all views shared with us. The majority of Committee members are content with the provision and believe it to be a proportionate means of implementing and enforcing compliance with the quota rules.

**254.** Darren Millar MS does not agree. He shares the concerns raised by several women's organisations and many of the individuals who responded to our consultation that the provision would allow men to self-identify as women for the purposes of being a candidate in an election. He is dissatisfied with the Member in charge's responses to his questions about why the Bill does not include a definition of a 'woman' for the purposes of the Bill and the questions which remain over those who regard themselves as gender fluid. He believes the Bill should provide that only candidates who are biological women or who have obtained a legally recognised Gender Recognition Certificate should be able to make the statement that they are a woman for the purposes of the candidate quotas.

**255.** The majority of Committee members agree that electoral administrators should accept the statement provided by candidates at face value, in line with existing practice for candidate nomination papers.

**256.** Darren Millar MS does not support the candidate statement being accepted at face value. He believes the Bill should include provision empowering CROs to seek verification (by way of appropriate identification) from a candidate.

**257.** We all acknowledge the concerns raised with us that the legislation could be susceptible to abuse. Of the 130 countries in which candidate quotas operate, we have only been made aware of two cases, in Mexico and Bolivia, in which men have claimed to be women in order to circumvent the quota system. We recognise that the different ways in which quotas operate in different countries may be a factor in the low level of such incidences. We also note the evidence

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<sup>305</sup> RoP [para 190], 13 March 2024

received from Elisabeth Jones which highlighted that the cost of an election petition may be prohibitive and deter a candidate or individual from bringing forward an otherwise valid challenge. To alleviate the concerns raised with us, and deter any potential abuse of the Bill, we believe it is both necessary and proportionate to include making a false statement under new section 7D(2) within the corrupt practice offence that applies to the provision of any other false information on a nomination form.

**Recommendation 9.** The Member in charge should commit to making provision in the Conduct Order to extend the corrupt practice offence for providing false statements in nomination and other papers to include false statements made under section 7D(2) (to be inserted into the Government of Wales Act 2006). In her response to our report, she should outline whether any primary or secondary legislative changes will be required to achieve this.

## 6. Review of operation and effect of the Act

### Provision in the Bill

**258.** Section 2 of the Bill requires the Presiding Officer, as soon as practicable after the first meeting of the Senedd following the first election after which section 1 of the Bill comes into force (and no more than six months after that meeting), to table a motion to propose:

- The establishment of a Senedd committee for the purposes of carrying out a review of the operation and effect of sections 7A to 7D of the GoWA 2006 (to be inserted by the Bill), and any related provision made under section 13 of the GoWA 2006 or under the Bill.
- That the committee must complete a report on the review within twelve months of the first meeting of the Senedd.

**259.** Section 2 further provides that if a committee established pursuant to the required motion lays a report before the Senedd, the Welsh Ministers must lay before the Senedd a statement setting out their response to the committee's report.

### Scope of the review

#### Operation and effect of the provisions

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**260.** Reflecting on the wider package of Senedd reforms proposed by the Welsh Government in this Bill and the SC(ME) Bill, Professor McAllister said:

*"[...] any change of that magnitude should be subject to a really robust review after the first election, because there are always unintended consequences to electoral reviews, we all know that, and I think the nature of analysis should be really comprehensive and adopted from the position of different stakeholders. So, from the point of view of the political parties, critically, the point of view of the elected politicians and candidates, but also from the public and voters' points of view, because there may be elements of this system that are only flushed out through its operation and the outcome of the operation".<sup>306</sup>*

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<sup>306</sup> RoP [para 66], 18 April 2024



**261.** The Fawcett Society told us that any review must consider whether the Bill results in “a 50:50 Senedd” and the extent to which the quota rules result in parties placing women in winnable seats on the basis that:

*“We know that where there is freedom to do so, parties tend to put men in more winnable seats, and that can reinforce male over-representation. So, I think that is something to make part of the review process for this”.<sup>307</sup>*

**262.** It was also suggested by the ERS Cymru that the review could consider whether the enforcement and compliance arrangements set out in the Bill had operated as expected.<sup>308</sup>

### Candidate diversity data

**263.** Noting that there are currently no provisions requiring the collection and publication of diversity data, the ERS Cymru suggested that such data would “enable us to really see the impact of this legislation”.<sup>309</sup> The Member in charge said on 13 March 2024 that a committee established pursuant to a motion under section 2(1) of the Bill could consider issues relating to the collection and publication of candidate diversity information by political parties. Explaining that the Welsh Government was “looking at advisory guidance to parties”, she said:

*“But we’re also exploring legal and other legislative means of addressing this, and, obviously, it would be very helpful if the Senedd reform committee, when it comes to that committee, could consider the options and opportunities to ensure that political parties do take this forward in terms of publishing a diversity and inclusion strategy for Welsh elections”.<sup>310</sup>*

**264.** The Member in charge’s official subsequently told us on 1 May 2024 that the Welsh Government planned to table an amendment to the EEB Bill to place a duty on the Welsh Ministers to publish guidance for political parties in advance of

<sup>307</sup> RoP [para 140], 18 April 2024

<sup>308</sup> RoP [para 151], 24 April 2024

<sup>309</sup> RoP [para 73], 24 April 2024

<sup>310</sup> RoP [paras 263-264], 13 March 2024

the next Senedd election on the collection and publication of candidate diversity data.<sup>311</sup>

## **Legislation and other initiatives**

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**265.** The motion required by section 2(1) must propose that the purpose of the committee to be established is to review the operation and effect of:

- Sections 7A to 7D of the GoWA 2006 as inserted by the Bill.
- Any related provision made under section 13 of the GoWA 2006 or under the Bill.

**266.** The motion must therefore propose that the review encompasses the operation and effect of the secondary legislation required to give effect to the provisions in the Bill. This is in contrast to the otherwise similar provision in section 19 of the SC(ME) Bill<sup>312</sup> that refers only to the operation and effect of the primary legislative provisions (and the extent to which elements of a healthy democracy are present in Wales).

**267.** Diverse5050 highlighted the range of other initiatives and legislation that could influence the impact of the Bill, such as the Equal Power Equal Voice mentoring scheme, the Well-being of Future Generations (Wales) Act 2015, the public sector equality duty, the Welsh Government's anti-racism action plan and the EEB Bill.<sup>313</sup>

## **Review mechanism**

**268.** The mechanism in section 2 requiring the tabling of a motion proposing the establishment of a Senedd committee to review the operation and effect of the Bill's provisions has a similar structure to sections 7<sup>314</sup> and 19 of the SC(ME) Bill. In our Stage 1 report on the SC(ME) Bill we concluded that such mechanisms were

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<sup>311</sup> RoP [para 63], 1 May 2024. We consider issues relating to candidate diversity data further in chapter 9.

<sup>312</sup> Section 19 of the SC(ME) Bill provides that a motion must be tabled following the first election held after 6 April 2026 to propose the establishment of a committee to undertake a review of the operation and effect of the provisions of the GoWA 2006 that are amended or inserted by Parts 1 and 2 of the SC(ME) Bill, and of the extent to which the elements of a healthy democracy are present in Wales.

<sup>313</sup> RoP [paras 72, 86-88 and 128], 24 April 2024

<sup>314</sup> Section 7 of the SC(ME) Bill provides that a motion must be tabled following the first election held after 7 November 2025 to propose the establishment of a committee to undertake work in relation to job-sharing of relevant Senedd offices.

“constitutionally problematic, as well as legally unnecessary”.<sup>315</sup> Amendments to give effect to our recommendations that sections 7 and 19 be removed from the SC(ME) Bill were debated during Stage 2 proceedings, but were not agreed.<sup>316</sup> The Member in charge noted this, saying:

*“Well, I think we had a very useful debate in relation to the Senedd Cymru (Members and Elections) Bill on this matter. So, I think, probably, in terms of the way we’re going forward, and as we’ve gone through Stage 2 of the Senedd Cymru (Members and Elections) Bill, and I’ve commented on Darren’s amendment, that this now should be considered by the Senedd”.*<sup>317</sup>

**269.** Sections 2(4) and (5) of the SC(ECL) Bill reflect sections 19(3) and (4) inserted into the SC(ME) Bill by amendment at Stage 2 to require the Welsh Ministers to lay a statement setting out their response to any report laid by a review committee. However, neither section 2 nor section 19 include wording equivalent to section 7(5)(b) of the SC(ME) Bill which provides that, when responding to a report of a committee established for the purposes of reviewing the extent to which persons should be able to hold relevant offices jointly, the Welsh Ministers must set out what steps, if any, they intend to take in relation to any recommendations in the report. When asked about this difference, the Member in charge’s official said:

*“I think it was simply to reflect, obviously, the intent that the Government would respond to any recommendations. Obviously, were that to lead to legislative proposals, there would still be a need to undertake further work analysis, as we did do, taking the special purpose committee recommendations. So, I think this is probably, as much as anything, a drafting approach to ensure that Welsh Ministers are responding to and setting out the next steps that they would be taking in response to the committee’s recommendations, but*

<sup>315</sup> Reform Bill Committee, [Senedd Cymru \(Members and Elections\) Bill: Stage 1](#), January 2024, paragraph 518

<sup>316</sup> Votes were taken on amendment 4 (which sought to remove section 7) on [5 March 2024](#) (15 in favour, 0 abstentions, 41 against) and on amendment 9 (which sought to remove section 19) on [6 March 2024](#) (15 in favour, 0 abstentions, 39 against).

<sup>317</sup> RoP [para 213], 13 March 2024

*obviously not being held to the exact—. As I said, that's simply to reflect the further work that may need to be done".<sup>318</sup>*

**270.** On the basis that the Welsh Government's intention is for the SC(ECL) Bill provisions to come into force for the first election held after 6 April 2026 alongside the provisions in the SC(ME) Bill, we asked the Member in charge whether the Welsh Government's intention was for a single committee to be established to undertake reviews of the operation and effect of both Acts. She told us that this was a matter for the Senedd:

*"The Senedd may want to take a co-ordinated approach to reviewing the two Bills in terms of their operation. If they're both coming into effect in the 2026 election, and gender quotas would be an integral part of the new closed list system, obviously it's up to the Senedd to determine its approach, but it would make sense to review it in that way".<sup>319</sup>*

## Our view

**271.** We agree with Professor McAllister that it is important that the operation and effect of the quota provisions in the Bill and related secondary legislation are subject to robust review after the first election at which they come into force. We also agree that any review must take into account a broad range of perspectives, including political parties, elected Members, candidates, voters, electoral administrators, and the general public.

**272.** As many contributors to our work emphasised, the quota provisions will not operate in isolation. We would anticipate that any review that is undertaken would need to take account of the wider legislative and policy context.

**273.** The availability of robust, accurate and comprehensive data about the diversity of candidates and elected Members will be vital in assessing the effect of the quota provisions. As we discuss in chapter 9, it is disappointing that section 106 of the Equality Act 2010 (or equivalent provision in legislation brought forward by the Welsh Ministers) will not be in place to require the collection and publication of candidate diversity data. We hope that all political parties that contest the Senedd election in 2026 will respond positively and constructively to the guidance that the Welsh Ministers will be required to publish (if the EEB Bill is

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<sup>318</sup> RoP [para 219], 13 March 2024

<sup>319</sup> RoP [para 211], 13 March 2024

passed) so that data may be available to inform any review. However, to ensure that sufficient data is available to inform any review even if political parties do not do so, a duty should be placed on Welsh Ministers to collect and publish data for the first election at which the candidate quotas are implemented about the diversity of candidates and elected Members.

**Recommendation 10.** The Member in charge should bring forward amendments at Stage 2 to require that if the Senedd decides to establish a committee pursuant to a motion under section 2(1) of the Senedd Cymru (Electoral Candidate Lists) Act 2024, the Welsh Ministers must collect and publish sufficient data about the diversity of candidates and elected Members to inform the committee’s review. If the Bill is amended in accordance with our recommendation 11 to place responsibility for reviewing the effect and operation of the Act and related provision on the Welsh Ministers, the requirement to collect and publish data should be incorporated within that statutory review provision.

**274.** Notwithstanding our strong support for the principle of legislation being subject to post-legislative review and scrutiny to ensure that it is operating as intended, we have received no evidence that would change the conclusion we reached in relation to the equivalent provisions in the SC(ME) Bill that the Welsh Government’s proposed review mechanisms are “constitutionally problematic, as well as legally unnecessary”.<sup>320</sup> While we accept the decision of the Senedd in relation to the amendments considered during Stage 2 proceedings on that Bill, we nevertheless remain of the view that it would be more appropriate for the Welsh Government to follow the examples in previous Welsh and UK electoral legislation of placing a statutory review duty on the executive.<sup>321</sup> As we said in our report on the SC(ME) Bill:

*“Such an approach would not prevent a Senedd committee from undertaking work to scrutinise, explore and build on any Welsh Government review, informed by independent advice, expertise and citizen engagement activity. It would simply ensure that the scope and timing of such work would be at the discretion of the Senedd and its committees rather than the Welsh Government’s legislation. It*

<sup>320</sup> Reform Bill Committee, [Senedd Cymru \(Members and Elections\) Bill: Stage 1](#), January 2024, paragraph 518

<sup>321</sup> In paragraph 496 of our [Stage 1 report on the SC\(ME\) Bill](#) we identify three examples of provisions requiring governments to undertake or require the Electoral Commission to undertake statutory reviews of electoral law provisions: Section 38 of the Senedd and Elections (Wales) Act 2020, Section 62 of the Elections Act 2022 and Section 6ZA of the Political Parties Elections and Referendums Act 2000.

*would also be in line with the existing flexibility that Senedd committees have, and make use of, to undertake post-legislative scrutiny of any Act (or specific provisions within any Act) passed by the Senedd when they consider it appropriate and timely to do so”.<sup>322</sup>*

**Recommendation 11.** The Member in charge should bring forward amendments at Stage 2 to:

- Remove section 2 (review of operation and effect of the Act) from the Bill on the basis that the provision is constitutionally problematic and legally unnecessary.
- Require the Welsh Ministers to review and report on the operation and effect of sections 7A to 7D of the Government of Wales Act 2006 and any related provision made under section 13 of that Act or under the Senedd Cymru (Electoral Candidate Lists) Act 2024. The outcomes of this review will inform decisions to be taken by future Seneddau and their committees whether, and if so, when and how, they consider it appropriate to conduct post-legislative scrutiny.

**275.** Our report on the SC(ME) Bill acknowledged that the Member in charge of that Bill, the Counsel General, might not accept our recommendation that the review mechanisms should be removed. We therefore made other recommendations aiming to provide greater flexibility for the Senedd to determine the timing of the review.<sup>323</sup> We reiterate those recommendations in respect of section 2 of the SC(ECL) Bill.

**Recommendation 12.** If the Member in charge does not accept our recommendation 11, she should bring forward amendments at Stage 2 to remove section 2(2)(b) (which requires the motion tabled by the Presiding Officer to propose that the committee established to review the operation and effect of sections 7A to 7D of the Government of Wales Act 2006 and any related provision made under section 13 of that Act or under the Senedd Cymru (Electoral Candidate Lists) Act 2024 must complete a report on the review no later than twelve months after the first meeting of the first Senedd to be elected after section 1 of the Senedd Cymru (Electoral Candidate Lists) Bill comes into force).

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<sup>322</sup> Reform Bill Committee, [Senedd Cymru \(Members and Elections\) Bill: Stage 1](#), January 2024, paragraph 521

<sup>323</sup> Reform Bill Committee, [Senedd Cymru \(Members and Elections\) Bill: Stage 1](#), January 2024, recommendations 44 and 45

**Recommendation 13.** If the Member in charge does not accept our recommendations 11 or 12, she should bring forward amendments at Stage 2 to section 2(2)(b) to replace the current requirement that the motion tabled by the Presiding Officer must specify that the committee's work is to be completed within twelve months of the first meeting of the first Senedd to be elected after section 1 of the Senedd Cymru (Electoral Candidate Lists) Bill comes into force with provision that the motion may include a proposed deadline by which the committee's report is to be completed.

