

Engender response to the Scottish Government Consultation on Electoral Reform

March 2023

1. INTRODUCTION

Engender is Scotland's feminist policy and advocacy organisation, working to secure women's political, economic and social equality with men. Our aspiration is for a Scotland where women and men have equal access to and enjoyment of rights, resources, decision-making and safety.

2. CHAPTER 1 - CANDIDATES

Question 1: Do you think that 16 and 17-year-olds should be able to stand for election in:

- **Both Scottish Parliament and Local Government elections**
- Scottish Parliament elections only
- Local Government elections only
- Neither Scottish Parliament nor Local Government elections

Question 2: Do you think that foreign nationals resident in Scotland with limited rights to remain in the UK should be able to stand for election in:

- **Both Scottish Parliament and Local Government elections**
- Scottish Parliament elections only
- Local Government elections only
- Neither Scottish Parliament nor Local Government elections

Question 3: Do you have any additional comments on candidacy rights for 16- and 17-year-olds, or foreign nationals with limited rights to remain in the UK?

Engender supports the ambition to increase civic participation among groups within Scotland who have experienced historical exclusion and believes that expanding candidacy rights has the potential to increase the quality of our democracy.

Reflecting the diversity of society at all levels of democratic decision-making is important in increasing engagement amongst the whole electorate. The inclusion of a wide range of perspectives and lived experiences has the potential to enrich policy decisions and increase democratic engagement among currently underrepresented and underserved groups. Ensuring that the voices of those who currently experience exclusion – including those specifically referenced in this consultation, for example, young people (including young women), but also disabled people, LGBTI people and Black and minoritised people – are heard offers opportunities to create better, more informed and effective policymaking which responds to diverse needs, ultimately leading to improved outcomes for all.

It is useful to consider women’s historical experience of exclusion from politics and public life when approaching the issue of expanding candidacy rights to groups who have been excluded until now. This offers insight into the benefits of ensuring representation of different lived experiences and communities which experience structural inequality, but also creates a framework for understanding why it is vital that candidacy rights come with concerted efforts and commitment of resources to reduce cultural and structural barriers within our political system.

Further, we must recognise that without appropriate consideration around safeguarding and commitment to providing well-resourced support to those newly entering political institutions, we risk increasing the likelihood of negative experiences for marginalised groups in politics. This could mean that a desire to increase representation does not materialise, and our ability to benefit from an increase in candidacy rights is undermined.

Women’s historical underrepresentation

Women remain underrepresented within councils (35 per cent),¹ Holyrood (45 per cent)² and Westminster (35 per cent)³ despite having had the right to candidacy for over 100 years. The slow journey to gender-equal representation demonstrates that increased diversity in representation cannot be achieved only through legislative means.

Women’s continued underrepresentation is due to an array of persistent cultural and structural barriers. In our society, the public political sphere has long been dominated by older, wealthier white men who are seen as the “default” politician. This means that anyone seeking to enter these spaces who does not match this

¹ Engender (2022) Making it Happen for 2027: Transforming Local Democracy for Women. On The Engender Available at: <https://www.engender.org.uk/news/blog/making-it-happen-for-2027-transforming-local-democracy-for-women/>.

² ONS (2023) Indicator 5.5.1 Proportion of seats held by women in (a) national parliaments and (b) local governments. SDG Data Available at: <https://sdgdata.gov.uk/5-5-1/>.

³ Ibid.

perception is at a disadvantage, often having to work harder to prove their ability to colleagues and the public in order to justify their position. Women in politics are also likely to experience disproportionate scrutiny over things like appearance and personal life,⁴ and are at an increased risk of sexist harassment and abuse, which is heightened further for Black and minoritised politicians.⁵ Experiences of misogynistic abuse and harassment – both online and offline – are increasingly cited by women leaving elected office as a key motivating factor.⁶

Due to the consistent lack of women within political institutions, these institutions are not driven to become more accessible at a structural level. Outdated practices, structures and conditions have been allowed to persist. For example, hours of business in councils and parliaments can fluctuate significantly from week to week, making it difficult for anyone with caring responsibilities – disproportionately women – or other work or educational pressures, to fully participate. Another important barrier to women’s full participation is the lack of a legal guarantee of family or parental leave.

