



## **Scottish Government consultation on the introduction of gender quotas on public boards. Engender response, June 2014.**

### **INTRODUCTION**

Engender welcomes the opportunity to respond to this call for written evidence on gender quotas on public boards in Scotland.

Women's access to power is a key pillar of our work. Within this we advocate for policy change to tackle gender inequality across the public sector, barriers to women's equal participation in public life, and lack of gender balance in leadership, authority and decision-making across public, political, social and cultural institutions.

International evidence suggests that lack of gendered power balance in the wider public domain ultimately has a major impact on equality of outcomes across government.<sup>1</sup> Simply put, having women around the table changes the subjects that are discussed and the outcomes of those discussions. In addition to enriching perspectives, representative public boards would also challenge normative gender roles and perceptions around public authority. Where women are seen to succeed, more women participate in general.

Mandatory gender quotas for public boards would send a clear message of intent on the part of the Scottish Government regarding its existing commitments on gender equality, would provide a platform for gender advocates and government officials to promote gender balance in related areas, and would represent a symbolically powerful statement on the need for a cultural sea-change regarding gender roles in Scotland.

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<sup>1</sup> World Bank (2012) *World Development Report 2012 Background Paper: Gender quotas and female leadership*

As outlined in the Ministerial Foreword to this consultation document:

“[G]ender balance is good for governance and leads to better decision-making. It is also right and fair that women are represented in all sections of society, and can be part of making the decisions that affect all aspects of our lives.”

Yet even where legislation to ensure gender equality exists (e.g. the public sector equality duty (PSED) and the Equal Pay Act 1970), progress towards legally-mandated targets has been incredibly slow.

In light of these ethical and practical imperatives, as well as the Scottish Government’s existing Equality Outcome commitment to achieve gender balance on public boards by 2017, mandatory quotas would appear to be a clear course currently lacking only in political backing.

## QUESTIONS

**1. Voluntary measures to increase gender diversity on public boards have been in place for some time. Why do you think they have not led to the achievement of the 40% Diversity Delivers target? Please give reasons for your answer.**

Voluntary measures are insufficient to deliver significant change, especially with regard to deep and sustained structural inequality, as is the case with gender. This is demonstrated by numerous non-mandated schemes across related fields, globally and in the UK, including the *Think, Act, Report* initiative referenced in this consultation document.

This is because increased access to power for women and other underrepresented groups entails a lesser share of power for those over-represented groups that currently wield it. In broad terms, theory of change analysis and historical precedent within the women’s movement confirm what logic dictates: mandatory measures are more effective than voluntary measures.

**2. Do you think that before gender quotas are introduced to public boards, public bodies should be given the opportunity to achieve a voluntary target for gender diversity on their board first? YES, NO or DON’T KNOW**

**Please give reasons for your answer.**

**No.** Voluntary targets are insufficient and ineffective, as outlined above. Voluntary targets have not worked to date, therefore it is highly likely that such an approach would result in a significantly slower pace of change, or no change at all.

**3. If you answered 'yes' to question 2, what is a realistic timescale for boards to reach a voluntary target, after which quotas would be introduced?**

n/a

**4. What difficulties, if any, do you think there will be in introducing gender diversity quotas for public boards?**

In practice, any difficulties would be primarily linked to organisational resistance to change and assumptions about a gendered skills gap. Detractors of quotas claim that such a gap would be inevitable in certain male-dominated institutions, and that this would ultimately have a negative impact on outcomes.

We rebut this with a number of linked points. Firstly, the onus to ensure that women receive adequate capacity-building and encouragement to apply for positions on public boards rests with the organisation and sector, as opposed to individual women. Investment in the female workforce and female stakeholders subsequently benefit the board itself, the given organisation and sector, and society more broadly.

Secondly, the international evidence suggests that gender quotas may *increase* the skills-levels on the boards of organisation. This is because a more robust and inclusive process identifies candidates outside of the usual suspects, which have traditionally been identified through male-dominated informal networks that stretch across sectors and the public sector in its entirety.

Many public bodies in Scotland are predominantly staffed by women, with a disproportionate number of men represented across senior management and

leadership positions. However, men's underrepresentation throughout the 'pipeline' is not an obstacle to their appointment in this context.

The argument that outcomes may suffer as a result of greater gender balance across leadership also begs the question, outcomes for whom? Where women have greater involvement in setting the agenda, evidence from the parliamentary context shows that other women, and people from other disadvantaged groups, stand to benefit from decision-making.

### **5. What support, if any, do you think public bodies will require in order to introduce quotas effectively?**

Public bodies will require both support and pressure from Scottish Government in order for gender quotas to be effective. Guidance related to the appointments process for non-regulated bodies will need to be prescriptive, with structures in place to provide operational capacity-building where needed.