## 7. Implementation of the Act

### Implementation timetable

**276.** Electoral administrators raised the timescales for implementing the Bill's provisions and subsequent secondary legislation. Although the introduction of the Bill was delayed, the Electoral Commission indicated that this should not prevent the changes being delivered in time for the 2026 Senedd election. It noted "however, any further delay to the progression of the Bill could pose a significant risk to implementation before 2026".<sup>324</sup> The AEA emphasised the volume of other changes required ahead of the 2026 Senedd election, including requirements to track postal ballot papers, the potential introduction of automatic voter registration and the increased complexity of Senedd election administration. It also highlighted the increasing levels of divergence in electoral services delivery across nations in Great Britain, which "creates additional complexity as well as voter confusion".<sup>325</sup>

**277.** The AEA called for "clear and unambiguous" secondary legislation to be made (ideally by May 2025) and for the Electoral Commission to provide guidance for CROs and the NNCO (ideally by September 2025).<sup>326</sup> This was echoed by the Electoral Commission:

*"Ensuring that all legislation is clear as early as possible will allow sufficient time for us to prepare the required guidance and codes of practice, and for the electoral community to plan and prepare for implementation of the new system".<sup>327</sup>*

**278.** Expanding on the timetable for implementing the Bill, the Electoral Commission said it expects the Conduct Order to be consulted on during autumn 2024 and made in May 2025, and indicated that:

*"[...] it's doable, but we would request that there is regular dialogue with Welsh Government. It's important that we work closely with them and have initial sight of policy intention and draft legislation as well, because that helps our understanding of the impact of the legislation*

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<sup>324</sup> SCECLB32-P The Electoral Commission

<sup>325</sup> SCECLB13-P Association of Electoral Administrators

<sup>326</sup> SCECLB13-P Association of Electoral Administrators

<sup>327</sup> SCECLB32-P The Electoral Commission



*and helps us to draft guidance. So, yes, we have a really good relationship with Welsh Government and I'm sure that that will continue and we'll see information as necessary".<sup>328</sup>*

**279.** WPPP representatives for Welsh Labour, Plaid Cymru and the Welsh Conservatives told us they would have enough time before the next election to build the Bill's requirements into their internal party processes.<sup>329</sup>

**280.** Addressing the concerns expressed by electoral administrators in relation to any further delay to the progression of the Bill, the Member in charge said the Welsh Government had plans for a "phased approach" depending on how the Bill progresses, but remained "confident in terms of the timescales that have been set out".<sup>330</sup> The Member in charge's official told us the intention is that "an amending Order would be made to the main conduct Order". He added:

*"[...] this Bill is to be commenced by Order, so that provides a degree of flexibility just in terms of bringing it into force to take account of that continuing timetable".<sup>331</sup>*

## Balance between primary and secondary legislation

**281.** A number of respondents commented on the balance between what is prescribed on the face of the Bill and what is left to secondary legislation. In written evidence the AEA stated that the Bill provides "an appropriate framework" that enables "much of the detail to be provided for in subordinate legislation". The AEA also provided an extensive list of matters that it expected to be detailed in secondary legislation, including provision regarding candidate statements, the role of the NNCO, and the status of party lists if a candidate withdraws.<sup>332</sup>

**282.** One Voice Wales was also content with the balance between the information contained on the face of the Bill and that left to secondary legislation.<sup>333</sup>

**283.** However, Merched Cymru and Welsh Women Speak Out expressed the view that too much was being left to secondary legislation.<sup>334</sup> Merched Cymru

<sup>328</sup> RoP [paras 42 and 57], 21 March 2024

<sup>329</sup> RoP [paras 271, 273 and 275], 18 April 2024

<sup>330</sup> RoP [para 74], 1 May 2024

<sup>331</sup> RoP [para 78], 1 May 2024

<sup>332</sup> SCECLB13-P Association of Electoral Administrators

<sup>333</sup> SCECLB27-P One Voice Wales

<sup>334</sup> SCECLB22-P Merched Cymru and SCECLB36-P Welsh Women Speak Out

highlighted recent work by the Legislation, Justice and Constitution Committee that noted the high volume of errors in secondary legislation made by the Welsh Government.<sup>335</sup>

**284.** Thomas Glyn Watkin KC also questioned whether it was appropriate for details that “affect the rights of persons to stand as candidates in Senedd elections” to be left to the Welsh Ministers to provide in the Conduct Order, and highlighted the “astonishingly broad ‘Henry VIII power’<sup>336</sup>” in section 3(2)(a) of the Bill.<sup>337</sup>

**285.** Elisabeth Jones similarly questioned whether it would be appropriate “[g]iven the importance, in terms of civil and political rights” of the Bill, to include more information about matters such as the functions of CROs and the NNCO on the face of the Bill.<sup>338</sup>

**286.** The Member in charge told us the approach taken “is very much in keeping with the existing separation between primary and secondary legislation” and indicated a “need to have flexibility for maybe some wider developments affecting elections”.<sup>339</sup> The Member in charge’s official also referred to practical barriers to changing the balance:

*“[...] all of the nominations process is set out in the conduct Order, and because these rules will be layered on top of that part of the nominations process, because this is about the nomination and fits entirely under the nomination of candidates, we wouldn’t be able to refer in the primary legislation to something that happens in the secondary legislation”.*<sup>340</sup>

## **Election timetable**

**287.** Provision for the election timetable, including deadlines applicable to the nomination process, is set out in the Conduct Order. The Statement of Policy Intent for Subordinate Legislation states that the Conduct Order will need to adjust the election timetable to allow “adequate time to complete the necessary compliance checks” between the close of nominations and the publication of the

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<sup>335</sup> SCECLB22-P Merched Cymru

<sup>336</sup> ‘Henry VIII powers’ are provisions that enable Ministers to amend or repeal provisions in primary legislation using secondary legislation.

<sup>337</sup> SCECLB42-P Thomas Glyn Watkin KC

<sup>338</sup> SCECLB35-P Elisabeth Jones

<sup>339</sup> RoP [para 86], 1 May 2024

<sup>340</sup> RoP [para 87], 1 May 2024

statement of persons nominated. The Welsh Government considers a period of up to three days to be an appropriate length of time for information to be shared between CROs and the NNCO, and to resolve any compliance issues.<sup>341</sup>

**288.** The AEA and the WECB told us the election timetable was a barrier to implementation. The WECB noted that changes to the election timetable could affect the date of the dissolution of the Senedd, but described the timetable as “incredibly tight” and called for “a fuller review of the election timetable”.<sup>342</sup> If the election timetable was not extended by a minimum of three days to accommodate the proposed compliance checks, the WECB said:

*“[...] there is a high risk of failure of process or error in procedures, either by political parties or electoral administrators, due to the pressure of time in an already congested and demanding election timetable”.*<sup>343</sup>

**289.** The AEA said it had been calling since 2021 for the review of the election timetable for all UK elections. It stated that the additional processes proposed in the Bill would place further strain on the timetable and “increas[e] the risk to the delivery of the election”. It also highlighted existing precedents, such as the timetable of the Scottish Parliament election of between 35 and 28 working days and the 30 working day timetable for the Greater London Authority elections.<sup>344</sup>

**290.** It subsequently proposed an alternative election timetable in its written evidence which includes an additional eight working days (compared to the additional three working days proposed by the Welsh Government).<sup>345</sup>

<sup>341</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Statement of Policy Intent for Subordinate Legislation](#), 11 March 2024, page 5

<sup>342</sup> RoP [para 46], 21 March 2024

<sup>343</sup> [Additional information provided by the Wales Electoral Coordination Board following the evidence session on 21 March 2024](#)

<sup>344</sup> RoP [para 49], 21 March 2024

<sup>345</sup> SCECLB13-P Association of Electoral Administrators

**Table 4 Election timetable proposed by the AEA**

<b>Event</b>	<b>2021 Senedd timetable</b>	<b>Electoral administrators' proposed timetable</b>
<b>Publication of notice of election</b>	Not later than 25 days	Not later than 33 working days before polling day
<b>Delivery of nomination papers</b>	Between the hours of 9am and 5pm on any day after the publication of the notice of election until 4pm 19 days before polling day	Between the hours of 9am and 5pm on any day after the publication of the notice of election until 4pm 27 working days before polling day
<b>Deadline for delivery of nomination papers</b>	19 days (5pm)	27 working days before polling day (4pm)
<b>Making objections to nomination papers</b>	On 19 days (9am to 6pm), subject to the following: Between 9 am – 12 noon objections can be made to all delivered nominations Between 12 noon and 5pm objections can only be made to nominations delivered after 4pm,	Remove ability for objections to be made
<b>Deadline for withdrawals</b>	19 days (4pm)	27 working days before polling day (4pm)
<b>Compliance period for NNCO to carry out horizontal check - explanatory memorandum suggests three days required for this process</b>	N/A	From 4pm on 27 working days before the poll until 4pm 24 working days before the poll
<b>Publication of statement of persons nominated, including notice of poll and situation of polling stations</b>	Not later than 18 days (4pm)	Not later than 22 working days before the poll (4pm)

**291.** The Member in charge told us the election timetable “is long-standing” and “allows consistency between elections for the timing of nominations”. She said the

Conduct Order would create an additional period of “up to three days” between the close of nominations and the publication of the statement of persons nominated in order to accommodate the additional compliance checks required by the Bill “without negatively impacting on the timetable for the election”. She explained:

*“[...] the intention is that the notice of election would be published earlier than is currently the case to allow for this additional time without shortening the period during which nomination papers can be submitted in all of the period between publication of the statement of persons nominated and the day of the poll. We don’t anticipate that this would have an impact, for example, on the timing of dissolution of the Senedd”.<sup>346</sup>*

## Awareness-raising

**292.** Electoral administrators stressed the importance of the Welsh Government communicating the changes to candidates and political parties effectively. If parties are unclear about how the process will work, the AEA said it would be “likely to place an increased burden on CROs from candidates seeking clarification”.<sup>347</sup> The Electoral Commission echoed the call for support for political parties and candidates.<sup>348</sup>

**293.** The AEA also highlighted the need to ensure that Electoral Commission guidance for candidates, agents and parties reaches all registered political parties, not just those currently represented in the Senedd.<sup>349</sup>

**294.** The WECB confirmed that awareness raising by CROs would be limited to ensuring that people understand the voting system.<sup>350</sup> Similarly, the Electoral Commission said it will run a public awareness campaign “to ensure that voters understand the changes being introduced and know how to cast their vote”.<sup>351</sup>

**295.** Written evidence from the Llywydd outlined the Senedd Commission’s plans to run a communications campaign over the next two years, focusing on:

<sup>346</sup> RoP [paras 75 and 83-84], 1 May 2024

<sup>347</sup> SCECLB13-P Association of Electoral Administrators

<sup>348</sup> SCECLB32-P The Electoral Commission

<sup>349</sup> SCECLB13-P Association of Electoral Administrators

<sup>350</sup> RoP [para 69], 21 March 2024

<sup>351</sup> SCECLB32-P The Electoral Commission

- Raising awareness of the changes to the Senedd.
- Increasing understanding of the role of the Senedd and its Members.
- Encouraging participation in the Senedd election.<sup>352</sup>

## Financial implications

**296.** As the Bill's proposals form part of the Welsh Government's response to the SPCSR's recommendations, it has assessed the costs on the basis of those proposals rather than on the basis of costing several high-level options. This mirrors the approach taken in relation to the SC(ME) Bill.<sup>353</sup>

### Local authority costs

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**297.** The RIA states that the Welsh Local Government Association assisted the Welsh Government in identifying the financial impacts of the Bill, and an expert working group of local authority representatives was established to identify the areas of activity and spend that would be affected.<sup>354</sup>

**298.** The RIA estimates transitional costs of £18,000 in 2025-26 falling to the Welsh Government to cover the costs for local authorities to update their Electoral Management Systems ('EMS'), with no further additional costs identified at subsequent Senedd elections.<sup>355</sup> However, the RIA also states that the estimate:

*"[...] will be subject to negotiation and contractual agreement with suppliers and depend on the scale of the electoral management system changes required. The contracts with suppliers are held by local authorities and therefore the costs identified fall to them".<sup>356</sup>*

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<sup>352</sup> SCECLB40-P Llywydd

<sup>353</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 146

<sup>354</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, paras 160-161

<sup>355</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, paras 155 and 163

<sup>356</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 163

**299.** The AEA highlighted that, where legislation places a new financial burden on local authorities, the burden is normally picked up by the Welsh Government.<sup>357</sup> Appearing before the Finance Committee, the Member in charge clarified that:

*“[...] EMS providers initially will be paid directly through lead local authorities, but then we would—Welsh Government would—reimburse for the costs incurred”.*<sup>358</sup>

### Welsh Government costs

**300.** The only other additional cost included in the RIA is a recurring cost to the Welsh Government of £1,500 at each election in relation to the designation of the NNCO.<sup>359</sup> The Member in charge’s official explained how this estimated cost has been calculated:

*“[...] that cost is actually modelled on the fees and charges that are currently provided for returning officers and regional returning officers in the existing system. In the discussions that we had through the WLGA, with local authorities, the returning officers felt that it’s modelled more on the regional returning officer fee. But, obviously, it’s worth saying that decisions around fees and charges for returning officers are matters for Ministers closer to the election itself”.*<sup>360</sup>

### Electoral Commission costs

**301.** The RIA notes that the Electoral Commission’s guidance and resources for Senedd elections would need to be updated. However, the RIA does not identify additional costs as a result of the Bill as “the Electoral Commission views the provision of this guidance as being part of its existing responsibilities and functions”.<sup>361</sup> The Electoral Commission told us the anticipated additional costs to the organisation should be “be relatively minor, as long as all the legislation is delivered early enough for us to make the required changes to our guidance”.<sup>362</sup>

<sup>357</sup> RoP [para 11], 21 March 2024

<sup>358</sup> Finance Committee RoP [para 171], 24 April 2024

<sup>359</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 167

<sup>360</sup> RoP [para 253], 13 March 2024

<sup>361</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 169

<sup>362</sup> RoP [para 20], 21 March 2024



**302.** During our final evidence session, the Member in charge informed us that:

*“[...] the Electoral Commission has identified a cost in the region of £6,000 for work undertaken by their new legislation team to prepare for the implementation of the Bill—that’s staff costs—and guidance. In total, we now estimate a cost of £27,000 to implement the Bill [...]”.*<sup>363</sup>

### **CRO training costs**

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**303.** No training costs for CROs are identified in the RIA. The Member in charge told the Finance Committee:

*“The RIA on this Bill needs to be looked at in the context of the Members and elections Bill, because it’s seen as the Senedd reform programme as a whole. It includes training and, as I said, that’s in the RIA to the Senedd Cymru (Members and Elections) Bill. I think it’s important, really, to see also that there are no additional costs needed for training—you’ve discussed this with WLGA—specifically associated with this legislation”.*<sup>364</sup>

### **Political party costs**

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**304.** The RIA notes that the introduction of candidate quotas may lead to additional costs and savings for political parties who are engaged in the electoral process in Wales. However, the RIA states that any costs and savings are “unknown at this stage” and not possible to quantify because any decisions made by political parties are not as a direct result of the Bill and have not yet been taken.<sup>365</sup> While the Welsh Government has engaged with the WPPP “on high level policy proposals”, it has not engaged directly with political parties on costs ahead of the Bill’s introduction.<sup>366</sup>

**305.** In terms of the additional costs that may fall on political parties as a result of the Bill’s requirements, Plaid Cymru anticipated that implementation costs would

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<sup>363</sup> RoP [para 124], 1 May 2024

<sup>364</sup> Finance Committee RoP [para 157], 24 April 2024

<sup>365</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, paras 170 and 172

<sup>366</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 172



be limited.<sup>367</sup> Plaid Cymru and the Welsh Conservatives also confirmed that costs associated with candidate checks are borne by the candidate or recovered by charging the candidate a fee.<sup>368</sup>

### **Senedd Commission and Independent Remuneration Board of the Senedd costs**

**306.** The RIA makes no assessment of any potential costs or savings to the Senedd Commission or the Independent Remuneration Board of the Senedd.

**307.** We sought clarification from the Senedd Commission on its involvement in the development of the RIA, and asked for confirmation that there are no anticipated or unquantifiable costs or savings to the Senedd Commission associated with the Bill. The Llywydd's written evidence stated that the Commission had had no involvement in the development of the RIA:

*"The Commission provided costings for the Regulatory Impact Assessment for the Senedd Cymru (Members and Elections) Bill. I understand that, given the scope of the SC(ME) Bill and information provided, the Welsh Government did not require the Senedd Commission to provide any additional information to inform the Regulatory Impact Assessment for the SC(ECL) Bill".<sup>369</sup>*

**308.** We asked the Independent Remuneration Board the same questions. Written evidence from the Chair of the Board confirmed that it had not been involved in the development of the RIA and did not anticipate "any significant quantifiable or unquantifiable costs or savings in respect of Members' pay and allowances associated with the Bill".<sup>370</sup>

### **Sunk costs**

**309.** The RIA explains that 'sunk costs' that have already been incurred or are anticipated in 2023-24 and 2024-25, prior to the Bill receiving Royal Assent, are not included as costs of the Bill as these are not recoverable in the event that the Bill does not receive Royal Assent. It confirms that the sunk costs for the Bill in 2023-24 form part of the £2.2 million identified in the RIA to the SC(ME) Bill,

<sup>367</sup> RoP [para 347], 18 April 2024

<sup>368</sup> RoP [paras 358 and 360], 18 April 2024

<sup>369</sup> SCECLB40-P Llywydd

<sup>370</sup> SCECLB33-P Independent Remuneration Board

covering the broader programme of work on Senedd reform, although it is not clear what proportion of such costs relate to the SC(ECL) Bill.<sup>371</sup>

## **Total costs**

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**310.** According to the RIA, the total administrative cost of the Bill over an 8-year appraisal period (2024-25 to 2031-32) is estimated to be £21,000.<sup>372</sup> The Member in charge subsequently advised us that the Electoral Commission had identified a cost of £6,000 to prepare for the implementation of the Bill, bringing the estimated total administrative cost to £27,000 over an 8-year appraisal period.

**311.** The Electoral Commission's written evidence emphasised that the Welsh Government needed to fully resource the reforms, including changes to the electoral management software system and "any additional processes that electoral services teams will need to carry out as a result of these reforms".<sup>373</sup>

**312.** We questioned whether the total estimated cost of the Bill would change if its provisions are not commenced for the next election alongside the SC(ME) Bill. The Member in charge's official said:

*"[...] the costs identified in the RIA are relatively distinct from those that are within the Members and elections Bill. So, there isn't a huge sensitivity around implementing this at the same time as those wider reforms. Obviously, there would be implications in terms of inflation".<sup>374</sup>*

## **Potential referral to the Supreme Court**

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**313.** Many of those who responded to our consultation in an individual capacity were of the view that the Bill would be referred to the Supreme Court, and some were concerned about the potential costs of this.<sup>375</sup>

**314.** The Member in charge confirmed that the costs to the Welsh Government arising from the referral in 2013 to the Supreme Court of the Recovery of Medical

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<sup>371</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, para 154

<sup>372</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, page 41

<sup>373</sup> SCECLB32-P The Electoral Commission

<sup>374</sup> RoP [para 132], 1 May 2024

<sup>375</sup> Responses may be found in full on the [consultation webpage](#).

Costs for Asbestos Diseases (Wales) Bill were recorded as £62,596.54.<sup>376</sup> She told us that, in line with the approach taken by the Welsh Government across all regulatory impact assessments for legislation, the estimated costs do not “account for costs of potential legal challenges”.<sup>377</sup>

**315.** The Member in charge also confirmed that the Welsh Government had sought external legal advice in relation to the Bill.<sup>378</sup> She told the Finance Committee that £38,100 had been spent on external legal advice, as part of the “usual process for every Bill introduced by the Government”.<sup>379</sup>

## Our view

**316.** It is clear that the timetable for implementing the Bill and related secondary legislation in time for the 2026 Senedd election is challenging, and we share the concerns raised by electoral administrators that any slippage in the timetable places significant risk on the ability to deliver the changes in time. While we note that the Member in charge is confident the timescales will be met, we do not underestimate the significant work involved. Successful implementation relies on the Welsh Government working closely with key partners in order to communicate the changes to candidates, political parties and the public. We therefore encourage the Welsh Government to minimise any strain on electoral partners by providing them with early sight of the draft Conduct Order, and listening to any concerns they raise or feedback they provide. We understand that the intention is for provision relating to the Bill to be included in a separate Order that will amend the consolidated Conduct Order the Welsh Government intends to bring forward to give effect to the SC(ME) Bill. We encourage the Member in charge to have regard to any comments the Legislation, Justice and Constitution Committee may make on this approach, including any implications that Committee identifies for the accessibility of Welsh law.

