

# Consultation on the Senedd Cymru (Members and Elections) Bill by the Reform Bill Committee

*November 2023*

**About the Women's Equality Network (WEN) Wales:** Our vision is of a Wales free from gender discrimination where all women and men have equal authority and opportunity to shape society and their own lives. We work with our vibrant coalition of organisational and individual members to transform society. Our work sits under three pillars. We will Connect, Campaign and Champion women so our vision is realised.

## Introduction

We are pleased to provide evidence to support the scrutiny of the Senedd Cymru (Members and Elections) Bill. We have responded to multiple Senedd consultations over the past five years as the proposals and recommendations that this Bill seeks to give effect to have been developed.

The proposed expansion of the Senedd will increase the Senedd's capacity to properly scrutinise legislation and policy and can ultimately translate into better frontline public services and better value for money for the people in Wales.

However, as we have highlighted in our previous consultation responses, the potential benefits of Senedd expansion will only be realised if it goes hand in hand with well-designed measures to improve diverse and equal representation. It is imperative to recognise the interdependency of these different components in delivering the overall purpose of the Senedd Cymru (Members and Elections) Bill to design a more effective legislature for the people of Wales will be deeply compromised. This is all the more important as the Bill's provisions around a closed proportional list voting systems increase the influence of political parties on the Senedd's diversity, and as job-sharing provisions are not being progressed as swiftly as had been envisaged.

## Key messages

- 1. The overall aim of the Bill – to deliver a more effective legislature for the people of Wales – will only be realised if it is delivered by a gender-balanced legislature that fully reflects the diversity of Welsh society.**
- 2. Measures to facilitate the election of a gender-balanced and more diverse Senedd will be most effective if they are implemented to take effect at the same time or prior to the expansion of the Senedd.**
- 3. A closed proportional list system increases the influence that political parties have over the demographic make-up of the Senedd. If the provision is retained, wider Senedd reform proposals should encourage all political parties to live up to that responsibility and hold them accountable.**
- 4. Job-sharing provisions need to be robust and ensure swift progress without further delay.**

## Detailed response

### 1. Background – General aim and principles of the Bill

We fully support the overall purpose of the Senedd Cymru (Members and Elections) Bill to make the Senedd a more effective legislature for, and on behalf of, the people of Wales.

The necessity of an expanded Senedd to deliver this purpose has been argued convincingly in the work of the Expert Panel on Assembly Electoral Reform, the Committee on Senedd Electoral Reform (CSER), and the Special Purpose Committee on Senedd Reform (SPCSR). We therefore see no need to restate these points here but would instead like to highlight the interdependency between Senedd expansion and diverse and equal representation in delivering the purpose of the Bill.

Equal and diverse representation is central to the Senedd becoming a more effective legislature for the people of Wales. The point has been recognised throughout the work of the Expert Panel and subsequent committees.

For instance, the [Expert Panel argued](#) that:

***“We strongly believe that the selection and election of a more diverse Assembly across the full range of protected characteristics would enhance the operation of the Assembly, and the way it works for and represents the people of Wales.”***

The [CSER recognised](#) that:

***“Scrutiny, representation and decision-making are better when undertaken from a variety of different perspectives, and when a range of lived experiences can be brought directly to bear. In our view, legislatures should be inclusive spaces in which the people and communities they serve can see themselves reflected.”***

The evidence considered in these inquiries showed that diversity would improve the efficiency of the Welsh legislature in a variety of ways, including:

- Greater variety of views, perspectives and experiences among decision-makers leading to better decision-making and outcomes;
- More direct contribution of the lived experience of people from underrepresented communities in scrutiny and decision-making, compared to when such processes purely rely on consultation and engagement;
- Better democratic participation and greater confidence in the legislature from a wider range of communities within Wales who see themselves represented;
- Better engagement between the legislature and a wider range of groups and communities within Wales.

**In other words, throughout the development of Senedd reform proposals, it has been recognised that the potential of an expanded Senedd to facilitate better policy-making will only be fully realised if it is delivered by a more diverse legislature.**

An increase in the number of Senedd Members itself present potential benefits for diversity of representation, especially for the representation of a wider range of intersecting identities. But

the Expert Panel, CSER and SPCSR consistently recognised that targeted measures to encourage the election of a gender-balanced and more diverse Senedd would be needed and made a range of recommendations as to how this could be achieved.

We strongly welcome the fact that the following measures are being taken forward as part of the Senedd Reform package:

- Legislative candidate gender quotas
- Job-sharing
- Collection of candidate diversity data
- Party diversity and inclusion strategies

It is important to note that these measures target barriers to diverse and equal representation that operate at different levels. None of them alone will facilitate the election of a Senedd that fully reflects the society of Wales, and they will be most effective in concert.