There is also a need for organisations to effectively communicate to women that their applications will be taken seriously. Anecdotal evidence from Engender's members indicates that some women have stopped putting themselves forward, following multiple unsuccessful attempts to secure interviews for positions for which they are amply qualified, and that this is perceived as being on account of their gender. There is significant cultural perception that public sector board memberships remain 'jobs for the boys'.

There is also a role for other bodies, including those in the women's sector, to partner with the public sector in advertising roles and taking part in the selection process.

### **6. Which boards should quotas apply to? For example: those with Ministerial appointments only; Ministerial and non-regulated appointments; Neither Ministerial nor non-regulated? Please give reasons for your answer.**

Quotas should apply to those with both Ministerial and non-regulated appointments, and all public boards. The measures should be as ambitious as

possible, in order to send a clear message to other sectors and to challenge normative attitudes around gender and leadership.

**7. Which other public boards, if any, should be included? Please give reasons for your answer.**

Quotas should apply to all public boards, as above.

**8. Which public boards, if any, should be exempt? Please give reasons for your answer.**

Quotas should apply to all public boards, as above.

**9. Do you agree there should be quotas for people with other protected characteristics other than gender? YES, NO or DON'T KNOW If yes, which ones? Please give reasons for your answer.**

**Don't know.** Engender has not developed a position on quotas for people with other protected characteristics. In broad terms, we want to see increased diversity on public boards. We firmly believe that the appointment of people from other protected groups would enrich the boards' ability to represent its constituents and bring benefits to their respective communities. There is evidence to suggest that black women, lesbian and bisexual women, and disabled women are less likely be appointed to sit on public sector boards than white, heterosexual, non-disabled women. There is also evidence that suggest that gender quotas also increase diversity with regards to other protected characteristics, as recruitment processes become more robust and capacity-focused.

However, we share the concern that quotas for all nine characteristics protected under the Equality Act could lead to 'real' and 'shadow' boards in some cases. This could undermine the potential of gender quotas to advance mainstreaming of gender issues in public body policy-setting and decision-making.

**10. If you answered yes to question 9, do you agree with the Scottish Government's staged approach to the introduction of quotas i.e. focussing on gender first? YES, NO or DON'T KNOW Please give reasons for your answer.**

n/a

**11. We have said that the percentage level for gender diversity quotas on public boards should be at least 40%, do you agree? YES, should be 40%; NO, should be greater than 40%, NO; should be less than 40%; or DON'T KNOW.**

**No.** We believe that the level for gender diversity should be set at 50%.

A primary objective of gender quotas for public boards in Scotland would be to challenge engrained norms. The hope would be that this ambition, and the vision articulated within its execution, could be leveraged to achieve wider progressive change. The message that men should still form a majority on public boards would undermine this potential and, indeed, could conversely imply that women should not be represented equally.

We strongly advocate for gender parity on public boards, as well as in parliament and across the corporate sector. We are also mindful that this represents an opportunity for Scotland to show leadership within UK-wide and European contexts on the issue of gender quotas.

**12. Who do you think should be responsible for enforcing quotas?**

Scottish Government would be ultimately responsible for enforcing quotas, accountable for commitments and targets within the legislation, and adequately resourcing oversight processes. There would be a role for Scotland's audit and inspection bodies to ensure these structures were implemented and operating effectively.

Potentially, there would be also be a role for the Equality and Human Rights Commission (EHRC) and civil society organisations to carry out 'enabling' work, to build capacity, and to monitor compliance.

**13. Do you think some form of sanction should be imposed on public bodies if there is non-compliance? YES, NO or DON'T KNOW.**

**Yes.** Robust enforcement would be essential, and without some form of meaningful recourse there is significant probability that these quotas would not be taken seriously. As outlined elsewhere in this response, various precedents exist of public bodies failing to comply with legal obligations to advance gender equality, including certain Scottish-specific duties under the public sector equality duty (PSED).

**14. If you have answered 'yes', to question 13 what type of sanction should be used? Please give reasons for your answers.**

A suite of monitoring, enforcement and sanctioning measures should be used in order to ensure compliance with the legislation. We do not hold strong views about what form of sanctions should apply, only that the system (and those implementing it) should be adequately resourced and empowered.

**15. Do you think gender diversity quotas should be extended to company boards?**

**Yes.** Gender imbalance is even more pervasive, and often extreme, on company boards. This serves to further entrench cultural norms that underpin vertical and horizontal occupational segregation, which in turn feed into the gender pay gap and other markers of gender inequality in Scotland.