**317.** We also recognise the additional burden the Bill’s provisions will place on an already challenging election timetable. We support the alternative election timetable proposed by the AEA to assist with the successful delivery of the election. However, we are mindful that any changes to the election timetable—

<sup>376</sup> [Letter from the Minister for Social Justice and Chief Whip](#), 19 March 2024. The most recent Bill that was referred to the Supreme Court was the Law Derived from the European Union (Wales) Bill. However, the Member in charge indicated in her letter that the costs of that referral were not typical as the Attorney General withdrew the reference before any hearing was held in the Supreme Court.

<sup>377</sup> RoP [para 247], 13 March 2024

<sup>378</sup> [Letter from the Minister for Social Justice and Chief Whip](#), 19 March 2024

<sup>379</sup> Finance Committee RoP [para 127], 24 April 2024

whether in line with the Welsh Government's stated intentions or the proposals made by the AEA—will need careful consideration and assessment of their impacts. In particular, any changes should avoid exacerbating the existing barriers to standing, for example, by increasing the number of days that candidates need to take unpaid leave in order to stand for election.

**Recommendation 14.** As part of the development of and consultation on the Conduct Order, the Welsh Government should undertake, and publish, an equality impact assessment on the proposed election timetable. This should include assessment of any impacts on people from different socio-economic backgrounds.

**318.** We recognise that the Bill is part of the Welsh Government's wider Senedd Reform programme. It has been the Welsh Government's decision to include provisions relating to candidate quotas in a separate Bill. While we acknowledge the Welsh Government's reasons for legislating separately, we question the approach taken to the RIA. Some costs have been estimated for this Bill specifically, while other costs (such as costs relating to training) appear only to be addressed in the RIA to the SC(ME) Bill. The Member in charge suggested the RIA should be looked at in the context of the SC(ME) Bill. However, when we asked whether the costs would differ if the Bill is not commenced for the 2026 Senedd election, we were told the costs are "relatively distinct" from the costs included in the SC(ME) Bill.<sup>380</sup> Therefore, it is unclear what the financial implications may be if the Bill is not commenced alongside the SC(ME) Bill. Similarly, if the Bill is not commenced at all, it is not clear what impact this may have on the estimated costs included in the RIA for the SC(ME) Bill. For clarity, transparency and accountability, we would expect all costs and savings associated with a Bill to be identified in its own accompanying RIA, including activities such as training and public awareness-raising by all delivery partners, which may necessarily be undertaken discretely to the implementation of the SC(ME) Bill.

**Recommendation 15.** The Member in charge should detail all costs associated with implementing the Senedd Cymru (Electoral Candidate Lists) Bill discretely from the Senedd Cymru (Members and Elections) Bill in a revised Regulatory Impact Assessment.

**319.** We note that the Welsh Government has identified an additional cost of £6,000 to the Electoral Commission since the publication of the RIA, increasing the total cost of the Bill from £21,000 to £27,000 over an 8-year appraisal period. It

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<sup>380</sup> RoP [para 132], 1 May 2024

is unclear whether this is an additional cost to the Welsh Government or the Electoral Commission.

**Recommendation 16.** The Member in charge should clarify whether the additional £6,000 cost identified since publication of the Regulatory Impact Assessment will be borne by the Welsh Government or the Electoral Commission, and reflect the additional cost in a revised Regulatory Impact Assessment.

**320.** The evidence we received from representatives of the WPPP suggested that the financial implications for political parties would be limited. Nevertheless, we recognise the additional burden on parties to build in the processes necessary to comply with the Bill, and to develop and grow their candidate pipelines, particularly for smaller parties.

## 8. Legislative competence

### Background

#### Assessing legislative competence

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**321.** Under the reserved powers model of legislative competence a provision in a Senedd Bill will be within the Senedd’s legislative competence unless any of the paragraphs in section 108A(2)(a) to (e) of the GoWA 2006 apply. Determining this requires the application of a series of tests. An overview of these tests is provided at Annex 2, but Box 4 summarises the three that have been most relevant to our scrutiny.

#### **Box 4 Legislative competence tests 1, 2 and 7**

##### Test 1: No provision of the Bill must relate to a reserved matter

- A list of reserved matters is set out in Schedule 7A to the GoWA 2006.
- Under section 108A(6) of the GoWA 2006, the question of whether a provision of a Bill “relates” to a reserved matter is to be determined “by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances”.

##### Test 2: No provision of the Bill must modify (or give the power to modify) the law on reserved matters

- The law on reserved matters is defined in paragraph 1 of Schedule 7B to the GoWA 2006. It covers any provisions of an Act of the UK Parliament, or secondary legislation made under such an Act, about a reserved matter. It also includes any common law rule on a reserved matter.
- A Senedd Act can modify the law on reserved matters if the modification is ancillary to a provision not relating to reserved matters, so long as the modification “has no greater effect on reserved matters than is necessary to give effect to the purpose of that provision” (i.e. the provision to which the modification is ancillary).

##### Test 7: Each provision of the Bill must be compatible with the Convention rights set out in the Human Rights Act 1998

- Several Convention rights are of particular relevance to the Bill, including Article 3 of Protocol 1 (free and fair elections), Article 14 (protection against discrimination) in conjunction with Article 3 of Protocol 1, and Article 8 (respect for private and family life).

**322.** To inform our consideration of matters relating to legislative competence, we drew our call for written evidence to the attention of lawyers with relevant experience and expertise. We are grateful to them for sharing their views and expertise with us.

### **Previous consideration of the Senedd’s legislative competence with regards to candidate quotas**

**323.** It is rarely possible to be definitive on whether or not something will be within the Senedd’s legislative competence unless there is a specific provision which may be considered against the tests. Nevertheless, the question of whether candidate quotas could, in principle, be within the Senedd’s legislative competence was considered by the Expert Panel in its 2017 report. It concluded:

*“We believe that the Assembly has some scope to legislate in a way which encourages gender-balanced representation, although we acknowledge there are significant constraints on its competence. While we recognise that the question of the Assembly’s legislative competence is not one that falls to us to resolve, we urge the Assembly to explore the limits of its authority in order to find innovative ways of encouraging gender balanced-representation”.*<sup>381</sup>

**324.** The issue of competence was also discussed by the CSER in 2020. It focused in particular on the ‘equal opportunities’ reservation in paragraph 187 of Schedule 7B to the GoWA 2006, and in particular the reference to “the regulation of [...] discrimination”. It concluded:

*“[...] there is no exception to the reservation in respect of Senedd elections. Legislative proposals which sought to permit behaviour that would otherwise amount to discrimination, such as to require parties to put forward gender-balanced candidate lists, would amount to the*

<sup>381</sup> Expert Panel on Assembly Electoral Reform, [A parliament that works for Wales: the report of the Expert Panel on Assembly Electoral Reform](#), November 2017, paragraph 12.22

*regulation of discrimination and would therefore be outside the Senedd's legislative competence".<sup>382</sup>*

**325.** The CSER recommended:

*"Recommendation 18. The Welsh Government (and the Member-in-charge of any Senedd reform legislation if they are not a member of the Welsh Government) should make representations to the UK Government seeking amendments to Schedules 7A and 7B of the Government of Wales Act 2006 to ensure that measures to encourage the election of a more diverse Senedd would be within legislative competence should the Senedd wish to legislate in this regard".<sup>383</sup>*

**326.** The SPCSR acknowledged that "any Bill introducing diversity measures would have to be drafted in a way that does not relate to any reserved matter, including the reserved matter of 'equal opportunities'", but highlighted that the reservation includes exceptions, and suggested that "there is scope for diversity measures to be adopted that either come within those exceptions or avoid the equal opportunities reservation entirely".<sup>384</sup> Reflecting on the complexity of issues relating to candidate quotas, it emphasised the importance of the purpose of a Bill when assessing competence, and concluded:

*"Therefore, when developing any proposal for gender quotas, the purpose of the proposal will have to be carefully considered".<sup>385</sup>*

**327.** The SPCSR recommended that the Welsh Government should "take appropriate steps" to ensure that the implementation of its Senedd reform recommendations were "not put at undue risk of a Supreme Court referral".<sup>386</sup>

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<sup>382</sup> Committee on Senedd Electoral Reform, [Senedd reform: the next steps](#), September 2020, paragraph 252

<sup>383</sup> Committee on Senedd Electoral Reform, [Senedd reform: the next steps](#), September 2020, recommendation 18

<sup>384</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, paragraph 152

<sup>385</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, paragraph 111

<sup>386</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, recommendation 17



## Roles and responsibilities

### Role of the Presiding Officer

**328.** Section 110(3) of the GoWA 2006 provides that the Presiding Officer must, on or before the introduction of a Bill, state their decision on whether or not in their view the provisions of the Bill would be within the Senedd’s legislative competence. This is supplemented by Standing Order 26.4 which provides that on introduction a Bill must be accompanied by a statement from the Presiding Officer that must:

- Indicate whether or not the provisions of the Bill would be, in their opinion, within the Senedd’s legislative competence.
- Indicate any provisions which, in their opinion, would not be within the Senedd’s legislative competence, and the reasons for that opinion.

**329.** The Llywydd laid a statement on the Bill on 11 March 2024:

*“In my view, the provisions of the Senedd Cymru (Electoral Candidate Lists) Bill, introduced on 11 March 2024, would not be within the legislative competence of the Senedd because the Bill:*

*a. relates to the reserved matters of equal opportunities, and*

*b. modifies the law on reserved matters, namely the Equality Act 2010”.*<sup>387</sup>

**330.** The Llywydd wrote to us on 11 March 2024 to:

- Confirm that while she was required to make a statement setting out her views, the content of her statement “does not affect whether or not a Bill may be introduced or complete its passage through the Senedd”.
- Provide a summary of the issues that she had considered in reaching her view.<sup>388</sup>

<sup>387</sup> [Presiding Officer’s statement on legislative competence](#), 11 March 2024

<sup>388</sup> [Letter from the Llywydd](#), 11 March 2024

## Role of the Member in charge of the Bill

**331.** Section 110(2) of the GoWA 2006 provides that the Member in charge of a Bill must, on or before the introduction of a Bill, state that, in their view, the Bill's provisions would be within the Senedd's legislative competence. This is supplemented by Standing Order 26.6 which provides that on introduction, a Bill must be accompanied by an EM which must state that in the view of the Member in charge the provisions of the Bill would be within the legislative competence of the Senedd. Unless such a statement is included in the EM, the Bill may not be introduced.<sup>389</sup>

**332.** The EM includes a declaration from the Member in charge:

*"In my view the provisions of the Senedd Cymru (Electoral Candidate Lists) Bill, introduced by me on 11 March 2024, would be within the legislative competence of Senedd Cymru.*

*Jane Hutt MS*

*Minister for Social Justice and Chief Whip*

*Member of the Senedd in charge of the Bill".<sup>390</sup>*

**333.** On 13 March 2024, the Member in charge acknowledged that the Llywydd's view was that the Bill was not within the Senedd's legislative competence.<sup>391</sup> She told us:

*"Well, based on all the information available to me [...] I am of the view that this Bill is within the legislative competence of the Senedd. And just in terms of reaching that view, the Bill has been through all the usual processes and checks within the Welsh Government, and that is how I reached the view that it is within legislative competence. And, of course, it is important [...] the Government Bill was drafted with*

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<sup>389</sup> The Senedd may agree in accordance with Standing Order 26.96 that a government Emergency Bill may be introduced without the Explanatory Memorandum required by Standing Order 26.6, but Standing Order 26.97 separately provides that a government Emergency Bill must, on introduction, be accompanied by a statement from the Member in charge that the Bill would, in the Member in charge's view, be within the Senedd's legislative competence.

<sup>390</sup> Welsh Government, [Senedd Cymru \(Electoral Candidate Lists\) Bill: Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes](#), 11 March 2024, page 1

<sup>391</sup> RoP [para 57], 13 March 2024

*advice from officials, including our lawyers, and drafted by lawyers, and it has enabled me to make the required statement”.*<sup>392</sup>

**334.** On 1 May 2024, the Member in charge said:

*“I’ve noted with interest the various legal views on competence that have been presented, noting, of course, that there are differences of opinion between them, just as the Llywydd and I have reached different views, and we respect all the legal opinions that have been given. I remain of the view that the Bill is within the legislative competence of the Senedd”.*<sup>393</sup>

**335.** In a letter dated 19 March 2024, the Member in charge confirmed that the Welsh Government had sought external legal advice about legislative competence in relation to the Bill.<sup>394</sup>

### **Role of the Counsel General**

**336.** In December 2023, prior to the introduction of the Bill, we asked the Counsel General about his role in assessing whether provisions in Senedd Bills are within the Senedd’s legislative competence, including whether he has any role prior to a Bill being passed by the Senedd at Stage 4. He said:

*“I’m involved generally in all the legal aspects in terms of legislation, but my input in terms of, for example, the gender quotas Bill kicks in, in terms of competence, once that legislation is passed. So, once the legislation passes, it is only at that stage that the issue of competence becomes an issue for me to consider as to whether to take that forward. I always do look in the round in terms of the competence issue, but, ultimately, it’s a matter for the Minister taking that Bill forward, et cetera.*

*[...]*

*Under the Government of Wales Act 2006, my job at that stage [when a Bill has been passed by the Senedd] kicks in, and, as a law*

<sup>392</sup> RoP [para 7], 13 March 2024

<sup>393</sup> RoP [para 182], 1 May 2024

<sup>394</sup> [Letter from the Minister for Social Justice and Chief Whip](#), 19 March 2024

*officer, I then have to give consideration to it as to whether or not it should be referred to the Supreme Court or not”.*<sup>395</sup>

## ‘Relates to’ a reserved matter

### Test

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**337.** Under section 108A(6) of the GoWA 2006, the question of whether a provision of a Bill ‘relates to’ a reserved matter is determined “by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances”. The Supreme Court has applied a number of principles when interpreting this test, including, for example:

- The purpose of the provision is the most important factor (although effect and “other things” also need to be looked at).
- The purpose of a provision has a subjective element i.e. what it is intended to achieve, not just what the Bill appears to do.
- A provision will ‘relate to’ a reserved matter if the purpose of the provision has more than a ‘loose or consequential connection’ with the reservation. And, if a provision has more than one purpose, it requires only one of those purposes to have more than a ‘loose or consequential connection’ with a reserved matter to take the provision outside competence.
- A provision with an objective connected to a reserved matter will be within competence if its purpose is not ‘truly distinct’ from the ‘overall purpose’ of the Bill.

### Senedd elections

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**338.** In oral evidence on 13 March 2024, the Member in charge emphasised the importance of considering the purpose and objective of the Bill when assessing whether or not it was within the Senedd’s legislative competence. She told us:

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<sup>395</sup> RoP [paras 207-208], 13 December 2023

*"[...] the purpose of this Bill is to establish a more effective Senedd, a more representative Senedd. Women are the under-represented majority in this Senedd".<sup>396</sup>*

**339.** Explaining that section 108A(6) of the GoWA 2006 requires that consideration is given to the purpose of a provision, having regard to its "effect in all the circumstances"<sup>397</sup>, the senior Welsh Government lawyer for the Member in charge, said:

*"[...] whilst the effects of a provision are relevant, they are not, in and of themselves, its purpose".<sup>398</sup>*

**340.** The lawyer reiterated the Member in charge's position that the purpose of the Bill "is Senedd elections, is to make the Senedd more effective", and added:

*"[...] at the time of the Wales Act, when this was devolved to us, we were told that the Wales Act was giving us full competence over everything to do with Senedd elections, including how its Members are elected, and the purpose of this Bill is exactly that: how the Members are elected to ensure a more effective Senedd".<sup>399</sup>*

**341.** Expanding on the point that the Senedd has legislative competence over its own elections, the Member in charge referred to what she described as a "key"<sup>400</sup> contribution made in 2016 by the then Secretary of State for Wales, Alun Cairns MP, during Second Reading of the then Wales Bill:

*"Through this Bill, the Assembly will take control of its own affairs, including deciding arrangements for its own elections. It will be able to determine how its Members are elected, the number of Members, the constituencies and regions used in those elections and who is eligible to vote. As we promised in the St David's day agreement, the*

<sup>396</sup> RoP [paras 10 and 24], 13 March 2024

<sup>397</sup> RoP [paras 18-19], 13 March 2024

<sup>398</sup> RoP [para 20], 13 March 2024

<sup>399</sup> RoP [para 20], 13 March 2024

<sup>400</sup> RoP [paras 13-16], 13 March 2024

*Bill gives the Assembly full responsibility for deciding how it conducts its own affairs and regulates its own proceedings”.<sup>401</sup>*

**342.** In April 2024, Professor McAllister, told us that the Expert Panel had undertaken its work “right on the cusp of the Wales Act 2017 coming into force”.<sup>402</sup> Reminding us that she and the other Panel members were not lawyers, Professor McAllister noted that the Panel’s view<sup>403</sup> had been that it would be “anomalous if matters of electoral arrangements weren’t within the gift of the Senedd [...] because, clearly, quotas are a fundamental part of an electoral system”.<sup>404</sup>

**343.** The Chief Legal Adviser to the then Assembly between 2012 and 2019, Elisabeth Jones, told us that on a personal level she agreed that it would be “anomalous for the Senedd to have such wide competence over its own electoral arrangements but not to have competence to introduce gender quotas into candidate selection”. However, she said that:

*[...] applying the normal rules of statutory interpretation, I regretfully consider that the UK Parliament must be assumed to have been aware of the relationship between reserved matters, such as Equal Opportunities, and the Senedd’s competence over its own electoral arrangements.*

*64. This argument is strengthened by the fact that paragraph 187 of Schedule 7A does in fact contain four exceptions from the Equal Opportunities reservation, none of which are relevant to the provisions of the Bill. So the UK Parliament did consider that there were situations in which it was appropriate for the Senedd to legislate on Equal Opportunities, as defined; but selection of candidates for election to the Senedd was not one of those situations.*

*65. I also recognise the argument that the effect of the Equal Opportunities reservation on the Senedd’s competence over its own*

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<sup>401</sup> [House of Commons debate, Col.1652](#), 14 June 2016

<sup>402</sup> RoP [para 52], 18 April 2024

<sup>403</sup> Paragraph 12.19 of the Expert Panel’s report states: “With effect from the commencement of the reserved powers model of devolution established by the Wales Act 2017, the Assembly will have general competence in relation to its own elections. We are aware that this general competence will be subject to the application of relevant reservations such as funding of political parties, and equal opportunities (and exceptions to those reservations). However, in our view, it would be anomalous if such reservations meant that the Assembly did not have competence to determine its own electoral arrangements, including gender quotas”.