At a local level, remuneration is another key factor, with the current basic rate of pay set at £19,571 in Scotland. The councillor role is often assumed to be part-time – an assumption which fails to consider the reality of the hours worked, which typically vastly exceed this.⁷ It further fails to take into account women’s relative time poverty. We know from research that women are less likely to have access to a car than men, relying on slower public transport, and it remains the case that the majority of unpaid care, childcare and domestic work is still disproportionately carried out by women.

Together these cultural, structural, and material barriers to participation keep political participation inaccessible to many and send a strong message to women – and others perceived to be political “outsiders” – that elected office is not meant for them. For example, low levels of women representatives lead to a lack of role models for women of all ages who may be interested in entering politics. This has

⁴ Van der Pas DJ, Aaldering L (2020) Gender Differences in Political Media Coverage: A Meta-Analysis. *Journal of Communication* 70:114–143.

⁵ Hamer E, Southern R (2021) Women and minority MPs are particularly at risk of experiencing certain forms of abuse on Twitter. LSE Politics and Policy Available at: <https://blogs.lse.ac.uk/politicsandpolicy/twitter-abuse-mps/>.

⁶ Oppenheim M (2019) General election: Women MPs standing down over ‘horrific abuse’, campaigners warn. The Independent Available at: <https://www.independent.co.uk/news/uk/politics/general-election-woman-mps-step-down-abuse-harassment-a9179906.html>.

⁷ Improvement Service (2018) Scotland’s Councillors 2017-2022. Available at: https://www.improvementservice.org.uk/_data/assets/pdf_file/0025/8287/scotlands-councillors-2017-22.pdf.

a compounding effect, further perpetuating the current status quo, in turn leading to poorer outcomes for all women who experience the impacts of a decision, but have not been involved in the process. This is felt even more acutely for groups of women who experience especially high levels of underrepresentation, including disabled women and BME women.

While some of these issues are contextually specific to women's experiences, many of the deterring factors and barriers outlined above will likely be shared by others considered political "outsiders", including 16 and 17-year-olds and foreign nationals with limited leave to remain, in addition to additional barriers specific to these groups.

16 and 17-year-olds

Engender does not think that people should be barred from fully participating in elections purely on the basis of age, and recognises that there is a breadth of lived experience within the 16-17-year-old age bracket.

It is important to recognise that 16 and 17-year-olds are protected at an international level by the United Nations Convention on the Rights of the Child (UNCRC). Article 12 of the UNCRC protects the right of all children to be heard and taken seriously, and mandates that states must provide meaningful opportunities for children's participation. However, the UN Committee on the Rights of the Child recognises that children's participation rights are impeded by many long-standing practices and attitudes, as well as political and economic barriers.⁸ A key part of realising Article 12 is to ensure that environments and working methods are adapted to children's capacities, and work to expand candidacy rights would need to fully take this into account.

From our work on women's political representation in Scotland, we know that the expansion of candidacy rights to this group must not happen without a full appraisal of ongoing barriers and potential safeguarding issues. There must be robust planning on how risks will be mitigated and action taken to adapt structures so that they are more accessible for young people, as well as various other groups who do not enjoy full access to participation at present.

In our view, this should include reviewing the hours of business in political office and the impact this may have on individuals with unpaid caring, family or

⁸ UN Committee on the Rights of the Child (2009) General Comment No. 12 (2009) The right of the child to be heard. United Nations. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f12&Lang=en.

educational responsibilities; increasing remuneration for local councillors; reducing unconscious bias and stereotyping in politics; and development of specific and gendered support packages for young candidates and elected representatives, in collaboration with young people and expert organisations.

A public political profile increases the risk to individuals' physical and mental wellbeing and safety, unfortunately increasing the likelihood of politically-motivated harassment and abuse. 16 and 17-year-olds will have vulnerabilities related to their age, and if candidacy rights are expanded to include them, appropriate resourcing must be directed towards protecting their safety and wellbeing. It is crucial also to recognise the gendered nature of poor mental health in young people, with research demonstrating that girls are at an increased risk of poor mental health following the pandemic.⁹

Furthermore, the Young Women's Movement have found that negative perceptions of the current political climate and a fear of abuse are already major factors preventing young women from considering a career in politics.¹⁰ References to a "toxic" culture are becoming increasingly common, and as mentioned above, abuse and harassment (both on- and offline) of politicians (particularly of women, Black and minoritised people, disabled people and LGBTI people) both by members of the public and by colleagues is often cited as a motivating factor by those leaving office.¹¹

Without attention to reducing these structural and cultural barriers to full civic participation elsewhere, any legal change risks being, at best tokenistic and, at worst, opening up significant safeguarding risks to an already vulnerable group.