The Senedd Cymru (Members and Elections) Bill alone will not ensure the election of a more diverse Senedd. While the Bill contains some provisions around job-sharing (which will be addressed below), the other proposed measures – gender quotas, candidate diversity data, and party diversity and inclusion strategies – will be introduced in forthcoming legislation and guidance and will be subject to scrutiny in their own right.

## 2. The risk of a delay between Senedd expansion and diversity measures

Given that the overall purpose of the Bill – to make the Senedd a more effective legislature for, and on behalf of, the people of Wales – depends substantially on the diversity of that legislature, it is imperative to acknowledge the importance of these other elements in the scrutiny of the Senedd Cymru (Members and Elections) Bill. If Senedd Reform were to be delivered without the proposed measures to improve diversity, the Bill's capacity to deliver on its overall purpose to design a more effective legislature for the people of Wales would be deeply compromised.

There is also a significant risk of a detrimental impact if there was a delay between the expansion of the Senedd and the implementation of robust measures to encourage the election of a more diverse Senedd. This is due the effect of what Professor McAllister, Chair of the Expert Panel, termed "[incumbency overhang](#)" prior to the 2016 Election:

***“Early positive action by Labour and Plaid Cymru created an ‘incumbency overhang’: women first elected in 1999 or 2003 stood more of a chance of re-selection and re-election in subsequent elections, thus boosting the overall number of women in the Assembly. But as Labour and Plaid Cymru shied away from positive measures like twinning constituencies and reserved places at the top of regional lists, men began to replace women. Furthermore, at the 2011 election, some women from the 1999 and 2003 intakes retired and were often replaced by men. This creates a new incumbency overhang which works in favour of men, and challenges further drives towards gender equality.”***

In other words, incumbency overhang creates a bias towards the present demographic composition of a legislature, and this can work in favour or against diversity, depending on the composition of the legislature at the time.

If the Senedd were to be expanded in the absence of robust measures to encourage the election of a more diverse Senedd, or if such measures were put in place too late to meaningfully take effect in advance of the next election, there is a high risk that the additional seats would be filled in a similar demographic fashion as the present composition of the Senedd, namely with an underrepresentation of women, especially women who experience intersecting discrimination because they are disabled, from an ethnic minority background or LGBTQ+. This would amplify the present incumbency overhang, which already works against the election of a more diverse Senedd and could hold us back for years to come.

**It is therefore imperative that measures to facilitate the election of a gender-balanced and more diverse Senedd take effect *at the same time (or indeed prior)* to the expansion of the Senedd.** For the reasons outlined above, opportunities that are missed now will be more difficult to correct at a future time.

### 3. The closed proportional list system

The [Expert Panel](#) recognised that there are various ways in which the election of a diverse Senedd can be encouraged and supported. In addition to positive interventions or features of the electoral system (such as quotas or job-sharing) and measures put in place by political parties (for instance in the context of diversity and inclusion strategies), the Expert Panel acknowledged that:

***“Features of some electoral systems, by their nature, support or encourage diversity, for example larger district magnitudes or greater proportionality”.***

The Senedd Cymru (Members and Elections) Bill proposes a closed proportional list system. While the Expert Panel acknowledged that this system is more proportional than the current Mixed Member Proportional system, it did not explicitly assess the potential impact of a closed proportional list system in supporting or encouraging diversity as it was not one of the voting systems that the Panel recommended.

Members of the [SPCSR](#) observed that a closed proportional list system “would readily integrate with the introduction of legislative gender quotas, and facilitate parties in putting forward a more diverse list of candidates on a broader basis.” It further recognised as a potential strength the fact that it “could facilitate strong, cohesive political parties.” However, in the context of encouraging the election of a diverse Senedd, the relative power that the closed proportional list system gives to political parties over voter choice is a double-edged sword.

Data from the [2021 Senedd election](#) shows that, both on the constituency and regional level, the proportion of women elected was higher than the proportion of women candidates. Only 29% of constituency candidates were women, but they made up 43% of members elected to constituencies. Among regional list candidates, 32% were women, while 45% of members elected via the regional list were women. This suggests that it is not voter choice that is presently holding back women’s representation in the Senedd, but the fact that political parties are not putting forward enough female candidates.

While the forthcoming gender quota legislation will partly address this issue through introducing provisions for vertically zipped candidate lists, political parties may retain significant influence in terms of deciding whether to put women at the top of candidate lists in winnable seats. This means that the success of the proposed gender quota legislation in delivering a gender-balanced Senedd will partly depend on the action of political parties. Furthermore, the Senedd reform proposals do not contain any legislative measures that would

ensure fair representation of people with other protected characteristics, or indeed the fair representation of women with other protected characteristics. This means the extent to which the Senedd will truly reflect the diversity of Welsh society will depend even more on the action of political parties than the subject of gender-balance. The closed proportional list system amplifies this responsibility by removing voters direct influence over which named candidates are being elected.