<sup>404</sup> RoP [para 52], 18 April 2024

*elections is not an anomaly, but an example of Lord Hope’s analysis that the “common theme” of reserved matters is that they are matters in which the UK as a whole has an interest—including an interest in retaining control over the rules governing equality and diversity in the selection of candidates by registered political parties”.*<sup>405</sup>

## Equal opportunities

**344.** In correspondence, the Llywydd explained that she accepted that the Bill has a devolved purpose i.e. making the Senedd a more effective legislature. She added, however, that the Bill also:

- “Seeks to address disadvantages and barriers that women face during the candidate selection process”.
- “Will require political parties to treat a man (who would otherwise be more likely to be selected for a place on the list that must be allocated to a woman) less favourably than a woman, because of the man’s sex”.<sup>406</sup>

**345.** As a result, the Llywydd explained that she considers the Bill also has the reserved purpose of ‘equal opportunities’ and that it has:

*“[...] more than a ‘loose or consequential’ connection with the prevention, elimination or regulation of discrimination between persons on the grounds of sex. In other words, in my view, the Bill relates to the reserved matter of equal opportunities and would not be within the legislative competence of the Senedd”.*<sup>407</sup>

**346.** In evidence to the Legislation, Justice and Constitution Committee, the Member in charge stated:

*“I don’t consider that there’s another purpose of equal opportunities, but, of course, in terms of equal opportunities, the effects of a provision may be relevant, but they’re not themselves its purpose”.*<sup>408</sup>

<sup>405</sup> SCECLB35-P Elisabeth Jones

<sup>406</sup> [Letter from the Llywydd](#), 11 March 2024

<sup>407</sup> [Letter from the Llywydd](#), 11 March 2024

<sup>408</sup> Legislation, Justice and Constitution Committee RoP [para 14], 29 April 2024

**347.** The Member in charge’s lawyer similarly told us that the Welsh Government did not “consider there is a secondary purpose to the Bill”. She added that when determining the purpose of legislation the Supreme Court had said:

*“[...] that the purpose and effect of legislation can be derived from both the purpose of those introducing it and the objective effect, and obviously the explanatory memorandum sets out the purpose of those introducing the Bill”.<sup>409</sup> [emphasis added]*

**348.** She expanded on this point in evidence to the Legislation, Justice and Constitution Committee:

*“The test is whether it relates to the reserved matter, and, as you’ve identified, the equal opportunities matter. But then how we look at purpose, it’s 108A(6), and it’s the effect of the provision amongst other things—having regard to the effect of the provision, amongst other things. So, as the Trefnydd said, the effect is relevant in determining purpose, but it is not the most relevant thing. The most relevant thing is the purpose, and I think we talked in the Senedd Reform Bill Committee previously about how the courts have looked at this, and that what’s one of the very important things is the subjective purpose of those introducing the Bill, and the subjective purpose of those introducing the Bill is about a more effective Senedd, along with the package of reforms that the other Bill looks at as well.*

*And so, the position is, as the Trefnydd has said, that we don’t consider there is a secondary purpose. There is a single purpose for this Bill of a more effective Senedd, and therefore any impact on equal opportunities is no more than incidental, and therefore doesn’t amount to ‘relating to’.”<sup>410</sup>*

**349.** Thomas Glyn Watkin KC, who was the First Welsh Legislative Counsel to the then Welsh Assembly Government between 2007 and 2010, agreed with the Welsh Government’s position that “the purpose of the Bill is not to prevent, eliminate or regulate discrimination between persons on grounds of sex but rather to produce a Senedd membership that better reflects the Welsh population”. He noted that the Bill may encourage greater equality of opportunity,

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<sup>409</sup> RoP [para 32], 13 March 2024

<sup>410</sup> Legislation, Justice and Constitution Committee RoP [paras 24 and 25], 29 April 2024



but suggested that such encouragement is neither an effect of the Bill nor a matter to which regard must be had under section 108A of the GoWA 2006. He concluded that while such encouragement is a consequence of the Bill, in his view it is too loose a consequence upon which to base a conclusion that the Bill relates to the reserved matter of equal opportunities, and thereby to take the Bill outside competence.<sup>411</sup>

**350.** Professor Emyr Lewis told us that he considers that the Bill “clearly has an effect on the prevention, elimination or regulation of discrimination between persons on grounds of sex”, but that it is a matter for judgment by the courts whether the effect is “sufficient to mean that the Bill ‘relates to’ equal opportunities rather than having merely a ‘loose or consequential connection’ to equal opportunities”.<sup>412</sup>

**351.** Keith Bush KC, who was Chief Legal Adviser to the then Assembly between 2007 and 2012, and Elisabeth Jones both concluded that the Bill’s provisions relate to equal opportunities, and are therefore outside competence. Keith Bush noted that the overall purpose of the Bill may be achieving greater gender balance in the Senedd, but said that it seeks to achieve this by addressing bias in candidate selection processes. In his view, this means that the Bill’s purposes include the prevention of discrimination against women in such processes, and that such a purpose “falls fairly and squarely within the definition of the reserved matter of ‘equal opportunities’”.<sup>413</sup> Elisabeth Jones described the effect of the Bill’s provisions as being to “ensure that, overall, women make up at least 50% of the candidates put forward for Senedd election by registered political parties” and to give “women candidates a strong chance of being elected”. In her view, the provisions therefore:

*“[...] have the effect of regulating discrimination between persons on the grounds of sex. And they have the intended effect of preventing or eliminating discrimination between persons on the grounds of sex, in the context of selection of candidates for the Senedd. So their effect is squarely on the terrain of the reserved matter of Equal Opportunities, as defined in paragraph 187 of Schedule 7A to GOWA”.*<sup>414</sup>

<sup>411</sup> SCECLB42-P Thomas Glyn Watkin KC

<sup>412</sup> SCECLB6-P Professor Emyr Lewis

<sup>413</sup> SCECLB1-P Keith Bush KC

<sup>414</sup> SCECLB35-P Elisabeth Jones

**352.** Elisabeth Jones added that, having regard to the effect as outlined in her evidence, it is “extremely difficult to understand how the purpose can be said to have only a ‘loose or consequential connection’ with a reserved matter”. She commented further that the Welsh Government’s decision to separate the quota provisions from the rest of the reforms was a factor in her conclusion that the Bill was outside competence:

*“It seems to me that this points to the Gender Quota provisions having a distinct, although genuinely connected, purpose from the rest of the measures intended to make the Senedd more effective”.*<sup>415</sup>

**353.** WEN Wales and the ERS Cymru commissioned legal advice in 2022 on the principle of whether legislation to implement candidates quotas could be within the Senedd’s legislative competence. The advice, which the organisations have shared with us, was necessarily prepared in the absence of specific legislative provisions, although it considered the proposals and evidence set out by the Expert Panel in its 2017 report. The advice concluded that “the introduction of mandatory selection arrangements, to include gender quotas, would arguably be within legislative competence” because:

- The proposals set out by the Expert Panel were formulated to ensure that the Senedd was as representative as possible of the Welsh population, rather than to create equality of opportunity. It said that it is therefore arguable that the purpose of such legislation would relate to Senedd elections, and not the reserved matter of equal opportunities.
- The advice suggested that the Senedd may pass legislation “which supplements or is otherwise additional provision and which imposes a requirement to take action which the Equality Act 2010 does not prohibit”. It said that it is therefore arguable that such legislation would fall within the exception to the reserved matter of equal opportunities.<sup>416</sup>

**354.** WEN Wales told us on 24 April 2024 that it was awaiting updated legal advice.<sup>417</sup>

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<sup>415</sup> SCECLB35-P Elisabeth Jones

<sup>416</sup> SCECLB2-P Electoral Reform Society Cymru, SCECLB5-P Diverse5050. We note that the advice cites the Supreme Court’s judgment in relation to the Agricultural Sector (Wales) Bill, which was made under the previous conferred powers model of devolution rather than the current reserved powers model.

<sup>417</sup> RoP [para 107], 24 April 2024

## Gender recognition

**355.** The Member in charge was clear that the Bill “is not about the process of gender recognition”. She said that in other countries that have adopted candidate quotas, including Ireland, “stating a gender is part of the electoral process”. She added:

*“It is not about a definition; gender recognition is reserved. The purpose of the gender statement—and that is what it is, it’s a gender statement—is solely for compliance with the vertical and horizontal rules for the candidate list. It has no further applications.”<sup>418</sup>*

**356.** Thomas Glyn Watkin agreed that new section 7D(2) (to be inserted by section 1 of the Bill) does not relate to the reserved matter of ‘gender recognition’. However, he noted that competence difficulties could arise in respect of this matter when the Welsh Ministers make the Conduct Order:

*“Questions may arise, for instance, if a nominee believes that someone preferred to them in constructing a list does not fit their description of themselves in their gender statement. The Data Protection Impact Assessment recognizes that the order of candidates on a party list may on occasion make it possible to ascertain what they have stated with regard to their being a woman or not (EM, ¶1230), and the Justice System Impact Identification Assessment notes the likely increase in ‘the potential circumstances which might give rise to grounds for applying to the courts’ (EM, ¶1237). Such questions, particularly if raised at a late stage, could be seriously disruptive of the electoral process.”<sup>419</sup>*

## Modifying the law on reserved matters

### Test

**357.** A provision will be outside legislative competence if it modifies, or gives the power to modify, the law on reserved matters. However, a Senedd Act can modify the law on reserved matters if the modification is ancillary to a provision not relating to reserved matters, so long as the modification “has no greater effect on

<sup>418</sup> RoP [para 158], 13 March 2024

<sup>419</sup> SCECLB42-P Thomas Glyn Watkin KC

reserved matters than is necessary to give effect to the purpose of that provision” (i.e. the provision to which the modification is ancillary).

**358.** Section 108A(7) provides that a provision of a Senedd Act is “ancillary” if it provides for the enforcement of another provision or is “otherwise appropriate for making that provision effective”, or is “otherwise incidental to, or consequential on, that provision”. Cases such as the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill case suggest that the broad interpretation of the word ‘modify’ taken by the Supreme Court may result in its judgments taking a strict approach when assessing the boundaries of devolved competence.

### **Section 104 of the Equality Act 2010**

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**359.** Section 104 of the Equality Act 2010 makes provision enabling political parties to voluntarily adopt discriminatory selection arrangements in order to address underrepresentation in their candidate selection processes. Such arrangements can include single-sex shortlists for election candidates. However, the purpose of any single-sex arrangements must be to reduce inequality in the party’s representation in the elected body concerned. This means that if there is no inequality in a party’s representation, that political party cannot rely on section 104 to select single-sex shortlists. Under such circumstances, intentional selection of single-sex shortlists would be at risk of amounting to discrimination under the Equality Act 2010. Section 104 would continue to apply to political parties if the Bill becomes law.

**360.** In her letter of 11 March 2024, the Llywydd indicated that, in her view, the Bill modifies section 104. She said that while section 104 permits political parties to address underrepresentation by voluntarily adopting discriminatory selection practices in their candidate selection processes, it does not require them to do so. In contrast, the Bill places requirements on political parties in respect of their candidate selections. She concluded, having given consideration to the Supreme Court’s explanation of the meaning of ‘modify’<sup>420</sup> and the ‘ancillary’ carve out in paragraph 2 of Schedule 7B, that:

*“In the context of Senedd elections, in my view, the Bill effectively turns the voluntary power to address under-representation in section 104 into a duty to address under-representation.”*

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<sup>420</sup> [THE UK WITHDRAWAL FROM THE EUROPEAN UNION \(LEGAL CONTINUITY\) \(SCOTLAND\) BILL - A Reference by the Attorney General and the Advocate General for Scotland \(Scotland\) \[2018\] UKSC 64, paragraph 51](#)

*I have concluded that such a change amounts to a modification of section 104. Even though the Bill does not amend the text of section 104, the Bill is in conflict with section 104, which is a modification of the law on reserved matters”.<sup>421</sup>*

**361.** Elisabeth Jones outlined a similar view. She explained<sup>422</sup> that the Supreme Court has previously found that there may be modifications to the law on reserved matters:

*“[...] if the later enactment alters a rule laid down in the protected enactment, or is otherwise in conflict with its unqualified continuation in force as before, so that the protected enactment has to be understood as having been in substance amended, superseded, disapplied or repealed by the later one”.<sup>423</sup>*

**362.** Reflecting on this interpretation of ‘modification’, Elisabeth Jones told us that section 104 allows voluntary positive discrimination by political parties in their selection arrangements on the grounds of sex, whereas the Bill requires mandatory discrimination by political parties in favour of women. A political party that does not comply with the requirements of the Bill will necessarily be breaking the law. In her view, this amounts to a modification of section 104.<sup>424</sup>

**363.** The Member in charge’s lawyer said on 13 March 2024 that the Welsh Government did not agree that the Bill “breaches the restriction on modifying the law on reserved matters”.<sup>425</sup> On 1 May 2024 she explained:

*“[...] our general view is that we don’t modify the law on reserved matters, but, to any extent that we did, it would be justified because it would [be] ancillary to the devolved purpose”.<sup>426</sup>*

**364.** In evidence to the Legislation, Justice and Constitution Committee, the Member in charge expanded on this point:

<sup>421</sup> [Letter from the Llywydd](#), 11 March 2024

<sup>422</sup> SCECLB35-P Elisabeth Jones

<sup>423</sup> [THE UK WITHDRAWAL FROM THE EUROPEAN UNION \(LEGAL CONTINUITY\) \(SCOTLAND\) BILL - A Reference by the Attorney General and the Advocate General for Scotland \(Scotland\) \[2018\] UKSC 64, paragraph 51](#)

<sup>424</sup> SCECLB35-P Elisabeth Jones

<sup>425</sup> RoP [para 32], 13 March 2024

<sup>426</sup> RoP [para 207], 1 May 2024

*“I think that’s important, just to recognise that [the Bill] is very much part of a package of all the reforms in terms of Senedd reform, including, of course, our Senedd Cymru (Members and Elections) Bill [...]. It has the purpose of making the Senedd more effective for and on behalf of the people of Wales.*

*Now, clearly, any effects on equal opportunities in terms of that purpose, general purpose, are incidental. They’re the means to the end of a more effective Senedd, not an end in itself. So, I don’t consider the Bill breaches restriction on modifying the law on reserved matters, and I think it’s important that we look at this in terms of that clear understanding that it doesn’t breach the restriction, and also the fact that we do believe that the Bill would operate separately from but alongside section 104 of the Equality Act, and generally does not prevent that section from continuing in force without conflict”.<sup>427</sup>*

**365.** Thomas Glyn Watkin similarly concluded that the Bill did not modify section 104 of the Equality Act 2010 on the basis that, as section 104’s purpose is to exempt political parties from provisions in the 2010 Act when making selection arrangements with a view to reducing inequalities, the Bill supplements rather than supersedes section 104.<sup>428</sup> Keith Bush similarly found that the provisions of the Bill are not inconsistent with section 104<sup>429</sup>, and the legal advice commissioned by WEN Wales and ERS Cymru concluded that a Bill implementing candidate quotas could supplement rather than modify section 104, or could be considered ancillary.<sup>430</sup>

**366.** Professor Lewis did not reach a firm conclusion on whether or not the Bill was within or outside competence on the basis of modification of the law on reserved matters. He agreed that the Bill was not incompatible with section 104. But, he noted that the Bill has the effect of removing the objective assessment of purpose and proportionality contained within that section, and said that, in his view, this qualified the continuation in force of section 104 in relation to Senedd elections and amounted to a modification of section 104. However, he suggested that if it is argued that the Bill does not relate to the reserved matter of equal opportunities, the modification of section 104 may be within legislative competence on the basis that it is an ancillary modification that has “no greater

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<sup>427</sup> Legislation, Justice and Constitution Committee RoP [paras 18-19], 29 April 2024

<sup>428</sup> SCECLB42-P Thomas Glyn Watkin KC

<sup>429</sup> SCECLB1-P Keith Bush KC

<sup>430</sup> SCECLB2-P Electoral Reform Society Cymru, SCECLB5-P Diverse5050

effect on reserved matters than is necessary to give effect to the purpose of the Bill”.<sup>431</sup>

## Human rights

### Test

**367.** To be within competence, each provision must be compatible with the European Convention on Human Rights set out in the Human Rights Act 1998.