It is also imperative that action be taken to reduce abuse and harassment within politics for the benefit of other groups who are already being impacted.

Foreign nationals with limited rights to remain

Too often, groups whose lives are most impacted by the decisions of government are those furthest removed from decision making, and are least represented within policymaking. On this basis, we believe that foreign nationals with limited rights

⁹ Engender (2022) Engender response to the Scottish Government consultation on a new Mental Health and Wellbeing strategy. Available at: <https://www.engender.org.uk/content/publications/Engender-response-to-mental-health-strategy.pdf>.

¹⁰ Young Women's Movement (2018) The Status of Young Women in Scotland 2018. YWCA Scotland: The Young Women's Movement. Available at: <https://www.ywscotland.org/wp-content/uploads/2019/05/SYWS18.pdf>.

¹¹ Engender, Elect Her and Women 5050 (2022) Making Local Politics Work for Women: The experiences of women councillors and their reasons for not seeking re-election. Available at: <https://www.engender.org.uk/files/3.-making-local-politics-work-for-women.pdf>.

to remain should be able to participate fully at Scottish elections by being able to stand as candidates, in line with other groups who have chosen to make Scotland their home.

Those with insecure immigration status are at increased risk of experiencing homelessness, destitution, as well as an array of inequalities in other areas. Indeed, insecure immigration status is a highly gendered issue, with 85 per cent of those applying to have the “no recourse to public funds” condition removed being women.¹² These issues are also being exacerbated by the ongoing cost of living crisis, with those most impacted by decisions being taken by government often being the furthest from decision-making processes. We believe that these groups should be able to participate to make their voice heard.

However, we must stress again that appropriate attention to safeguarding and support must be in place alongside legislative change. Action to remove cultural and structural barriers to political participation will help make politics accessible for many different groups who currently experience marginalisation in politics, including foreign nationals with limited leave to remain. It is also important to note that this group is likely to be at particular risk of experiencing abuse and harassment on the basis of ethnicity, race or nationality, and appropriate safeguards and support must be developed along with individuals and expert organisations to support those seeking candidacy and election.

Question 4: Do you think that anyone found guilty of an offence involving the harassment or intimidation of politicians, candidates or campaigners should be subject to an additional sanction of losing the right to stand for election for 5 years?

Yes.

Question 5. If not, would you suggest another electoral sanction or approach?

Harassment, intimidation and abuse are unfortunately common experiences for many women in politics, who must learn to navigate this reality while also carrying out their role. We know that fear of harassment is also a major deterrent to women entering politics and is a motivating factor for women choosing to leave office.

Currently, there is a lack of action to address the violence and abuse women face in political life. On that basis, we support the motivation of this proposal on the grounds that it has the potential to reduce the presence of people known to

¹² Engender (2022) Women & The Cost of Living: A Crisis of Deepening Inequality. Available at: <https://www.engender.org.uk/content/publications/Women-and-the-cost-of-living---updated-copy.pdf>.

engage in these behaviours and their impact on women's participation in politics and public life.

However, restricting people's ability to participate fully in democratic processes must not be taken lightly, and there are significant risks in this approach. It is crucial that any resultant rules be developed in a way that minimises the possibility that they could be used in bad faith, for example, to harm one's political opponents. This would pose a major threat to democratic quality. To minimise the likelihood of this from the outset, robust definitions of "harassment and intimidation" and "politicians, candidates and campaigners" would need to be developed which are sensitive to the experiences of politically marginalised groups, including women, Black and minoritised people, disabled people and LGBTI people. These definitions should be developed through engagement with individuals with lived experience of these issues as well as with organisations with relevant expertise. This is crucial in ensuring the legislative change works as it is intended to – enabling rather than impeding high-quality democratic processes and diverse representation.

