

FACT SHEET ON THE UNITED KINGDOM

Information supplied by Sarah Childs, based on her paper for the Workshop on Legal Struggles and Political Mobilization around Gender Quotas in Europe, September 2014, Florence.

CONSTITUTION
Constitutional gender equality clause, including constitutional parity provisions.
The UK does not have a written constitution.
Constitutional reform
See below for details of the Sex Discrimination (Election Candidates) Act 2002 which permits the use of party quotas until 2030 (as a consequence of the 2010 Equality Act)
Constitutional/Supreme Court case law on quotas
This is the legislative context for the adoption of party quotas in the UK.

NUMBERS																																																
Number of female MPs in both chambers																																																
MPs Elected to the House of Commons, 1983-2010, by Sex and Party																																																
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Source: Ashe et al 2010																																																
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Number of women in boards of biggest publicly listed companies																																																
The latest figures today (26 March 2014), published at the same time as the Cranfield University School of Management's Female FTSE Board report, show that women now account for 20.7% of board positions in the FTSE100 – up from 12.5% in 2011 and 17.3% in April 2013. Lord Davies originally set a target in 2011 of achieving 25% in 2015.																																																
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<ul style="list-style-type: none"> • women now account for 20.7% of overall board directorships, up from 17.3% in April 2013 • of this, women account for 25.5% of non-executive directorships and 6.9% of executive directorships • women account for 231 of the 1,117 FTSE100 board positions 																																																

- women account for 28% of all board appointments in 2013/14
- there remain 2 all-male boards – Glencore Xstrata and Antofagasta
- fewer than 50 new women appointments need to be made to reach the 25% target

In the FTSE 250 the figures show:

- women now account for 15.6% of overall board directorships, up from 13.2% in 2013
- of this, women account for 19.6% of non-executive directorships and 5.3% of executive directorships
- women account for 33% of all board appointments in 2013/14
- there remain 48 all-male boards

The latest report shows that more and more FTSE Chairs are convinced of the value of women in boardroom. Twelve companies in the FTSE100 have 4 or more women in the boardroom, with 27 having more than 2.

POLITICAL and PARTY QUOTAS

Existence of voluntary party quotas and other schemes

Below outlines the passage of legislation that permits party quotas

The Labour Party had been advised that candidate selection was covered by Section 29 (1) of the Sex Discrimination Act (SDA) from which political parties were exempt - the provision of services 'to the public or a section of the public'. However, in January 1996 an industrial tribunal ruled that candidate selection was subject to Part II of the Sex Discrimination Act (1975) relating to employment (*Jepson and Dyas-Elliot v The Labour Party*). Labour was found in breach of Section 13 of Part II which prevents sex discrimination by professional bodies in awarding qualifications (Russell 2000, 25).¹ The Party accepted the ruling even though it set no precedent. It was claimed that challenging the ruling would threaten the status of the existing AWS candidates. This justification was privately criticized for political obscuration and opportunism.² In any case, a House of Lords ruling later overturned *Jepson-Dyas Elliot with Watt v Asham* (Gauja 2010, 103), finding that employment law was not the correct jurisdiction (Morris 2012, chap 5),³ a position that the European Commission had previously clarified. Even so, there remained in Labour unease about proceeding on the basis of these cases.⁴

In advance of elections to the new devolved institutions there was pressure on the Government in 1998 to amend the SDA. New clauses were tabled to the Scotland Bill and the Govt of Wales Bill at Commons committee stage to remove candidates from the scope of the SDA (H of C 2001).⁵ The issue was also raised in the Commons committee stage of the Registration of Political Parties Act 1998 (PPERA). The Government remained uncertain of the legality of such moves, not least the possibility of a challenge under the EC's Equal Treatment Directive 2001 (HoC 2001). Article 14 of the European Convention on Human Rights (ECHR) - 'the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex - read with Article 3 to the First Protocol - 'Free elections' have been interpreted as covering 'the right to stand as a candidate' - was thought to potentially apply (Joint Committee on Human Rights 2001 and Russell 2001, 8). Russell's analysis (2000;

¹ Following the Jepson case an Employment Appeal Tribunal ruled in the Ahsan Case in 1999 that selection constituted an 'authorisation or qualification' for 'engagement in a particular profession' under Section 12 of the Race Relations Act (equivalent of Section 13 of the SDA) (Russell 2000, 27).

² Private information, Women and Labour Conference, Birkbeck College 1996.

³ As Morris (2012, 116) warns, one should not 'elide' the 'trappings of employment with employment as traditionally and legally understood'.

⁴ Personal correspondence, Lovenduski.

⁵ Ultimately, Labour used twinning for the devolved elections. Constituencies were paired with male and female candidates (Squires and Wickham-Jones 2005; Gill 200?). The two nationalist parties, the SNP and Plaid Cymru also used twinning. Threatened legal challenges did not materialize (McHarg 2006, 145).

2001) suggested otherwise, see Box x below. That said, there remained concern that were AWS to be applied to all of a party's winnable seats they might fall foul of the proportionate qualification (McHarg 2006, 146-7, citing Russell and O'Conneide 2003).

**Box X European and International Rules, Conventions and Treaties,
and the legality or otherwise of AWS**

Equal Treatment Directive (76/207/EEC)	Provides for equal treatment in relation to access to employment and promotion, vocational training and working conditions. NB, the European Commission had twice stated that the selection of candidates does not fall within the scope of the ETD
Article 141 (4) of the Treaty of Amsterdam	States that the principle of equal treatment should not prevent states from 'maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity'
European Court of Justice	The use of quotas in other European countries such as France made it 'politically impossible for the ECJ to overturn these systems. ⁶ If differential treatment is proportional and if there is an objective and reasonable justification such as, 'correcting historical inequalities of representation in the political system', it would not be considered unlawful
United Nations	The UN Human Rights Committee (General Comment No. 18 on the International Covenant for Civil and Political Rights (ICCPR), allows positive discrimination Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), allows positive discrimination Article 4 of the 1986 UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) all allow for positive action (Russell 2001), allows positive discrimination

Source: Russell 2000, 2001; Joint Committee on Human Rights 2001.