**368.** The Member in charge told the Legislation, Justice and Constitution Committee that the Welsh Government had considered whether the Bill’s provisions were compatible with human rights, in particular:

*“[...] article 8, the right to privacy; article 3 of protocol 1, the right to stand for election; and, in conjunction with those articles, article 14, the non-discrimination and the enjoyment of convention rights”.*<sup>432</sup>

### Article 3 of Protocol 1 (free and fair elections) and Article 14 (protection from discrimination)

**369.** Article 3 of Protocol 1 provides for free and fair elections. By regulating the submission of candidate lists, the Bill could be seen as interfering with free elections. Professor Lewis explained that Article 3 rights are not absolute rights; rather they are qualified rights in relation to which states are given a wide margin of appreciation in respect of the conditions that may be applied. He added that in order for the discrimination the Bill requires on the grounds of sex to comply with Article 3 of Protocol 1, there must be an objective and reasonable justification.<sup>433</sup>

**370.** As Elisabeth Jones outlined, the European Court of Human Rights (‘the ECtHR’) has previously found that “the equality of men and women is a legitimate aim that can justify particular electoral and selection arrangements”.<sup>434</sup> For example, in *Zevnik v Slovenia*<sup>435</sup> the ECtHR said that “the advancement of the equality of the sexes is today a major goal in the member States of the Council of Europe” and that “its institutions consider the lack of gender balance in politics to be a threat to the legitimacy of democracy and a violation of the right of gender

<sup>431</sup> SCECLB6-P Professor Emyr Lewis

<sup>432</sup> Legislation, Justice and Constitution Committee RoP [para 90], 29 April 2024

<sup>433</sup> SCECLB6-P Professor Emyr Lewis

<sup>434</sup> SCECLB35-P Elisabeth Jones

<sup>435</sup> *Zevnik v Slovenia* 54893/18



equality". In that case, the ECtHR held that the Slovenian statutory gender quotas "pursued the legitimate aim of strengthening the legitimacy of democracy by ensuring a more balanced participation of women and men in political decision-making". Elisabeth Jones concluded that the Bill was not incompatible with Article 3 of Protocol 1.<sup>436</sup>

**371.** Outlining her view to the Legislation, Justice and Constitution Committee that the Bill was compatible with Article 3 of Protocol 1, the Member in charge said:

*"Nothing in the Bill prevents a person from standing. And I think that's crucial. The impact assessment recognises this. And I think, if you look at this, for example, in terms of article 14 [protection against discrimination], the rules may result in people who would have stood not being selected, or it may affect the likelihood of their being elected. As I've said, the conclusion of our assessment is that any interference with this right or any of the rights can be objectively justified.*

*And I think that's, as you say, bringing the interaction of those two articles together, because the impact on people's rights and parties' rights to stand is not restricted beyond that which is necessary to safeguard a proportion of the more favourable list positions for women, with a view to achieving that legitimate aim of a more effective Senedd by having a more representative gender make-up of the Welsh population".<sup>437</sup>*

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## **Article 8 (respect for private and family life)**

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**372.** Article 8 protects the right to respect for private and family life. This is also a qualified right, not absolute, and therefore may be interfered with, provided that the interference is justified. Elisabeth Jones concluded that the Bill is not incompatible with Article 8, but she emphasised that if the Conduct Order made further provision regarding candidate statements, further consideration would need to be given to compatibility with Article 8.<sup>438</sup>

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<sup>436</sup> SCECLB35-P Elisabeth Jones

<sup>437</sup> Legislation, Justice and Constitution Committee RoP [paras 92-93], 29 April 2024

<sup>438</sup> SCECLB35-P Elisabeth Jones



**373.** Acknowledging the need to consider compatibility with human rights as the Conduct Order is developed, the Member in charge told the Legislation, Justice and Constitution Committee:

*“So, the impacts and potential mitigations to address them, of course we’ll consider as we progress through subordinate legislation, as that’s developed. But I think the key point really is that the rules in the Bill are clear, the consequences will be foreseeable and proportionate to the legitimate aim of a more representative Senedd, and we also believe that the proposals for the subordinate legislation are objectively justified”.*<sup>439</sup>

### Implications of uncertainty

**374.** As discussed above, there are different perspectives on whether or not the provisions in the Bill are within the Senedd’s legislative competence. The Member in charge is clear that, in her view, the Bill is within the Senedd’s legislative competence. The Llywydd is equally clear that, in her view, it is not. The legal experts who have considered the Bill as introduced and contributed to our work have reached a range of conclusions:

- Thomas Glyn Watkin noted that “the distinctions are so fine that it would be a brave soul who would confidently predict the outcome of [a Supreme Court referral]”. He concluded that he was “on balance” of the view that the Bill was within legislative competence, but added “[t]he arguments for and against this are however very finely balanced and it would be foolhardy to be completely confident about my conclusions”.<sup>440</sup>
- Keith Bush concluded that the Bill did not modify the law on reserved matters, but would nevertheless be outside the Senedd’s legislative competence because the provisions relate to the reserved matter of equal opportunities.<sup>441</sup>
- Elisabeth Jones concluded that the Bill modified the law on reserved matters and, on balance, relates to a reserved matter. She also concluded that section 154 of the GoWA 2006 (which provides that the

<sup>439</sup> Legislation, Justice and Constitution Committee RoP [para 90], 29 April 2024

<sup>440</sup> SCECLB42-P Thomas Glyn Watkin KC

<sup>441</sup> SCECLB1-P Keith Bush KC

provisions of a Senedd Bill must be read as narrowly as is required for them to be within competence if such a reading is possible), does not apply for the purposes of the Bill as the issues relating to competence do not arise from the breadth or narrowness of the reading of the quota provisions.<sup>442</sup>

**375.** Unlike the other legal experts, Professor Lewis did not offer a conclusion on whether or not the Bill was within legislative competence. He noted instead that the “impasse” between the views of the Llywydd and the Member in charge could be resolved in two ways:

- The Senedd “acquiring the power to pass the Bill through an Order in Council” in accordance with section 109(1) of the GoWA 2006 or through an Act of the UK Parliament.
- A decision by the Supreme Court following a referral under the GoWA 2006.<sup>443</sup>

**376.** The Member in charge’s official told us there had been no discussions with the UK Government about the question of whether the Bill is within the Senedd’s legislative competence.<sup>444</sup> In a letter dated 10 May 2024, the Member in charge said:

*“While the Welsh Government has had engagement with the Ministry of Justice and the Information Commissioner’s Office, there has been no specific engagement with the Wales Office in developing the legislation. Given my view that the Bill is within the Senedd’s legislative competence as it relates to the Senedd and Senedd elections, and as the Welsh Government has not identified a need for any Minister of the Crown consents in relation to the Bill, it was not considered necessary to engage the Wales Office during the course of the Bill’s development. This is in line with normal practice for government Bills”.<sup>445</sup>*

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<sup>442</sup> SCECLB35-P Elisabeth Jones

<sup>443</sup> SCECLB6-P Professor Emyr Lewis

<sup>444</sup> RoP [para 65], 13 March 2024

<sup>445</sup> [Letter from the Member in charge](#), 10 May 2024 [see annexed letter]

## Section 109 Order in Council

**377.** Section 109 of the GoWA 2006 provides that an Order in Council may amend Schedules 7A or 7B of the GoWA 2006, and may modify any other primary or secondary legislation considered appropriate in connection with the provision made in the Order.

**378.** Responding to a question about whether she had considered seeking a section 109 Order to clarify the boundaries of the Senedd’s legislative competence in relation to candidate quotas, the Member in charge told the Legislation, Justice and Constitution Committee that her view was that the Bill was within legislative competence.<sup>446</sup>

## Supreme Court referral

**379.** When a Bill is passed by the Senedd at Stage 4 of the legislative process, a four week period begins. The GoWA 2006 provides that, during this period the Welsh Government Counsel General and UK Government Attorney General may, in accordance with section 112, refer the question of whether the Bill, or any provision of the Bill, would be within the Senedd’s legislative competence to the Supreme Court for decision.

**380.** In Plenary on 27 June 2023, the then First Minister said in response to a question about why the Welsh Government was planning to introduce candidate quota provisions in a separate Bill:

*“On Senedd reform, it was the subject of detailed discussions between the Government and Plaid Cymru, and the advice we had was that in order to ensure that the main Bill can be there and operating successfully for the 2026 election, we should find a way of dealing with any vulnerabilities to challenge that there may be on the gender quotas aspect. We are confident that we have the legal scope here in Wales to legislate in this area, and we will bring forward a Bill confident of the basis on which we do so. But it is an area in which other views may be possible, and where a challenge might be mounted. In order to make sure that the main reforms are not vulnerable to challenge, we’ve severed the two aspects”.*<sup>447</sup>

<sup>446</sup> Legislation, Justice and Constitution Committee RoP [paras 80, 82 and 84], 29 April 2024

<sup>447</sup> Plenary RoP [para 141], 27 June 2023

**381.** The Member in charge told us on 13 March 2024 that Stage 1 scrutiny was “not the time” to be discussing the potential for the Bill to be referred to the Supreme Court.<sup>448</sup> During our evidence session on 1 May 2024, she said:

*“[...] the scrutiny process has revealed a range of opinions on legislative competence, and we have to be mindful of the possibility of a challenge. But, obviously, it remains the case it is only the Attorney-General or the Counsel General who can refer the Bill to the Supreme Court, and that has to be done at a time after a Bill has been passed by the Senedd, when the final provisions of the Bill are settled. So, we don’t need to speculate about what that view would be until the relevant time”.*<sup>449</sup>

**382.** The Member in charge’s officials emphasised that the Counsel General’s functions in relation to section 112 of the GoWA 2006 are exercised “independently of Government”, and said it would not be appropriate at this stage for the Welsh Government to seek the Counsel General’s advice on whether he may refer the Bill if it is passed by the Senedd.<sup>450</sup>

### **Order prohibiting the Bill from being submitted for Royal Assent**

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**383.** The Secretary of State for Wales may, in accordance with section 114 of the GoWA 2006, make an order prohibiting the Presiding Officer from submitting the Bill for Royal Assent if they have reasonable grounds for believing that certain conditions apply.<sup>451</sup>

**384.** When asked about the Secretary of State’s powers in this regard, the Member in charge told the Legislation, Justice and Constitution Committee that there had been an exchange of correspondence between the Secretary of State and the First Minister. She added:

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<sup>448</sup> RoP [para 39], 13 March 2024

<sup>449</sup> RoP [para 184], 1 May 2024

<sup>450</sup> RoP [paras 189 and 192], 1 May 2024

<sup>451</sup> That the provision(s) would have an adverse effect on a reserved matter (114(1)(a)) or the operation of the law as it applies in England (114(1)(c)), or would be incompatible with any international obligation or the interests of defence or national security (114(1)(d)).

*“It’s only after a Bill is passed where the Secretary of State could exercise such a function. We can’t speculate what his decision would be at the relevant time”.*<sup>452</sup>

**385.** The Member in charge provided us with copies of the correspondence on 10 May 2024. In the Secretary of State’s letter, dated 21 March 2024, he said that he had “serious concerns” about the Welsh Government’s decision to introduce a Bill that the Llywydd had said was, in her view, outside of competence. Requesting a meeting between UK and Welsh Government officials for the purposes of clarifying the Welsh Government’s position on legislative competence in relation to the Bill, he added:

*“Given that a key aspect of the role of Secretary of State for Wales is ensuring that legislation in both the UK Parliament and Senedd reflects the devolution boundary, I am therefore duty bound to express my grave concern that the Llywydd and the Welsh Government are not in agreement on this Bill”.*<sup>453</sup>

**386.** In a response on 22 April 2024, the First Minister said that the Welsh Government’s position was set out in the EM, and had been outlined by the Member in charge of the Bill in oral and written statements. He agreed to a meeting between officials “at an appropriate time in the future, shortly after the Committees have completed their Stage 1 scrutiny of the Bill”.<sup>454</sup>

### Post-Royal Assent legal challenge

**387.** Professor Lewis and Thomas Glyn Watkin considered in their contributions to our work what the potential implications might be if the uncertainty regarding legislative competence were not resolved prior to the Bill receiving Royal Assent.

**388.** Thomas Glyn Watkin explained that individuals would be able to “challenge the validity of the legislation as a devolution issue in proceedings under the provisions of Schedule 9 to GoWA 2006”. He stated that there was a strong case for obtaining “a definitive ruling on the validity of the bill’s provisions [...] prior to its enactment and implementation” on the basis that:

<sup>452</sup> Legislation, Justice and Constitution Committee RoP [para 68], 29 April 2024

<sup>453</sup> [Letter from the Member in charge](#), 10 May 2024 [see annexed letter]

<sup>454</sup> [Letter from the Member in charge](#), 10 May 2024 [see annexed letter]

*“It is not difficult to imagine scenarios in which potential candidates or nominees disgruntled by the operation of the legislation would choose to wage such a challenge. It is not beyond imagining that the actions of parties opposed to Welsh devolution might lead to such challenges. The disruption to a Senedd General Election which such challenges might occasion cannot fail to be a cause of concern”.*<sup>455</sup>

**389.** Professor Lewis raised similar concerns about what he described as “a substantial risk”:

*“The danger is that someone might challenge the provisions in the courts after the Bill has become an Act of the Senedd (for example by a political party wishing to put forward an all-male shortlist applying for judicial review of a decision by the national nominations compliance officer to reject that list). Such a challenge would most likely cause serious disruption to the next Senedd election, regardless of whether it succeeded. If the challenge succeeded, that would mean that the Bill (or challenged provision) is ‘not law’. The knock-on effect of such a finding would risk jeopardising the integrity of the election itself and could be very damaging to the Senedd and to democracy in Wales”.*<sup>456</sup>

**390.** The Member in charge acknowledged the potential for individuals to bring legal challenge, but said that the risk of such challenge would be managed through engagement and consultation with stakeholders throughout the development and implementation of the Bill and Conduct Order.<sup>457</sup>

## **Our view**

**391.** Assessing whether or not provisions are within the Senedd’s legislative competence is not always straightforward, and we have heard different and conflicting views on whether the Senedd has the legislative competence to pass this Bill. We are grateful to everyone who has shared their expertise on this matter. We have considered their views and analysis carefully alongside the evidence that

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<sup>455</sup> SCECLB42-P Thomas Glyn Watkin KC

<sup>456</sup> SCECLB6-P Professor Emyr Lewis

<sup>457</sup> Legislation, Justice and Constitution Committee RoP [para 70], 29 April 2024

we have received from the Member in charge and the Llywydd, and the advice that we have received from our own legal advisers.

**392.** The Bill has been referred to us for Stage 1 scrutiny. Our role is to consider the general principles of the Bill, and thereby to inform the Senedd's decision on whether or not to agree the general principles of the Bill at Stage 1. It is not our role to determine whether or not the Bill is within the Senedd's legislative competence, although individual Members may reach their own conclusions on this point based on the evidence and advice we have received. The Supreme Court is the only body that can definitively answer the question of whether or not a provision is within the Senedd's legislative competence. And, a referral to the Supreme Court on this question may only be made once a Bill has been passed.

**393.** It is also not our role to prescribe the extent to which Members of the Senedd should consider the lack of consensus on the issue of legislative competence to be a relevant factor in the Senedd's decisions on whether to agree the general principles of the Bill at Stage 1 or pass the Bill at Stage 4. Again, individual Members will have their own views on this point. However, we are all concerned about the potential risks that could arise if the uncertainty on this issue is not resolved prior to the Bill receiving Royal Assent and being implemented. Legal experts have warned that challenges brought by individuals could disrupt the smooth conduct of the 2026 Senedd election or result in risks to its legitimacy or perceived legitimacy. We recognise the Welsh Government's view that all legislation, primary or secondary, may be subject to legal challenge.<sup>458</sup> But, where the risk of challenge may be identified in advance, and where the risks may affect a key cornerstone of our democratic processes, it is essential for steps to be taken to manage and mitigate them.

**Recommendation 17.** The Member in charge should work with the Llywydd, the Electoral Commission, electoral administrators, political parties and such other stakeholders as she considers appropriate to develop and publish a clear pathway for identifying, managing and mitigating any risks to the conduct and/or outcomes of the 2026 Senedd election that may result from the lack of consensus about whether the Senedd has legislative competence to pass the Senedd Cymru (Electoral Candidate Lists) Bill. The pathway must be published prior to the Senedd being asked to pass the Bill at Stage 4 of the legislative process.

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<sup>458</sup> Legislation, Justice and Constitution Committee RoP [para 71], 29 April 2024



**394.** We agree with Professor Lewis that there are two mechanisms by which the uncertainty about legislative competence may be resolved prior to the Bill receiving Royal Assent:

- Clarification of the matter through an Order in Council under section 109 of GoWA 2006 or an Act of the UK Parliament.
- A decision by the Supreme Court following a referral under section 112 of GoWA 2006.

**395.** On the first of these mechanisms, we note the Welsh Government's position is that the Bill is within the Senedd's legislative competence. However, given the lack of consensus on this matter, we are disappointed that the Welsh Government did not engage with the UK Government on the question of legislative competence prior to the Bill's introduction, and that the engagement agreed by the First Minister and the Secretary of State is not expected to take place until after we have completed our Stage 1 scrutiny.

**396.** We note that the timing of the UK general election on 4 July 2024 may further delay any engagement, and urge the Member in charge to ensure that discussions are pursued at the earliest opportunity following the election.

**Recommendation 18.** The Member in charge should, after the current UK general election period, discuss with the UK Government the mechanisms through which the question of whether the Senedd Cymru (Electoral Candidate Lists) Bill would be within the Senedd's legislative competence may be put beyond doubt, including any potential use of an Order in Council under section 109 of the Government of Wales Act 2006 or an Act of the UK Parliament with the objective of avoiding prolonged legal debate and ensuring that any uncertainty is resolved in advance of the 2026 Senedd election. The Member in charge must lay a statement before the Senedd providing an update on these discussions prior to the Senedd being asked to pass the Bill at Stage 4 of the legislative process.

**397.** In relation to the second of the mechanisms identified above, we note that in 2013 the then Counsel General, Theodore Huckle QC, referred the Recovery of Medical Costs for Asbestos Diseases (Wales) Bill to the Supreme Court for a decision on whether that Bill was within legislative competence. In a letter to the Chief Executive and Clerk of the Assembly, he said:

*"I am aware that bodies representing the insurance industry have consistently disputed the Assembly's competence to pass this Bill. I*



*am of the view that this Bill is within the competence of this Assembly. I consider, however, it is appropriate in all the circumstances of this case, and in the public interest, to have the issue of the competence of this Bill clearly resolved before the Bill comes into force. I have therefore decided to make a reference to the Supreme Court to ensure this matter is put beyond doubt".<sup>459</sup>*

**Recommendation 19.** If the Senedd Cymru (Electoral Candidate Lists) Bill is passed by the Senedd at Stage 4 of the legislative process, then, in order to put the question of whether the Bill would be within the Senedd's legislative competence beyond doubt, the Counsel General must exercise his power under section 112 of the Government of Wales Act 2006 to refer the Bill to the Supreme Court and request that the matter is considered, if possible, within an expedited timescale that would not, if the Bill is found to be within competence, prevent candidate quotas from being implemented for the 2026 Senedd election.