On the other hand, where women are successful in obtaining leadership positions, this increases the proportion of the female workforce across employment levels. Although in some cases this may be attributed to something of a virtuous circle (women are drawn to 'female-friendly' employers), such companies are nonetheless very much in the minority, and the wider reverberations of such a move across the corporate sector could go some way to tackling women's disadvantaged position in the labour market.

**16. Please provide details of any additional issues, not addressed in your other responses, that you think should be considered in relation to the introduction of gender quotas on public and company boards.**

The Scottish Government should consider the introduction of gender quotas, and subsequently the design of legislation and implementation mechanisms, within the broader context of its existing commitments to progress gender equality and women's rights. Gender quotas, with strong enforcement tools, would practically and symbolically advance women's equality in Scotland, send a positive signal regarding policy coherence to other sectors and provide a platform for advocates to push for further progressive change elsewhere.

As the UK Government has effectively ruled out corporate gender quotas at UK-level and blocked progress at EU-level, ambition and hope for advancement for women in Scotland rests with Scottish Government with regard to this issue.

We would wish to see an exemption for organisations that specifically focus on responding to gendered inequalities, or provide services to women or men that arise from protected characteristics. For example, we would not wish to see gender quotas for the boards of rape crisis centres, or services targeted at gay and bisexual men's health, or an organisation that works solely with black and minority ethnic boys and men.

**BRIA**

**17. What resource issues, if any, will there be for public bodies to introduce gender diversity quotas on their boards? Please give reasons for your answer.**

Public bodies are already obliged to consider gender balance and a wide range of other gender equality issues under the PSED, and relevant human resources policies should be mainstreamed throughout each organisation. Costs would therefore be limited to those associated with participation in capacity-building as outlined under Question 5.

**18. Can the impact of any resource issues for public bodies be quantified using existing costing structures? YES, NO or DON'T KNOW Please give reasons for your answer.**

**19. Will there be any resource issues for private companies to introduce gender diversity quotas on their boards? YES, NO or DON'T KNOW Please give reasons for your answer.**

**20. Can the impact of any resources issues for private companies be quantified using existing costing structures? YES, NO or DON'T KNOW Please give reasons for your answer.**

**21. To help with the development of a Business Regulatory Impact Assessment, please provide any other information you think is relevant.**

**EQIA**

**22. The Scottish Government wants all women in their diversity to be represented on the boards of public bodies. Do you think there are currently barriers that especially impact on certain groups of women? YES, NO or DON'T KNOW. If yes, which groups of women and what are the barriers?**

**Yes.** In broad terms, understanding of the gendered barriers that prevent women from participating equally in public life in Scotland should underpin development of any legislation and regulations, and subsequently the implementation of gender quotas. For instance, well-rehearsed issues such as the lack of affordable, quality childcare, and the need for meetings to fit with women's caring responsibilities should be accounted for.

The scope for gender quotas to deliver equitable access to boards, and benefits due to members' increased capacity to reflect experiences and perspectives of service users, will be limited if wider access issues are not also addressed. Otherwise, positions will be simply be filled by women who already exercise power and privilege.

We are not aware of any quantitative research or evidence in Scotland that pertains specifically to minority groups of women and public boards. However, we believe that many of the particular barriers that prevent respective groups of women from accessing the labour market in greater numbers are relevant here.

For example, access to employment is hugely limited for disabled women, due to discrimination, stigma and public attitudes. Many women report infantilising treatment in the workplace that is not perceived to be equivalent for men, but based on their identity as disabled women.<sup>2</sup> Unemployment and underemployment are also a particular problem for women from some BME communities; both minority ethnic women and men are less likely to be in employment than the white population.<sup>3</sup>

**23. Do you think there is additional supporting action that could be taken to help certain groups of women overcome or mitigate these barriers? YES, NO or DON'T KNOW. If yes, what action and who should take it?**

**Yes.** Women from certain groups could be proactively and systematically encouraged to apply for board memberships. Specific barriers that they encounter during the course of this initiative could be identified and addressed over time.

**24. To help further with the development of our Equality Impact Assessment, please give any other information you think is relevant.**

**For further information please contact Jill Wood, Policy Manager, Engender**

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## **About us**

Engender is a membership organisation working on feminist agendas in Scotland and Europe, to increase women's power and influence and to make visible the

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<sup>2</sup> Engender and Inclusion Scotland discussion event series, 2013

<sup>3</sup> Coalition for Racial Equality and Rights (2008) *State of the Nation: Race and Racism in Scotland*  
APPG on Race and Community (2012) *Ethnic minority female unemployment: Black, Pakistani and Bangladeshi heritage women*

impact of sexism on women, men and society. We provide support to individuals, organisations and institutions that seek to achieve gender equality and justice.