We also recognise the limitations inherent in this proposal. The introduction of such a measure is unlikely to address much of the harassment and abuse experienced by women in politics, as much of this originates from people who have never been and are unlikely to be convicted of an offence or from people who have no intention of standing for office in the first instance. To effectively reduce harassment and abuse of women politicians, decisive action must be taken to reduce cultural and structural barriers to women's participation (as outlined above) and to reduce sexist discrimination across society.

Question 6. Do you think that the option of sending a freepost letter or leaflet should be extended to candidates at Scottish Local Government elections?

Yes.

Question 8. Do you have any other comments on the issue of candidate mailings to voters?

We are in favour of candidates at local government elections receiving a free mailing/freepost opportunity during the course of the campaign. We believe this has the potential to reduce barriers to participation in elections relating to cost, making candidacy more accessible for women and others who are likely to experience financial barriers to running a successful campaign.

Campaigns at the local level often involve significant unavoidable costs for candidates. These may relate to travel, childcare, time off work, reduced paid working hours and provision of campaign resources and materials. Some of these may be met by the party a candidate represents, however, it is highly likely that many costs will be left to the candidate to cover out of pocket. This can be an even more significant issue if a candidate is running as an independent without the support of a party.

Women are more likely to experience financial insecurity than men,¹³ and are likely to have lower disposable income than their male counterparts, with the cost of living crisis compounding this situation.¹⁴ The structural income inequality women face means it can be even more difficult – particularly for working class women and women on lower incomes – to finance a campaign. Disabled women and BME women, and lone parents are particularly likely to be among those for whom income inequality bars access to decision-making.

Further, local political campaigns can often demand significant amounts of unpaid labour from the candidate – for instance, spending long hours canvassing and hand-delivering campaign materials. Compared with men, women are “time-poor”, often carrying out a disproportionate amount of domestic labour and childcare duties and unpaid care for disabled and older people.

The option to access a freepost during a campaign will slightly alleviate some of the costs – both in relation to finances and time – that women absorb during a campaign.

It is also worth noting that increasing access to freepost has the added benefit of increasing the visibility of local elections, which have the lowest turnout rate at any election in Scotland. Increasing candidates’ ability to communicate with the electorate could boost overall engagement in local democracy.

In relation to the question of who should receive freepost materials, we feel that the option to deliver these on a named individual basis should be retained. Distributing letters or leaflets on a household basis suggests an expectation of a more “traditional” family living situation as the default. It is important to recognise the different types of households that exist and how people in different living situations may be disadvantaged if communications are not individualised. For

¹³ Close the Gap (2022) An Unequal Burden: How Covid-19 has affected women’s employment, financial security and unpaid work. Available at: <https://www.closesthegap.org.uk/content/resources/An-Unequal-Burden---How-Covid-19-has-affected-womens-employment-financial-security-and-unpaid-work-2.pdf>.

¹⁴ Engender (2022) Women & The Cost of Living: A Crisis of Deepening Inequality. Available at: <https://www.engender.org.uk/content/publications/Women-and-the-cost-of-living---updated-copy.pdf>.

example, this may have a disproportionate impact on young people living in shared accommodation, who are already less likely to be registered to vote.

Question 9. Should candidates who are acting as their own agents be able to use a correspondence address for communications?

Yes.

Question 10. Currently ballot papers show either the candidate's home address or council area. Do you think that the ballot paper should also show the ward in which the candidate lives, if they request it?

Yes.

Question 11. Do you have any further comments on the topic of candidate addresses?

We support the proposed change to allow candidates acting as their own agents to use a correspondence address.

Risks to the personal safety of politicians due to harassment, intimidation and abuse are of significant concern. As outlined elsewhere, this is a major barrier to women's ability to fully participate in politics, and a major threat to the overall health of our democracy. We believe all candidates have the same rights to protect personal information regardless of who is acting as their agent. It is important to note that in addition to politically-motivated harassment, intimidation and abuse, this change is important in protecting the personal safety of survivors of other types of abuse who may be at risk should their home address be made public.

Candidates who are acting as their own agents are also more likely to be independent candidates without the backing and support infrastructure of a party. This lack of support increases the real and perceived risk to their personal safety, leaving them less supported and more exposed on the campaign trail. We believe this change will enable individuals to better protect themselves as they see fit.

We support the proposal to include an additional option relating to candidate location or address on ballots. We believe that candidates should be trusted to decide how much information about themselves they wish to make publicly available, and providing the third "ward" option helps facilitate this personal choice.