**If the proposal for a closed proportional list system is retained in the final version of this bill, it is imperative that wider Senedd reform proposals ensure as much as possible that parties live up to that responsibility.** This applies especially to the Welsh Government's commitment to publish guidance on party's diversity and inclusion strategies. To achieve this objective and support successful delivery of the overall purpose of the Senedd Cymru (Members and Elections) Bill, this guidance should:

- Encourage all political parties to adopt strong diversity and inclusion strategies;
- Set out a detailed and ambitious package of measures that is based on expert stakeholder recommendations and existing best practice;
- Be accompanied by a robust independent monitoring mechanism that tracks parties' progress and ensures transparency and accountability;
- Be introduced as soon as reasonably possible. We would envisage that most of the measures recommended in the guidance will take time to become effective. Due to the risk of Senedd expansion creating an incumbency overhang that works against diverse representation (as outlined above), the importance of introducing this guidance swiftly cannot be overstated.

#### 4. Job-sharing

In April 2022, the Women's Equality Network (WEN) Wales and the Electoral Reform Society Cymru commissioned [research on job-sharing for Senedd Members](#). Our research identified job-sharing as a key tool for improving the diversity of the Senedd as it could lower barriers for women, disabled candidates, and other underrepresented groups facing obstacles to election. We also found that, for constituents, job-sharing could deliver "two for the price of one" in terms of skills and experience and could enable members to retain better connections to their life outside the Senedd which can be relevant to scrutiny and representative work.

The [Expert Panel](#) previously highlighted the benefits of job-sharing in increasing diversity of representation, particularly for older candidates, disabled candidates, and those with caring responsibilities. It recommended that electoral law, Senedd procedures and remuneration arrangements should be changed to enable candidates to stand for election on the basis of job-sharing.

The [CSER](#) then considered job-sharing in further detail. It found that any legal, practical and communications issues identified were not insurmountable and recommended that a cross-party working group should be established early in the Sixth Senedd explore in detail the feasibility of enabling election on the basis of job sharing.

This did not happen. Instead, the [SPCSR](#) was set up to consider Senedd Reform proposals more generally. It agreed with the previous findings that job-sharing could enable a greater diversity by making the role of Senedd Member more accessible but observed that it did not have sufficient time to fully consider the feasibility of election on the basis of job-sharing. Our research, which was published during the SPCSR's inquiry, recommended that a change in legislation that permits job-sharing candidates in the next Senedd election could be explored

as the reform bill was being prepared. The SPCSR carried over the recommendation for further exploring job-sharing on a cross-party basis but did not specify any timescales for this.

We welcome that the Senedd Cymru (Members and Elections) Bill contains provisions that seek to ensure the establishment of a committee to review potential job-sharing arrangements. But it is disappointing that these provisions would not see the matter progressed until the Seventh Senedd. It would have been preferable for this work to be commenced in this Senedd term, in parallel with the preparation of Senedd reform legislation. This would not only have accelerated the potential implementation of a key measure to make the role of Senedd Member more accessible and increase diversity. It would also have allowed the exploration of job-sharing to integrate with and inform scrutiny of other aspects of Senedd reform legislation, including Senedd expansion, the voting system and gender quotas.

We are also concerned that the Bill's proposed mechanism – which requires the Llywydd to table a motion to establish a Senedd committee to explore job sharing – is somewhat unusual, which adds an element of risks that progress could be even further delayed.

Given the importance of job-sharing as a key tool for increasing the Senedd's diversity and for making elected office accessible to a wider range of people and given that the matter has already been pushed back, **it is crucial that the job-sharing provisions in the bill are robust and will ensure progress without further delays.**

## Conclusion

We welcome the proposed provisions in this Bill and believe that they have the potential to deliver a more effective legislature for Wales. The Bill's provisions constitute important progress towards this aim by increasing the capacity of the Senedd, proposing a more proportional voting system, and seeking to ensure the review of job-sharing in the next Senedd.

But the Bill's potential to deliver a more effective legislature will only be fully realised if the Bill is accompanied by strong legislative and non-legislative measures to encourage the election of a more diverse Senedd, including the forthcoming legislation on gender quotas and candidate diversity data, the forthcoming guidance on political parties' diversity and inclusion strategies, as well as swift progress on job-sharing arrangements in the Senedd. It is imperative that these interdependencies are fully understood as the Bill progresses.

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*WEN Wales would like to thank the Reform Bill Committee for the opportunity to contribute to their inquiry.*

*If you have any further comments or queries, please get in touch.*

**Dr Jessica Laimann, Policy & Public Affairs Manager**

[jessica@wenwales.org.uk](mailto:jessica@wenwales.org.uk)