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<sup>459</sup> [Letter from the Counsel General to the Chief Executive and Clerk of the Assembly](#), 11 December 2013

## 9. Addressing barriers: a ‘quota-plus’ approach

### A ‘quota-plus’ approach

**398.** Our scrutiny has focused on the Bill, and the candidate quotas it would introduce. But, a major theme in the evidence has been that quotas alone would not be sufficient to address the barriers facing women who may be considering putting themselves forward for selection or election, or remaining in elected offices. Those who did not support quotas warned that quotas could reduce focus on initiatives and policies, such as job-sharing and funded maternity cover, designed to support women and overcome the barriers they face.<sup>460</sup> There was consensus around the need for complementary, non-legislative action to address the barriers that women may face.<sup>461</sup> Professor McAllister and Professor Childs described this as a “quota-plus” approach<sup>462</sup> i.e. a blended approach of quotas and additional measures to improve women’s representation.

### Women as a diverse group

#### Diversity of women

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**399.** Women are not a homogenous group, and some contributors questioned whether the Bill would necessarily lead to the selection of female candidates from a diverse range of backgrounds. Contributors including Diverse5050, Dr Jenichen, the Women’s Rights Network and Merched Cymru warned that failure to recognise and address wider societal factors and barriers could result in the Bill benefiting women who are already in more privileged positions or who may be less likely to experience barriers to selection or election, and doing less to support women from marginalised communities or who are not already politically engaged.<sup>463</sup>

**400.** Agreeing that support was needed for “women from minority ethnic backgrounds, women who do identify as disabled, women from all walks of life”<sup>464</sup> to put themselves forward, the Ethnic Minority Youth Support Team Wales (‘EYST

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<sup>460</sup> SCECLB22-P Merched Cymru

<sup>461</sup> For example: SCECLB5-P Diverse5050, SCECLB7-P Women’s Rights Network, SCECLB17-P Wales Assembly for Women, SCECL28-P Stonewall Cymru, SCECL36-P Welsh Women Speak Out

<sup>462</sup> RoP [paras 50 and 104], 18 April 2024

<sup>463</sup> SCECLB5-P Diverse5050, SCECLB7-P Women’s Rights Network, SCECLB22-P Merched Cymru, SCECLB25-P Dr Anne Jenichen, Senior Lecturer in Politics and International Relations, Aston University

<sup>464</sup> RoP [para 124], 24 April 2024

Wales’) said it was confident that the Bill would lead to increased representation for women from ethnic minority communities:

*“[...] it’s not like we’re drawing a line, ‘This is it and this is the Bill, and it’s only the white-background women who are going to come forward or who can come forward’; this is for all women”.*<sup>465</sup>

**401.** Race Council Cymru described the Bill as a “catalyst” for a quota-plus approach that could recognise women in all their diversity:

*“If we take an intersectional approach to this, I think we can go a really long way, and that’s not just women, that’s not just ethnic minority women, but women with disabilities, women with neurodiverse conditions and so on”.*<sup>466</sup>

**402.** Professor Childs told us that it would be more obvious in a list electoral system than under first past the post if parties did not put forward a greater diversity of candidates.<sup>467</sup> Dr Jenichen agreed that gender or sex quotas can benefit women from ethnic minority backgrounds, but cautioned that in the absence of complementary formal or informal measures parties may consider that such candidates “[tick] two boxes”, thus “leaving more places for white men”.<sup>468</sup>

**403.** Other contributors also emphasised the need for additional measures to increase diversity for underrepresented groups including disabled people, people from ethnic minority backgrounds and LGBTQ+ people.<sup>469</sup>

## Diversity quotas

**404.** The CSER recommended that further work be done to explore quotas on the basis of other protected characteristics.<sup>470</sup> Diverse5050 noted this work has not been done.<sup>471</sup>

<sup>465</sup> RoP [para 82], 24 April 2024

<sup>466</sup> RoP [para 132], 24 April 2024

<sup>467</sup> RoP [para 112], 18 April 2024

<sup>468</sup> SCECLB25-P Dr Anne Jenichen, Senior Lecturer in Politics and International Relations, Aston University

<sup>469</sup> SCECLB5-P Diverse5050, SCECLB28-P Stonewall Cymru

<sup>470</sup> Committee on Senedd Electoral Reform, [Senedd reform: the next steps](#), September 2020, recommendation 21

<sup>471</sup> SCECLB5-P Diverse5050

**405.** Race Council Cymru told us that quotas internationally often focused on one underrepresented group, such as women or people from ethnic minorities. It called for “quotas that are intersectionally embedded” or “in the form of nested quotas”.<sup>472</sup> Professor Kenny and Dr Gomes agreed consideration could be given to exploring intersectional quotas.<sup>473</sup> Professor Kenny said these could be “for example ‘tandem’ quotas targeted at different groups (but largely operating independently) or ‘nested’ quotas where a proportion of seats go to a targeted sub-group of members” (e.g. women from an ethnic minority background).<sup>474</sup>

**406.** We asked the Member in charge whether the Bill’s framework could be used to provide for other aspects of diversity, for example to require that a certain proportion of candidates at the top of the list should have lived experience of disability, or come from ethnic minority backgrounds or underrepresented faith groups. She told us that the Welsh Government had focused on the recommendations of the SPCSR, and said:

*“There is less evidence across the world in terms of wider diversity quotas. We’re learning from the evidence that is developing, but I think that if we can do the gender quotas and the diversity and inclusion guidance, and if that could be made statutory, then I think we’d be taking further steps than even the SPC report identified”.<sup>475</sup>*

## **The Senedd**

### **Inclusive culture, ways of working and facilities**

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**407.** Race Council Cymru told us:

*“I think it’s important that if you’re invited to a party that you’re also invited to dance at that party, which means that you cannot have diversity without inclusion”.<sup>476</sup>*

**408.** We heard that research suggests that women elected to male-dominated parliaments may experience “gendered constraints in their legislative work, particularly when they attempt to reform policies that uphold traditional male

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<sup>472</sup> RoP [para 87], 24 April 2024

<sup>473</sup> SCECLB14-P Meryl Kenny, Professor of Gender and Politics, University of Edinburgh, SCECLB16-P Dr Larissa Peixoto Vale Gomes, University of Edinburgh

<sup>474</sup> SCECLB14-P Meryl Kenny, Professor of Gender and Politics, University of Edinburgh

<sup>475</sup> RoP [para 268], 13 March 2024

<sup>476</sup> RoP [para 132], 24 April 2024

authority”.<sup>477</sup> Women’s representation in the Senedd has been comparatively high, but contributors to our work emphasised the importance of ensuring the Senedd’s working conditions and culture are not a barrier to women who might otherwise stand for election or remain within elected office.<sup>478</sup>

**409.** The Member in charge agreed with this, adding:

*“[...] culture is also about how we treat each other, just in terms of our debate and scrutiny and work together. It’s about women being in powerful positions within the Senedd. But, to do that, we need the support systems like childcare”.*<sup>479</sup>

**410.** There was consensus on the importance of the right facilities and working practices to reflect women’s diverse needs and ensure they feel welcomed and that they belong. Specific examples included:

- The impact of Senedd working hours on Members who are parents or who have childcare or other caring responsibilities. It was suggested that providing a creche would be a simple way to send a message that parents are welcome as Members.<sup>480</sup>
- The impact of a lack of suitable prayer facilities on Members who are practicing Muslims.<sup>481</sup>

**411.** The Member in charge agreed that the Senedd’s facilities must not create barriers, but said this was a matter for the Senedd Commission.<sup>482</sup>

**412.** In written evidence, the Llywydd told us:

- The Tŷ Hywel 2026 project will focus on additional office space to meet the needs of additional Members and support staff, Welsh Government Ministers and officials, and Senedd Commission staff arising from the implementation of the SC(ME) Bill. Members are being consulted on their needs in a range of ways, and the project will consider “necessary adaptations should Members make representations to that end”.

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<sup>477</sup> RoP [para 190], 24 April 2024

<sup>478</sup> RoP [para 132], 24 April 2024

<sup>479</sup> RoP [para 52], 1 May 2024

<sup>480</sup> For example: RoP [para 202], 18 April 2024, RoP [para 240], 24 April 2024

<sup>481</sup> RoP [para 126], 24 April 2024

<sup>482</sup> RoP [para 51], 1 May 2025

- The Cardiff Bay 2032 project will “identify and deliver the Senedd’s long-term estate and accommodation needs, including consideration of a wide range of facilities needed to support the Senedd and its Members, within the funding parameters that are agreed by the Senedd. At the appropriate point in the development of the project, the Senedd Commission will undertake detailed engagement with party groups to ensure that Members’ needs are fully reflected within the designs for any proposed future accommodation option”.
- As part of work to scope the necessary review of Standing Orders and associated guidance to reflect Senedd reform legislation, the Business Committee will “consider, among other things, whether to include matters such as organising business differently and/or considering the effect of any existing or potential procedural changes on the ability of the Senedd to attract as wide and diverse a range of Members as possible”.
- The Senedd has agreed to retain hybrid proceedings, and guidance for participation is in place and is kept under review.
- The Senedd Commission has put in place a range of technologies to help remove barriers to participation, and is exploring the potential benefits of generative AI. Consideration of the technologies underpinning Plenary meetings is part of the Siambr 2026 project, which will also be informed by equality impact assessments.<sup>483</sup>

### **Gender sensitive audit**

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**413.** Some other parliaments have conducted gender sensitive audits (including the UK Parliament in 2022<sup>484</sup> and the Scottish Parliament in 2023<sup>485</sup>).

**414.** There was broad support for a similar audit being conducted by the Senedd, although the ERS Cymru cautioned that it should not “delay other work where barriers and solutions are being looked at—for example, introducing opportunities for job sharing”.<sup>486</sup> We were told that an audit would identify actions that could remove barriers, be a public demonstration that people from all backgrounds and

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<sup>483</sup> SCECLB40-P Llywydd

<sup>484</sup> House of Commons Women and Equalities Committee, [Fifth report - Equality in the heart of democracy: A gender sensitive House of Commons](#), 2 March 2022

<sup>485</sup> Scottish Parliament, [A parliament for all: report of the Parliament’s gender sensitive audit](#), March 2023

<sup>486</sup> RoP [para 138], 24 April 2024

communities are wanted and welcomed, and could encourage women to stand and remain in political roles.<sup>487</sup>

**415.** The Member in charge was also supportive in principle, but said that it was a matter for the Senedd Commission.<sup>488</sup>

## Political parties

### Culture, structures and ways of working

**416.** We were told that sexism and discrimination persist within political party cultures, structures and ways of working, manifesting in areas such as the timing and “masculinised environments” of meetings, the continued asking of inappropriate questions about potential candidates’ marital status, families and childcare during selection processes, and perceptions that “the right kind of candidate is [...] a default kind of white male candidate, able-bodied”.<sup>489</sup>

**417.** Outlining an example<sup>490</sup> in which a political party had failed to ensure that a disabled woman had been able to access the podium from which potential candidates were expected to speak, the Fawcett Society added it was:

*“[...] incumbent on parties, as the main vehicle for people accessing political office, to address that, and so instead of a focus on encouraging women to stand [...] we’re also asking parties to stop discouraging women to stand”.<sup>491</sup>*

**418.** Elect Her highlighted the exclusive nature of decision-making processes, and the challenges for newer members in finding information about how the party works, learning about opportunities, or accessing internal party networks.<sup>492</sup>

**419.** Reflecting on the opportunity provided by Senedd reform to drive change, Professor Childs said that parties “have not yet really looked in on themselves sufficiently and transformed themselves into places that women feel are

<sup>487</sup> For example: RoP [paras 157 and 203], 18 April 2024

<sup>488</sup> RoP [para 35], 1 May 2025

<sup>489</sup> RoP [para 166], 18 April 2024

<sup>490</sup> RoP [para 203], 18 April 2024

<sup>491</sup> RoP [para 166], 18 April 2024

<sup>492</sup> RoP [para 162], 18 April 2024

comfortable and open to women and other members of historically under-represented groups”.<sup>493</sup>

**420.** Representatives of the WPPP told us about their candidate selection processes, and the roles played by party central offices, volunteers and party members.<sup>494</sup> The chair of the Senedd Women’s Caucus reflected on progress made in her political party, including the prohibition of questions in candidate selection interviews about childbearing, greater recognition of the skills and experiences women may have, and reaching out beyond traditionally male-dominated networks.<sup>495</sup>

**421.** Professor McAllister encouraged parties to consider their processes, and not “just replicate the selection processes that we already have for men and women without using quotas”. She called for parties to prioritise achieving broader diversity through their selection processes:

*“Because with a limited pool of candidates, even in a 96-seat Senedd, there’s going to be choices to be made about candidates, and I’m afraid that means there are winners and losers in that equation. But we do need to make sure that the women who come forward, and that we bring forward, are not just white women of the types that we’ve talked about already. There has to be more variety or we lose legitimacy and we lose credibility in the importance of the diversity element of this intervention”.*<sup>496</sup>

**422.** Welsh Labour told us that it was “constantly looking to adapt and change our selection procedures”, and gave the example of making selection processes shorter to reduce costs for candidates.<sup>497</sup>

### **Diversity and inclusion strategies**

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**423.** The CSER recommended that:

*“Political parties which contest Senedd elections should prepare and publish diversity and inclusion strategies which assess the diversity and inclusivity of their culture, processes, ways of working and*

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<sup>493</sup> RoP [paras 98-99], 18 April 2024

<sup>494</sup> RoP [paras 285, 287-289 and 291], 18 April 2024

<sup>495</sup> RoP [paras 309-310], 24 April 2024

<sup>496</sup> RoP [para 108], 18 April 2024

<sup>497</sup> RoP [para 356], 18 April 2024



*representation, and set out the actions they intend to take to increase the diversity of their memberships, candidates and elected Members.”<sup>498</sup>*

**424.** The SPCSR similarly recommended that Senedd reform legislation should include provisions encouraging political parties to publish “a diversity and inclusion strategy, setting out how it has sought to facilitate diversity within its candidates, at least six months prior to the scheduled Senedd election”.<sup>499</sup>

**425.** There was broad welcome in principle for such strategies as a means of ensuring that all parties were performing to the same standards, creating accountability, and identifying parties that were underperforming. Contributors cautioned, however, that strategies must be:

- Implemented, and include “meaningful measures of change”.<sup>500</sup>
- Tailored to address the specific circumstances within each party.<sup>501</sup>
- Compliant with the law, including equalities legislation.<sup>502</sup>

**426.** Political parties told us they are already developing and publishing strategies:

- Welsh Labour confirmed its willingness to publish its own strategy once finalised.<sup>503</sup>
- The Conservative Party had published a strategy at a UK level, and said it was willing to publish a Welsh strategy.<sup>504</sup>
- Plaid Cymru’s strategy was being developed, and was expected to be published.<sup>505</sup>

**427.** We heard some calls for strategies to be a statutory requirement.<sup>506</sup> Race Council Cymru argued that, unless mandatory, strategies may not be effective

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<sup>498</sup> Committee on Senedd Electoral Reform, [Senedd reform: the next steps](#), September 2020, recommendation 19

<sup>499</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, recommendation 16

<sup>500</sup> RoP [para 194], 18 April 2024

<sup>501</sup> RoP [para 134], 24 April 2024

<sup>502</sup> RoP [paras 254 and 256], 24 April 2024

<sup>503</sup> SCECLB29-P Welsh Labour

<sup>504</sup> RoP [para 324], 18 April 2024

<sup>505</sup> RoP [para 326], 18 April 2024

<sup>506</sup> SCECLB41-P Plaid Cymru

within a reasonable timeframe.<sup>507</sup> Diverse5050's priority was ensuring candidate quotas could be implemented alongside the SC(ME) Bill, and suggested:

*"In order to not further stress the already tight timeline for this Bill, it is our view that a statutory requirement for political parties D&I strategies should be pursued alongside this Bill, not as a part of it".<sup>508</sup>*

**428.** On the Bill's introduction, the Member in charge said:

*"We will look to publish guidance to encourage political parties, as important gatekeepers of political representation, to publish diversity and inclusion strategies for Welsh elections".<sup>509</sup>*

**429.** The Member in charge's official told us on 1 May 2024 that the Welsh Government would table an amendment to the EEB Bill to place a duty on the Welsh Ministers to publish guidance for political parties on the development of diversity and inclusion strategies.<sup>510</sup> The amendment<sup>511</sup>, tabled on 1 May 2024 and debated and agreed<sup>512</sup> by the Local Government and Housing Committee during Stage 2 proceedings on 16 May 2024:

- Requires the guidance issued by the Welsh Ministers for registered political parties to cover the development, publication, implementation and review of strategies for "promoting diversity in the specified characteristics and specified circumstances of candidates" and helping candidates to "overcome barriers to their participation [...] connected to having those characteristics or circumstances".
- Requires that the first guidance issued by the Welsh Ministers must be issued by 1 May 2025, and that the Welsh Ministers must review the published guidance at suitable intervals (taking into account electoral cycles for devolved elections in Wales).