However, clear communication with candidates is crucial so that individuals understand that this change is entirely optional and there is no requirement to publish any information beyond the council area in which they live.

3. Chapter 2 – Voting

Question 12. What do you think could be done nationally or locally to improve registration levels, especially among under-represented groups such as younger people and foreign nationals?

It is important for everyone to be able to participate in democratic processes regardless of background. We would emphasise that it is incumbent on government at all levels to facilitate and support voter registration (and civic engagement more broadly), rather than placing an expectation or responsibility on groups already experiencing marginalisation, underrepresentation and low engagement in democratic processes.

Encouraging registration amongst underrepresented groups is vital to ensuring that everyone is able to take part in elections. This also requires decision-makers to actively consider and anticipate their needs in the design and delivery of services. It is an important step in ensuring our elected officials are representative of the communities that they serve. We would strongly recommend that further work is undertaken to understand specific barriers facing those less likely to be registered to vote.

Question 14: Should the limit to the number of times one companion can support voters in casting their votes:

- Remain at two people per election
- **Rise to five people per election**
- Be changed to another number

Question 15: Should there be an option in the future to request a digital poll card instead of a paper poll card for Scottish elections?

Yes.

Question 16: What more could be done to improve the voting experience for individuals with particular accessibility needs or requirements?

Maximising participation in elections is crucial to the overall health of our democracy. We again emphasise the responsibility of government at all levels to ensure everyone is able to participate.

In order to better understand how the voting experience with particular accessibility needs or requirements be met, we would strongly recommend

engaging and working with disabled people and their organisations, such as Inclusion Scotland.

Question 17: Do you agree that the offence of “undue influence” should be made easier to understand and enforce?

Yes.

Question 18: Do you think that we should extend the right to emergency proxies to the companions of anyone who has to attend an unexpected medical appointment or treatment which would prevent them from voting at their normal voting place?

Yes.

Question 19. Do you have any comments on changes to proxy voting in Scottish Parliament or Local Government elections?

We have no comments on this.

Question 20. Do you have any comments on the handing in of postal ballots?

We believe voting should be as easy as possible, to better facilitate participation in the democratic process. It is our view that preserving choice is important to enable as many people as possible to cast their vote in the way that suits them.

If either of the restrictions on postal ballot returns were introduced in line with the measures governing UK-wide elections in the Elections Act 2022, we would be concerned about the negative impact on people’s ability to cast their vote. Therefore, we support the Scottish Government’s proposal not to introduce new restrictions in relation to postal voting at Scottish devolved elections.

Question 21. Should voting rights in Scottish Parliament and Local Government elections be extended to some or all persons detained on mental health grounds related to criminal justice?

Yes.

Question 22. Do you have any additional comments on voting rights for persons detained on mental health ground related to criminal justice?

High levels of participation in elections and other democratic processes should be viewed positively, and all avenues to maximising participation should be fully explored. We are supportive of the principle of expanding the franchise to this group in line with the rights of prisoners serving sentences of 12 months or less.

Question 23. Should voting rights in Scottish Parliament and Local Government elections be extended to all people seeking asylum in Scotland?

Yes.

Question 24. What issues do you think that the changes in the Elections Act 2022 to introduce voter ID and change postal vote renewals raise for elections held in Scotland?

We share the concerns laid out in the consultation paper around the changes to voter ID and postal voting and the negative impact that these will potentially have for participation in elections held in Scotland. We view the measures in the 2022 Elections Act to be disproportionate in response to the perceived risk of voter fraud, and that the new measures create unnecessary confusion, and barriers to participation and will discriminate against disadvantaged groups who are already often furthest from power.

We recognise the Scottish Government's opposition to these measures, and we would encourage robust action be taken to mitigate some of the potential harms through directing investment towards informing and supporting those most at risk of becoming disenfranchised as a result of these changes.

Question 25: Should there be a presumption against a Scottish devolved election being held on the same day as a UK Parliament election (for example, a UK Parliament by-election on the same day as a national Scottish Parliament election)?

Yes.

FOR FURTHER INFORMATION

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ABOUT US

Engender is Scotland's feminist policy and advocacy organisation, working to increase women's power and influence and to make visible the impact of sexism on women, men and society. We provide support to individuals, organisations and institutions who seek to achieve gender equality and justice.