

WOMEN

50:50

Women 5050 –response to call for evidence on the Gender Representation on Public Boards (Scotland) Bill

Introduction

Women 5050 is a campaigning group advocating for at least 50% women candidates in all council and Scottish Parliament elections and at least 50% women on public boards. We are a cross party group with representation and support from four out of five political parties and support from the majority of Members of the Scottish Parliament.

We believe that structural inequality and societal attitudes facing women prevent them from taking on leadership positions in public life. Currently the outlook for women in Scottish public life is as follows¹:

35% MSPs

29% Councillors

28% Public body Chief Executives

26.3% University Principals

21.7% Health service board chairs

6.35% Head of transport bodies

23.3% Sheriffs

Whilst effort has been made to encourage women to apply for positions in some areas of Scottish public life, if this remains on a voluntary basis, this effort will not lead to fair representation. As such, Women 5050 strongly support this bill and legislation passed to ensure fair representation of women on public boards.

¹ Engender; Sex and Power, 2017

The impact, if any, on people applying for an appointment as a non-executive member of a public board:

Applying gender quotas to increase women's representation has been proven to have a positive impact on attitudes towards women's leadership² and organisational performance³. When it is clear that women are under-represented across Scottish public life, we believe it is the duty of Government to take action to pursue fair representation, particularly when evidence has repeatedly shown the positives of doing so.

We believe there are two possible ways in which there may be some impact on people applying for an appointment as a non-executive member. Firstly, it is critical that the definition of "women" is clearly inclusive of transpeople. The current definition leaves space for ambiguity and we believe it may then create an unfair barrier by defining transpeople by their legal sex rather than their gender identity. As such, we support the Equality Network's submission which states that the definition of women; *(a) includes a person with the protected characteristic of gender reassignment who is living in the female gender, and (b) does not include a person with the protected characteristic of gender reassignment who is living in the male gender.*

Secondly, we recommend that the bill is clear that the representation of women being sought is as wide as possible. In other words, fair representation of women can only be called "fair" if it includes women from all socio-economic backgrounds, black and minority ethnic women, disabled women and LBT women. An exaggerated criticism of the gender quotas pursued in Norway, is that a small group of elite women sat on multiple boards (known as "Golden Skirts"), in reality, only 15% of women board members had positions on more than 1 board⁴ (compared to 10% of men) after the first year of legislation. This percentage is a likely consequence of the introduction of the boardroom quotas and the increased demand to recruit women. However, as this is a potential short-term consequence, effort must be made to ensure that recruitment to public boards is reaching a wide, fair and representative audience of women.

² Pande and Ford, 2011

³ Mijntje Lückers-Rovers, 2013

⁴ LFIG and Fabian Women, 2013

The impact, if any, for those public authorities responsible for encouraging and recruiting women to public boards as non-executive members:

We recommend that guidance is issued on what “encouraging and recruiting women” would mean in practice, as it is possible that boards will pursue the same recruitment activities as they have done to date. We recommend that any guidance issued includes:

- An expectation of training on unconscious bias and gender equality for all members of recruitment panels for public boards.
- Good practice in outreach activities to women of diverse audiences.
- Guidance on how to write job advertisements and job descriptions which do not use masculinised language and are welcoming to women.
- A review across the public authority (not simply the board) on their workforce and employment practices through the lens of gender equality. With recommendations that they pursue positive action measures, flexible working, publish (and take action on) gender pay gaps and tackle occupational segregation.

Furthermore, to encourage outreach and for public authorities to take bolder action, it is recommended that the bill includes a requirement for women to comprise 50% of applicants who are interviewed.

Finally, effort must be put in to inform and educate public authorities and the wider public on the need for this legislation. There is considerable misconception on what is positive action and a confusion with positive discrimination. It is critical, both for the women applying for board positions and for the public authorities, for there to be a clear, unambiguous narrative around the need for this legislation to firmly move us away from the unhelpful idea that this is providing women with some form of “special treatment”, when it is in fact, correcting a structural imbalance.

The Bill requires public boards to report on the operation of the Act, although Scottish Ministers can regulate how this should happen; what should any reporting requirements cover and why; and whether there should be penalties for non-compliance with the Bill and what these should be and why:

We strongly recommend that the Bill includes reporting mechanisms and penalties for non-compliance.

We recommend the following

- Public authorities should be legislated to publish action plans on how they will meet the 50% target including deadlines which they are held to.
- Public authorities should be legislated to publish reports on the number of applicants, the percentage of these applicants by gender (and all protected characteristics) and percentage of successful applicants.

- That reporting by public authorities should be monitored regularly by the Scottish Government with a responsibility on the Scottish Government to publish and report progress to the Scottish Parliament (dates should be set and made public as to when this reporting would take place).

The above recommendations are made to ensure public accountability and to ensure that public authorities are taking necessary action to make change.

On compliance, we recommend that penalties be put in place for public authorities who do not meet reporting duties and/or the quotas target by 31st December 2022. Without accountability and consequences for not meeting the aim of this bill, it is unlikely that any substantial change will be made. As mentioned already, voluntary mechanisms do not work for this very reason. Reviewing quotas systems across the world, it is clear that where there is action on inaction by Governments or an autonomous, appointed body, the quotas carry more weight and are acted upon at a faster speed by authorities. Without such consequences, quotas are seen as merely a recommendation.⁵

Please tell us about any other comments you feel are relevant to the Bill:

Whilst this Bill is focused on non-executive members of public boards, we recommend that some form of reporting duty also be placed on executive membership. In Schedule 1 of the Bill, the table outlines the positions which are excluded from gender quotas. The positions listed are, in the main, chairs, convenors, appointments made by Ministers or elected members from other positions (e.g. councillors). Whilst it is evident why these have been excluded from this Bill, these are also memberships where the majority in the position are likely to be men. To ensure fair representation is being pursued at all levels of Scottish public life, we would welcome some consideration into how this can be enacted at the very top and if there is potential for there to be a reporting mechanisms into the Scottish Government, which is then reported to the Scottish Parliament, on the gender data of these roles.

⁵ Dahlerup and Freidenvall, 2005