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<sup>507</sup> RoP [paras 146-147], 24 April 2024

<sup>508</sup> [Additional information provided by Diverse5050 following the evidence session on 24 April 2024](#)

<sup>509</sup> Plenary RoP [para 128], 12 March 2024

<sup>510</sup> RoP [para 63], 1 May 2024

<sup>511</sup> [Notice of Amendments tabled to the Elections and Elected Bodies \(Wales\) Bill](#), 1 May 2024, Amendment 32

<sup>512</sup> Local Government and Housing Committee RoP [paras 234-257 and 346], 16 May 2024

## Financial barriers

### Financial barriers

**430.** Many contributors raised finance as a barrier that can have a disproportionate impact on some women, with implications for the diversity of women who stand for selection or election. Professor McAllister emphasised the importance of addressing financial barriers:

*"[...] because when we talk about quotas, we often get criticised for presenting it as if it's the same type of women who will come through as men who are already there, and that's not the intent. We know that there is a lot of intersectionality that needs to be reflected through a quota approach on a sex basis, to ensure that it's not just middle-class women who are university educated, who are middle aged, who are white and so on, that we use it as a platform for ensuring that other women come through that system and, therefore, the diversity dividend is bigger".<sup>513</sup>*

**431.** We heard that women are more likely to live in poverty, receive lower incomes and have caring responsibilities, and that standing for election "is just simply unaffordable for many women".<sup>514</sup> Elect Her's research showed women spend up to £1,000 during local government campaigns, with anecdotal evidence suggesting this would be higher for Senedd elections as a result of longer election periods and larger constituencies. Elect Her added that political parties may not contribute to costs considered to be personal spending rather than campaign spending, such as suitable clothing and footwear for campaigning, or technology to enable digital campaigning.<sup>515</sup> We also heard about costs relating to safety and security, such as the costs of taking a taxi if a woman felt unsafe walking home at night after campaigning.<sup>516</sup>

**432.** In addition, costs relating to childcare and caring responsibilities were described as an "undiscussed issue" in relation to candidates. The Fawcett Society and Diverse5050 recommended developing a "financial assistance scheme for candidates with caring responsibilities".<sup>517</sup> Elect Her told us it offered grants to assist underrepresented women with personal costs associated with standing for

<sup>513</sup> RoP [para 102], 18 April 2024

<sup>514</sup> RoP [para 169], 18 April 2024

<sup>515</sup> RoP [paras 169-171], 18 April 2024

<sup>516</sup> RoP [para 177], 18 April 2024

<sup>517</sup> RoP [para 133], 18 April 2024, SCECLB5-P Diverse5050

election. The work had highlighted women's concerns about costs, particularly in the context of the cost of living crisis, and the impact of the financial barriers on women's mental health.<sup>518</sup>

### **Financial support for candidates**

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**433.** Political parties told us that they had either offered financial support to candidates or taken action to mitigate the costs to individuals. However, both Plaid Cymru and the Welsh Conservatives indicated that funding for such support is limited. They emphasised that political parties are largely voluntary organisations and reliant on donations.<sup>519</sup> While welcoming the support that had been provided to disabled candidates through the Access to Elected Office Fund, Plaid Cymru noted that the costs and approach to providing similar funding to larger groups, such as women, would need to be carefully considered.<sup>520</sup>

**434.** Academics told us that there are international examples, including financial incentives to support women and women's campaigns, such as the provision of bicycles to women in East Timor, or availability of additional party political broadcast slots to parties that fulfil a quota for particular candidates.<sup>521</sup> However, they suggested that more research was needed to understand how funding to support individuals would work in practice in Wales, including the links between socioeconomic disadvantage and other aspects of diversity, and how funding would be allocated to candidates or potential candidates.<sup>522</sup>

**435.** The Welsh Government piloted the Access to Elected Office Fund for the 2021 Senedd election and the 2022 local elections in Wales as a mechanism for providing practical support for disabled people to participate in the political process. It may not be used for campaign costs, but can cover "reasonable adjustments which level the playing field between disabled and non-disabled candidates".<sup>523</sup>

**436.** The EEB Bill includes:

- A requirement that the Welsh Ministers must provide a financial assistance scheme to assist disabled candidates in Welsh elections to overcome barriers to their participation connected to their disability.

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<sup>518</sup> RoP [paras 170-171], 18 April 2024

<sup>519</sup> RoP [paras 347 and 352], 18 April 2024

<sup>520</sup> RoP [para 350], 18 April 2024

<sup>521</sup> RoP [paras 111 and 512], 18 April 2024

<sup>522</sup> RoP [para 110], 18 April 2024

<sup>523</sup> Welsh Government, [Written statement: Access to elected office fund](#), 22 October 2021

- An enabling power that the Welsh Ministers may use to provide financial assistance schemes to help candidates in Welsh elections who have specific characteristics or specified circumstances overcome barriers to participation.

**437.** The Member in charge told us that the Welsh Government had not considered the provision of financial support for women candidates to cover any additional costs that could be a barrier to standing for election.<sup>524</sup>

### Funding for diversity organisations

**438.** We discussed with the Member in charge the funding challenges facing organisations working on diversity and representation. She said that it was “very disappointing that we lost Chwarae Teg [...] and many other very progressive organisations”. She attributed it to the loss of EU funding and pressures on public sector budgets, but acknowledged “this is about priorities, so political parties and the Government have to see this as a priority in terms of where our funding goes”.<sup>525</sup>

**439.** We asked her whether the Welsh Government had considered establishing a permanent, funded body with responsibility for promoting inclusion in democracy. She said it had not, but “discussion about whether this is needed or not will develop as part of the Senedd reform programme”.<sup>526</sup>

### Harassment and abuse

**440.** The Electoral Commission highlighted a survey<sup>527</sup> conducted following the 2022 local elections in Wales which found that 40 per cent of candidates had experienced some form of abuse or intimidation.<sup>528</sup> Professor Campbell said harassment, intimidation and abuse of candidates is rising, and is higher for women, particularly women of colour.<sup>529</sup> Dr Gomes raised concerns about the threat of violence that could be faced by potential candidates, particularly women, as a result of quotas. She referred to the experience of countries such as Bolivia, Costa Rica, Ecuador and Mexico which, on the introduction of quotas, “saw

<sup>524</sup> RoP [para 208], 13 March 2024

<sup>525</sup> RoP [para 41], 1 May 2024

<sup>526</sup> RoP [para 27], 1 May 2024

<sup>527</sup> The Electoral Commission, [Report on the May 2022 elections in Wales](#), September 2022

<sup>528</sup> SCECLB32-P The Electoral Commission

<sup>529</sup> RoP [para 40], 18 April 2024

the rise of violence against women in politics, ranging from psychological and symbolic violence to physical violence, and death threats from men alternates”.<sup>530</sup>

**441.** We heard calls for parties to develop guidance for women to help create safe and empowering environments for candidates, for clear pathways to support and protect elected representatives from abuse and harassment within political bodies and institutions, and for effective systems and procedures for addressing harassment and abuse and supporting people who experience them.<sup>531</sup>

**442.** Professor Childs told us that there was a body of academic work on violence against women in politics, including strategies for addressing it, but that what was now needed was political will and leadership from political parties and institutions.<sup>532</sup> Dr Sofia Collignon shared a range of online resources and academic papers on these issues, including guidance and resources aimed at supporting local councillors.<sup>533</sup>

**443.** The Member in charge acknowledged that politics can be “toxic” and “intrusive”, particularly for women. She referred to the Welsh Government’s legislation and strategy for addressing violence against women, domestic abuse and sexual violence, and said that the strategy was being extended to violence in the home and workplaces. Noting that this included the Senedd, she highlighted the need for all Members to speak up against abuse and harassment of women in politics, and emphasised the role of the Standards of Conduct Committee. She added that the Senedd Commission and political groups in the Senedd had received training on dignity and respect, and sexual harassment.<sup>534</sup>

## **Job-sharing**

**444.** Section 7 of the SC(ME) Bill requires the Presiding Officer following the first Senedd election after 7 November 2025 to table a motion to propose the establishment of a Senedd committee to review matters relating to job-sharing of relevant Senedd offices. During our work on that Bill, Professor McAllister and Dr Gomes expressed disappointment in the approach.<sup>535</sup> Professor McAllister told us on 18 April 2024:

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<sup>530</sup> SCECLB16-P Dr Larissa Peixoto Vale Gomes, University of Edinburgh

<sup>531</sup> SCECLB28-P Stonewall Cymru, RoP [para 208], 18 April 2024, RoP [para 134], 24 April 2024

<sup>532</sup> RoP [paras 97-98], 18 April 2024

<sup>533</sup> [Additional information provided by Dr Sofia Collignon](#)

<sup>534</sup> RoP [paras 108-109], 1 May 2024

<sup>535</sup> [Additional information provided by Professor Laura McAllister and Dr Vale Gomes following the evidence session on 26 October 2023](#)

*“I think we really need to reinvigorate the debate about job share in the context of the previous Bill and this one. I know it’s loosely connected to both of them but not explicitly relevant to either, in a sense, but it mustn’t fall between them, because it’s a real opportunity for us to change the type of candidates—by the way, male candidates as well as female candidates—who could be elected to the Senedd”.*<sup>536</sup>

**445.** Supporters of job-sharing said it could encourage more women to consider standing for selection or election, and could also address barriers facing people with other characteristics, including disabled people.<sup>537</sup>

**446.** The Member in charge acknowledged that job-sharing can be a “powerful” way to enable Members to work and have a family. She told us that the Senedd Business Committee was looking at issues relating to job-sharing.<sup>538</sup> In written evidence, the Llywydd told us that consideration of job-sharing in relation to committee chairs was included in the Business Committee’s procedural work programme. She acknowledged that we, in our report on the SC(ME) Bill, recommended that the Business Committee should consider proposing the establishment of a new committee in the Sixth Senedd, or asking an existing committee, to explore issues relating to job-sharing across a range of Senedd offices (including the office of Member of the Senedd). The Business Committee said that it would consider the matter in summer 2024.<sup>539</sup>

**447.** Sioned Williams MS, speaking as a member of the Senedd Women’s Caucus, emphasised the need, as further consideration was given to whether job-sharing for relevant Senedd offices should be permitted, to:

*“[have] people in the room who truly understand how that works and who wouldn’t have any kind of prejudice or stereotypes, in terms of what that would mean”.*<sup>540</sup>

**448.** While supportive of job-sharing, Dr Gomes cautioned that there could be practical challenges in implementing it within the quota rules envisaged by the Bill. For example, if job-sharing partners were considered to be a single legal

<sup>536</sup> RoP [para 104], 18 April 2024

<sup>537</sup> RoP [paras 114, 213-214 and 216], 18 April 2024

<sup>538</sup> RoP [para 48], 1 May 2024

<sup>539</sup> SCECLB40-P Llywydd

<sup>540</sup> RoP [para 317], 24 April 2024



entity, consideration would need to be given to handling the scenario in which the individual partners needed to make different candidate statements as to whether they were a woman or not a woman.<sup>541</sup>

## **Mentoring and training**

**449.** We heard calls for training, support and networks to enable women to engage in the political environment.<sup>542</sup> Many of those who contributed to our work also spoke about the bias that women may experience, and the impact it can have on their confidence. EYST Wales highlighted the role of mentoring programmes:

*"[...] even a little bit of mentoring, seeing somebody out there who's the same as you, who's in that position already, gives you that boosted confidence".<sup>543</sup>*

**450.** The Member in charge confirmed that the Equal Power Equal Voice mentoring scheme is a partnership between a range of organisations representing different demographic groups and characteristics. She said that this showed "the wider diversity that we're seeking to encourage".<sup>544</sup>

## **Candidate and Member diversity data**

### **Section 106 of the Equality Act 2010**

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**451.** Section 106 of the Equality Act 2010 would, if commenced, make it a requirement for registered political parties standing candidates in elections to the Senedd, UK Parliament or Scottish Parliament to publish information about the protected characteristics of their candidates. The provision has not been commenced, and the power to do so lies with the UK Government.

**452.** The Expert Panel recommended that the UK Government should commence section 106, or transfer the powers to do so for Senedd elections to the Welsh Ministers.<sup>545</sup> The CSER similarly recommended that the Welsh Government should request the commencement of section 106 in respect of

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<sup>541</sup> RoP [para 426], 18 April 2024

<sup>542</sup> SCECLB5-P Diverse5050, SCECLB17-P Wales Assembly of Women, SCECLB28-P Stonewall Cymru, RoP [para 48], 18 April 2024

<sup>543</sup> RoP [para 72], 24 April 2024

<sup>544</sup> RoP [para 65], 1 May 2024

<sup>545</sup> Expert Panel on Assembly Electoral Reform, [A parliament that works for Wales: the report of the Expert Panel on Assembly Electoral Reform](#), November 2017, recommendation 9



Senedd elections. It also called for political parties, in the absence of any statutory requirements, to publish candidate diversity data on a voluntary basis from the 2021 election onwards.<sup>546</sup>

**453.** Responding to the CSER’s recommendations in October 2020, the Welsh Government said it had written to the UK Government to request the commencement of section 106 in relation to Senedd elections and for consideration to be given to including local elections in Wales, but:

*“I am disappointed to report that the UK Government’s recent response was that they would keep section 106 under review, and continue to encourage political parties to report on a voluntary basis”.<sup>547</sup>*

**454.** When asked about the Welsh Government’s engagement with the UK Government, the Member in charge referred to the 2020 correspondence<sup>548</sup>, but did not indicate whether any engagement has taken place since 2020.

**455.** The SPCSR recommended that a duty be placed on “a devolved Welsh Authority to collect and prominently publish anonymised candidate diversity data”.<sup>549</sup>

### Collection and publication of diversity data

**456.** We were told that without robust and consistent data it is difficult to identify areas of underrepresentation or measure progress, and that transparent data would facilitate implementation and monitoring of the impact of quotas and empower voters and civil society to hold political parties to account.<sup>550</sup>

**457.** Elect Her called for the collection and publication of data about candidates for local elections as well as Senedd elections, arguing that candidate pipelines for different elections cannot easily be disentangled. It added that data on people who are applying to be candidates would also be helpful:

<sup>546</sup> Committee on Senedd Electoral Reform, [Senedd reform: the next steps](#), September 2020, recommendations 9 and 10

<sup>547</sup> Welsh Government, [Written response by the Welsh Government to the report of the Committee on Senedd Electoral Reform](#), October 2020

<sup>548</sup> RoP [para 43], 1 May 2024

<sup>549</sup> Special Purpose Committee on Senedd Reform, [Reforming our Senedd: a stronger voice for the people of Wales](#), May 2022, recommendation 12

<sup>550</sup> SCECLB5-P Diverse5050, SCECLB14-P Professor Meryl Kenny, RoP [paras 117, 193 and 197], 18 April 2024

*"I think that would tell you a huge amount about the parties and the actions that they're taking to create a more inclusive environment where more diverse communities and greater numbers of women feel that they can step forward to represent them".<sup>551</sup>*

**458.** Political parties told us they had collected and used some candidate diversity data at previous elections:

- Welsh Labour said data was used pre-selection to identify areas where there was a lack of women coming forward for selection, and as part of post-selection debriefs with successful and unsuccessful candidates to identify challenges or improvements to internal processes.<sup>552</sup>
- Plaid Cymru explained that data had been used to implement its internal rules about the placement of women on regional candidate lists and constituency twinning.<sup>553</sup>
- The Welsh Conservatives said data had been used when creating its list of approved candidates from which party members could select candidates, and to inform post-selection outreach to identify barriers and challenges faced by certain groups.<sup>554</sup>

**459.** All parties emphasised the need to ensure that data was collected, handled and published in accordance with data protection rules, and for training for party staff and volunteers.<sup>555</sup> Welsh Labour added that published data must be anonymised to avoid individuals being identifiable.<sup>556</sup>

**460.** On 12 March 2024, the Member in charge told the Senedd that work was ongoing regarding "greater transparency around diversity information for Senedd candidates" and that the Welsh Government was "exploring how we may be able to encourage and support political parties to do more in this area".<sup>557</sup> On 1 May 2024 the Welsh Government tabled an amendment to the EEB Bill that would place a duty on the Welsh Ministers to publish guidance for registered political parties before 1 May 2025 (and to review such guidance from time to time thereafter, taking account of electoral cycles) about collecting, collating and

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<sup>551</sup> RoP [paras 198-199], 18 April 2024

<sup>552</sup> RoP [para 336], 18 April 2024

<sup>553</sup> RoP [para 342], 18 April 2024

<sup>554</sup> RoP [paras 338 and 340], 18 April 2024

<sup>555</sup> RoP [paras 390 and 392-393], 18 April 2024

<sup>556</sup> RoP [para 333], 18 April 2024

<sup>557</sup> Plenary RoP [para 151], 12 March 2024

publishing diversity information about their candidates for Senedd elections.<sup>558</sup> The amendment was debated and agreed by the Local Government and Housing Committee during Stage 2 proceedings on 16 May 2024.<sup>559</sup>

## Our view

**461.** There are significant barriers that can deter or prevent women from coming forward for selection or election, or remaining in elected office. Some barriers have a disproportionate impact on women from particular communities or in certain circumstances. Some do not only affect women. Barriers affecting parents or people who have caring responsibilities will also affect men who have such responsibilities, and issues relating to safety, abuse and harassment, while often having a sex or gender dimension, are not confined solely to women.

**462.** We have not reached a unanimous Committee view on the general principles of the Bill, but we are united in our view that action is needed to address barriers to selection and election. We want to see such actions developed and designed in ways that respect and reflect women's intersectional identities, and the disproportionate effects experienced by women from some communities or with some characteristics.

**463.** It is vital that the Senedd itself is a place where everyone, regardless of their characteristics, backgrounds or circumstances, feels they belong. This applies to formal Senedd proceedings in Plenary and committees, and to other activities including Members' day to day work in Cardiff Bay and constituencies across Wales.

**464.** We support calls for a gender sensitive audit of the Senedd, but agree that where actions to improve culture, ways of working or facilities have already been identified, their implementation should not be unnecessarily delayed.

**Recommendation 20.** The Senedd Commission should commission a gender sensitive audit of the Senedd's culture, ways of working and facilities. The outcomes of the audit should be available in sufficient time to inform decisions on the Cardiff Bay 2032 project, and decisions to be taken by the Seventh Senedd about its ways of working.

**465.** In terms of facilities, we welcome the evidence from the Llywydd that consideration is being given in advance of the 2026 election to Cardiff Bay office

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<sup>558</sup> [Notice of Amendments tabled to the Elections and Elected Bodies \(Wales\) Bill](#), 1 May 2024, Amendment 32

<sup>559</sup> Local Government and Housing Committee RoP [paras 234-257 and 346], 16 May 2024

space through the Tŷ Hywel 2026 project and the Siambr through the Siambr 2026 project. However, it is not clear to us what consideration is being given to ensuring that committee meeting facilities are fully accessible and meet the diverse needs of Members, Commission staff and all those who contribute to committees' work.

**Recommendation 21.** The Senedd Commission should ensure that its Tŷ Hywel 2026, Siambr 2026 and Cardiff Bay 2032 projects are informed by engagement and consultation with diversity organisations to ensure that decisions are informed by best practice and are futureproofed in respect of the potential needs of currently underrepresented groups, in addition to the needs identified by current Members, support staff, Welsh Government staff, Commission staff and associated trade unions. Similar engagement and consultation should inform work to ensure that committees, their meetings and informal activities are fully accessible to Members, Commission staff and contributors to their work.

**466.** We hope that political parties will reflect on the evidence that we have heard about whether they are safe, welcoming and inclusive places for women. We agree that it will be beneficial for political parties to prepare and publish tailored and focused diversity and inclusion strategies that clearly set out what action parties will take and how they will measure progress.

**467.** We also support the provisions in the EEB Bill that put the Access to Elected Office Fund on a statutory footing, and lay the groundwork for other financial assistance schemes to help address the barriers that some groups or communities may face. The design of such schemes should be evidence-based, and we agree there should be further research into how schemes may be designed and operate as part of a quota-plus approach to increasing diverse women's representation in the Senedd. This should include consideration of the form in which financial support is provided, including the provision of money, not just travel reimbursement or access to training or mentoring.

**Recommendation 22.** The Welsh Government should commission research on the best ways to provide financial support for women candidates from underrepresented groups. This should include consideration of how funding can be targeted and allocated, and the form that financial support should take. The research should be completed in time to ensure that new financial assistance schemes can be in place in sufficient time to enable potential candidates to make informed decisions about whether to put themselves forward for selection or election at the 2026 Senedd election.

**468.** We share the Member in charge's regret that organisations working in the diversity and representation space have been lost due to inadequate funding. Such organisations play key roles in holding political parties and political institutions to account, in providing expertise to inform policy and legislative development, and in building networks to support and connect women and people with protected characteristics. We welcome the Member in charge's indication that the Welsh Government will give further consideration to whether a permanent funded body to promote inclusion in democracy is required.

**469.** We condemn the abuse and harassment that candidates and elected Members face online and in person. It is unacceptable that anyone should have to face such treatment. We welcome the increasing focus on supporting candidates and Members.

**Recommendation 23.** The Welsh Government should work with the Electoral Commission and other partners to ensure that sufficient guidance and support is in place for candidates and elected Members on handling abuse and harassment, including how to report it and what support is available for those affected by it.

**470.** We note that the Business Committee will return in summer 2024 to consideration of our recommendation that issues relating to job-sharing for relevant Senedd offices should be explored in the Sixth Senedd. We agree with Dr Gomes that, if candidate quotas are introduced, consideration will need to be given to how they can accommodate job-sharing partners who need to make different statements on whether they are, or are not, a woman.

**471.** It is disappointing that section 106 of the Equality Act 2010 (or equivalent provision in legislation brought forward by the Welsh Ministers) will not be commenced in order to require the collection and publication of candidate diversity data. We note that the 2020 correspondence between the UK and Welsh Governments indicated that the UK Government would keep section 106 under review.

**Recommendation 24.** The Welsh Government should make further representations to the UK Government seeking information about how the UK Government has kept section 106 of the Equality Act 2010 under review since 2020, and what further consideration it has given to the commencement of the provision. The Welsh Government should also reiterate its call for section 106 to be commenced in relation to Senedd elections (and/or for the power to do so to be transferred to the Welsh Ministers).

**472.** We hope that all political parties that contest the Senedd election in 2026 will respond positively and constructively to the guidance that the Welsh Ministers will be required to publish (if the EEB Bill is passed). If the experience of the 2026 election suggests that this is not the case, the Welsh Government should consider what further action may be needed to ensure the collection and availability of this data.

**473.** In addition, it is not clear to us why the guidance to be published under the EEB Bill in relation to data collection relates only to Senedd elections and not to local elections as well, especially as we note that the guidance on diversity and inclusion strategies relates to all devolved elections. We recognise that there are already some arrangements in place in Wales for a survey to be conducted after local elections, but our view is that a consistent approach across all devolved elections would be appropriate. Such consistency would increase the potential for data comparability across political parties and elections, and for progress to be monitored over time.

**Recommendation 25.** The Welsh Government should explain why section 30 of the Elections and Elected Bodies (Wales) Bill (as inserted by amendment at Stage 2) requires the guidance to be published by the Welsh Ministers in relation to the collection and publication of candidate diversity data by political parties to cover only Senedd elections, and not all devolved Welsh elections.

## Annex 1 YouGov survey findings

### Background

To inform its scrutiny of the Senedd Cymru (Electoral Candidate Lists) Bill the Reform Bill Committee commissioned YouGov to ask the following question.

*To what extent, if at all, would you support or oppose political parties being required to use gender quotas to choose candidates for Senedd Cymru (Welsh Parliament) elections?  
[Strongly support / Somewhat support / Neither support nor oppose / Somewhat oppose / Strongly oppose]*

*I ba raddau, os o gwbl, y byddech yn cefnogi neu'n gwrthwynebu gorfodi pleidiau gwleidyddol i ddefnyddio cwotâu rhywedd i ddewis ymgeiswyr ar gyfer etholiadau Senedd Cymru?*

*[Cefnogi'n gryf / Cefnogi rhywfaint / Ddim yn cefnogi nac yn gwrthwynebu / Gwrthwynebu rhywfaint / Gwrthwynebu'n gryf]*

### Findings

All figures, unless otherwise stated, are from YouGov Plc. Total sample size was 1,050 adults. Fieldwork was undertaken between 19-24 April 2024. The survey was carried out online. The figures have been weighted and are representative of all adults in Wales (aged 16+). Respondents were given the option to answer the question in English or Welsh.

## Responses

	Total	Vote in 2019 GE			EU Ref 2016		Gender		Age			
	Total	Con	Lab	Plaid	Remain	Leave	Male	Female	16-24	25-49	50-64	65+
<b>Weighted Sample</b>	1050	266	301	74	353	382	508	542	137	381	260	272
<b>Unweighted Sample</b>	1050	260	302	85	422	374	464	586	122	380	255	293

	Total	Social Grade		Region					Ethnicity		Health/Disability issues (12 months)		
	Total	ABC1	C2DE	Mid and West	North	Cardiff and South Central	South East	South West	White	Ethnic Minority	Yes, limited a lot	Yes, limited a little	No
<b>Weighted Sample</b>	1050	525	523	201	217	234	217	181	997	41	140	191	575
<b>Unweighted Sample</b>	1050	561	487	206	215	230	220	179	996	42	137	192	577



## Percentages

	Total	Vote in 2019 GE			EU Ref 2016		Gender		Age			
	Total	Con	Lab	Plaid	Remain	Leave	Male	Female	16-24	25-49	50-64	65+
<b>Strongly support</b>	3	1	5	3	3	2	2	3	5	3	3	2
<b>Somewhat support</b>	11	4	17	25	17	5	8	15	19	14	9	6
<b>TOTAL SUPPORT</b>	14	5	22	28	20	7	11	18	24	17	11	9
<b>Neither support nor oppose</b>	43	26	46	40	43	31	38	48	49	50	41	33
<b>Somewhat oppose</b>	15	17	18	16	18	17	16	15	12	13	16	19
<b>Strongly oppose</b>	28	52	15	17	19	45	36	20	15	21	32	40
<b>TOTAL OPPOSE</b>	43	69	32	32	37	62	52	35	27	33	48	59

\*Any percentages calculated on bases fewer than 100 respondents do not represent a wide enough cross-section of the target population to be considered statistically reliable. These figures should not be used.

**Senedd Cymru (Electoral Candidate Lists) Bill: Stage 1**

	<b>Total</b>	<b>Social Grade</b>		<b>Region</b>					<b>Ethnicity</b>		<b>Health/Disability issues (12 months)</b>		
	Total	ABC1	C2DE	Mid and West	North	Cardiff and South Central	South East	South West	White	Ethnic Minority	Yes, limited a lot	Yes, limited a little	No
<b>Strongly support</b>	3	3	3	4	2	4	1	4	2	13	4	5	2
<b>Somewhat support</b>	11	14	9	12	9	17	10	8	11	22	9	13	12
<b>TOTAL SUPPORT</b>	14	17	12	17	12	21	11	11	14	35	13	17	14
<b>Neither support nor oppose</b>	43	39	47	44	40	39	47	46	42	58	48	37	41
<b>Somewhat oppose</b>	15	17	13	15	18	13	16	13	16	4	9	15	17
<b>Strongly oppose</b>	28	27	28	24	30	27	27	30	28	3	30	31	28
<b>TOTAL OPPOSE</b>	43	44	42	39	48	40	43	43	44	7	39	46	45

\*Any percentages calculated on bases fewer than 100 respondents do not represent a wide enough cross-section of the target population to be considered statistically reliable. These figures should not be used.

## Methodology

The survey was conducted using an online interview administered to members of the YouGov Plc GB panel of 185,000+ individuals who have agreed to take part in surveys. An email was sent to panellists selected at random from the base sample according to the sample definition, inviting them to take part in the survey and providing a link to the survey. (The sample definition could be “GB adult population” or a subset such as “GB adult females”). YouGov Plc normally achieves a response rate of between 35 per cent and 50 per cent to surveys however this does vary dependent upon the subject matter, complexity and length of the questionnaire. The responding sample is weighted to the profile of the sample definition to provide a representative reporting sample. The profile is normally derived from census data or, if not available from the census, from industry accepted data.

YouGov Plc make every effort to provide representative information. All results are based on a sample and are therefore subject to statistical errors normally associated with sample-based information.

## Annex 2 Legislative competence tests

Under the reserved powers model of legislative competence, a provision in a Senedd Bill will be within the Senedd’s legislative competence unless any of the paragraphs in section 108A(2)(a) to (e) of the GoWA 2006 apply. A series of tests must be considered when assessing whether or not a provision is within the Senedd’s legislative competence. These are summarised in Table 5.

**Table 5 Legislative competence tests**

Test	Notes
<p><b>Test 1: No provision of the Bill must relate to a reserved matter</b></p>	<p>A list of reserved matters is set out in Schedule 7A to the GoWA 2006.</p> <p>Under section 108A(6) of the GoWA 2006, the question whether a provision of a Bill “relates” to a reserved matter is to be determined “by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances”.</p>
<p><b>Test 2: No provision of the Bill must modify (or give the power to modify) the law on reserved matters</b></p>	<p>The law on reserved matters is defined in paragraph 1 of Schedule 7B to the GoWA 2006. It covers any provisions of an Act of the UK Parliament, or subordinate legislation made under such an Act, about a reserved matter. It also includes any common law rule on a reserved matter.</p> <p>A Senedd Act can modify the law on reserved matters if the modification is ancillary to a provision not relating to reserved matters, so long as the modification “has no greater effect on reserved matters than is necessary to give effect to the purpose of that provision” (i.e. the provision to which the modification is ancillary).</p>
<p><b>Test 3: No provision of the Bill must modify (or give the power to modify) the private law</b></p>	<p>The “private law” is defined widely as meaning contract law, agency law, the law of bailment, tort law, the law of unjust enrichment and restitution, property law, trusts law and succession law.</p> <p>The restriction does not apply to a modification that is solely for a devolved purpose.</p>
<p><b>Test 4: No provision of the Bill must modify (or give the power to modify) the</b></p>	<p>A provision of a Bill cannot modify any of a list of serious offences, nor confer power to do so by subordinate legislation. These offences include</p>

Test	Notes
<p><b>list of specific offences and elements of criminal offences in Paragraph 4 of Schedule 7B</b></p>	<p>treason, homicide, the most serious violent offences, sexual offences and perjury.</p> <p>There are also other elements of the criminal law that are outside competence, including modification of the law on criminal responsibility and capacity, or the ‘mental’ elements of offences such as the meaning of “intention”, “recklessness” or “dishonesty”. Inchoate and secondary criminal liability is also beyond the reach of the Senedd. The Senedd also has no competence to make law about sentencing (or other court orders and disposals) in respect of defendants in criminal proceedings, nor can it make law about the effect and operation of sentences.</p>
<p><b>Test 5: No provision of the Bill must extend beyond the England and Wales Jurisdiction</b></p>	<p>A Senedd Act provision cannot form part of a legal system other than the unified jurisdiction of England and Wales.</p>
<p><b>Test 6: No provision of the Bill must apply otherwise than in relation to Wales or confirm, impose, modify or remove functions exercisable otherwise than in relation to Wales (or give the power to do so) unless it meets the criteria in section 108A(3)</b></p>	<p>A Senedd Act provision will be outside competence if it applies otherwise than in relation to Wales; or confers, imposes, modifies or removes functions exercisable otherwise than in relation to Wales; unless it falls within the exception in section 108A(3) of the GoWA 2006 (which provides that a Senedd Act provision may apply otherwise than in relation to Wales, or confer, impose, modify or remove functions otherwise than in relation to Wales if it is ancillary to a provision of any Senedd Act or Measure or to a devolved provision in an Act of Parliament, or the provision has no greater effect otherwise than in relation to Wales, or in relation to functions exercisable otherwise than in relation to Wales, than is necessary to give effect to the purpose of that provision).</p> <p>This test concerns whether a Senedd Bill has practical application or effect other than in relation to Wales; for example whether it creates powers, rights, duties or criminal offences that are not sufficiently linked to Wales. It does not mean that legislation made by the Senedd can affect only people in Wales.</p>
<p><b>Test 7: Each provision of the Bill must be</b></p>	<p>Several Convention rights are of particular relevance to the Bill, including Article 3 of Protocol</p>

Test	Notes
<b>compatible with the Convention rights set out in the Human Rights Act 1998</b>	1 (free and fair elections), Article 14 (protection against discrimination) in conjunction with Article 3 of Protocol 1, and Article 8 (respect for private and family life).
<b>Test 8: No provision of the Bill must affect Minister of the Crown functions, or those of government departments or other “reserved authorities” in a range of ways without the consent of “the appropriate Minister”</b>	Paragraphs 8 to 11 of Schedule 7B to the GoWA 2006 set out restrictions on the competence of the Senedd to affect functions of Ministers, government departments and other reserved authorities.
<b>Test 9: No provision of the Bill must modify or confer power to modify, a protected enactment</b>	The protected enactments are set out in paragraphs 5 to 7 of Schedule 7B to the GoWA 2006 (and include the GoWA 2006 itself).

## Annex 3 Evidence

### Oral evidence sessions

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed on the [Bill's website](#).

Date	Name and organisation
<b>13 March 2024</b>	<p><b>Jane Hutt MS, Minister for Social Justice and Chief Whip,</b> Welsh Government</p> <p><b>Catrin Davies,</b> Welsh Government</p> <p><b>Anna Hind,</b> Welsh Government</p> <p><b>Will Whiteley,</b> Welsh Government</p>
<b>21 March 2024</b>	<p><b>Colin Everett,</b> Wales Electoral Coordination Board</p> <p><b>Clare Sim,</b> Association of Electoral Administrators</p> <p><b>Catherine Uphill,</b> Electoral Commission Wales</p>
<b>18 April 2024</b> <b>Panel 1</b>	<p><b>Professor Laura McAllister,</b> Expert Panel on Assembly Electoral Reform</p> <p><b>Professor Rosie Campbell,</b> Expert Panel on Assembly Electoral Reform</p> <p><b>Professor Sarah Childs,</b> Expert Panel on Assembly Electoral Reform</p>
<b>18 April 2024</b> <b>Panel 2</b>	<p><b>Jemima Olchawski,</b> Fawcett Society</p> <p><b>Hannah Stevens,</b> Elect Her</p>
<b>18 April 2024</b> <b>Panel 3</b>	<p><b>Geraint Day,</b> Plaid Cymru</p> <p><b>Tom James,</b> Welsh Conservatives</p>

Date	Name and organisation
	<p><b>Joanna McIntyre,</b> Welsh Labour</p>
<p><b>18 April 2024</b> <b>Panel 4</b></p>	<p><b>Professor Meryl Kenny,</b> University of Edinburgh</p> <p><b>Professor Mona Lena Krook,</b> Rutgers University</p> <p><b>Dr Larissa Peixoto Vale Gomes,</b> University of Edinburgh</p>
<p><b>24 April 2024</b> <b>Panel 1</b></p>	<p><b>Nkechi Allen-Dawson,</b> Race Council Cymru</p> <p><b>Selima Bahadur,</b> Ethnic Minorities and Youth Support Team Wales</p> <p><b>Jessica Blair,</b> Electoral Reform Society Cymru</p> <p><b>Victoria Vasey,</b> Women’s Equality Network Wales</p>
<p><b>24 April 2024</b> <b>Panel 2</b></p>	<p><b>Catherine Larkman,</b> Women’s Rights Network</p> <p><b>Claire Loneragan,</b> Women’s Rights Network</p> <p><b>Katharine Owen,</b> Women’s Rights Network</p>
<p><b>24 April 2024</b> <b>Panel 3</b></p>	<p><b>Joyce Watson MS,</b> Senedd Women’s Caucus</p> <p><b>Janet Finch-Saunders MS,</b> Senedd Women’s Caucus</p> <p><b>Rhianon Passmore MS,</b> Senedd Women’s Caucus</p> <p><b>Sioned Williams MS,</b> Senedd Women’s Caucus</p>
<p><b>1 May 2024</b></p>	<p><b>Jane Hutt MS, Trefnydd and Chief Whip,</b> Welsh Government</p> <p><b>Catrin Davies,</b> Welsh Government</p> <p><b>Anna Hind,</b> Welsh Government</p> <p><b>Will Whiteley,</b> Welsh Government</p>



## Written evidence

All consultation responses, correspondence and additional written information can be viewed on the [Bill's website](#).