The Sex Discrimination (Election Candidates) Bill was introduced in October 2001 in time for selections for both the 2005 general and 2003 devolved elections. The Bill sought to exclude from the operation of the SDA and the Sex Discrimination (Northern Ireland) Order 1976 certain matters relating to the selection of candidates by political parties. It introduces a new section 42A to the Sex Discrimination Act. This dis-applies the anti-discrimination rules in Parts 2 to 4 of the Act (including section 13) from arrangements which 'regulate the selection by a political party registered under the Political Parties, Elections and Referendums Act 2000 of candidates in an election for Parliament', and 'are adopted for the purpose of reducing the inequality in the numbers of men and women elected, as candidates of *that* party, to be members of the body concerned'. The Bill's remit includes elections for Westminster, the European Parliament, the Scottish Parliament and National Assembly for Wales and local government elections.

**Table x
The SD (EC) Act and the Equality Act 2010**

Section	Explanatory Note
104 (2) A person does not contravene this Part only by acting in accordance with selection arrangements (3b) the purpose of which is to reduce inequality in the party's representation in the body concerned, and (6) Selection arrangements do not include shortlisting only such persons as have a particular protected characteristic	This section allows registered political parties to make arrangements in relation to the selection of election candidates to address the under-representation of people with particular protected characteristics in elected bodies. These arrangements can include single-sex shortlists for election candidates...

⁶ The Fourth Report of the Joint Committee on Human Rights (2001) also concluded that community law has become more accepting of positive action.

(7) But subsection (6) does not apply to the protected characteristic of sex;	
105 (3) In section (3) of the Sex Discrimination (Election Candidates) Act 2002 (expiry of that Act) in subsection (1) for '2015' substitute '2030'	...the provision in section 104 (7) ... will be repealed automatically at the end of 2030 unless an order is made by a Minister of the Crown to extend it beyond that date.

Source: Equality Act 2010 and accompanying Explanatory Notes, emphasis added.

The provisions of the SD (EC) Act would importantly expire at the end of 2015, unless a Statutory Instrument⁷ was passed to ensure its continuation. The Government now confidently put forward its belief that the Bill was compatible with both EU legislation and the UK's international human rights obligations.

Table X Milestones in the Adoption of AWS by the Labour Party 1986-2015

Date	Reform
1986	Labour Conference accepts the principle of shortlisting sex quotas
1987	Labour Conference accepts the constitutional requirement that at least one woman should be included on the short list of any constituency in which a woman was nominated.
1988	The establishment of Labour Women's Network (to encourage women) and Emily's List (to provide financial support for pro-choice women)
1989	Composite 54, which accepts sex quotas for parliamentary candidates in principle, is passed
1990	Conference commits the Party to the introduction of quotas for candidate selections with a target of securing 50 per cent of women in the Parliamentary Labour Party (PLP) within ten years or three general elections, whichever was the shorter period of time.
1992	The quota policy is not enforced at the general election
1993	Conference commits the Party to the introduction of quotas to secure its target. There would be AWS in 50 per cent of all the key seats (defined as winnable on a 6 percent swing) and in 50 per cent of all vacant Labour held seats. Implementation would occur through regional 'consensus' meetings. ⁸
1994	Quota policy reaffirmed
1997	35 women are selected on endorsed AWS; AWS found illegal by an Industrial Tribunal ruling; the Party does not appeal - <i>watershed election</i>
2001	Labour relies on equality rhetoric and promotion for the general election; the numbers and percentage of Labour women MPs declines - <i>fallback election for DRW</i>
2002	Passage of the Sex Discrimination (Election Candidates) Act; this permissive legislation allows the use of AWS until 2015 due to a Sunset Clause
2008-10	Speaker's Conference on Parliamentary Representation; one recommendation is the Parliamentary consideration of legislative quotas, post 2010
2010	The 2010 Equality Act extends the Sunset Clause to 2030 - <i>no breakthrough election</i>
2014	APPG WIP Inquiry; one recommendation is the consideration of legislative quotas post 2015

Source: amended from Childs 2004; 2008.⁹

⁷ <http://www.parliament.uk/business/bills-and-legislation/secondary-legislation/statutory-instruments/>

⁸ This was a compromise: Labour's women's conferences had wanted AWS in all Labour retirement seats.

⁹ This analysis draws heavily on: Perrigo 1986; 1995; Lovenduski 1996; 1994; Norris and J. Lovenduski 1993; Norris 1995; Eagle and J. Lovenduski 1998; Russell 2005.

Existence of soft measures in politics

All parties engage in various equality rhetoric and promotion measures, e.g. training, mentoring, selectorate training, encouragement and exhortation (Ashe et al 2010)

Existence of hard legislated electoral quotas

NONE

Existence of Public board quotas

NONE

CORPORATE BOARD QUOTAS

Existence of soft Corporate Board quotas/measures

Quotas were rejected – n.b., this is not an area of the author's research

See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31480/11-745-women-on-boards.pdf.

And 2014, consideration: Lord Davies, speaking ahead his speech at Barclays, sponsors of the Cranfield report, on 26 March, said:

The rate of change that we have seen at the heart of our biggest companies over the last 3 years has been impressive. The voluntary approach is working and companies have got the message that better balanced boards bring real business benefits. We are finally seeing a culture change taking place at the heart of British business. However, the eyes of the world are on us as we enter the home straight. They are judging us as to whether the voluntary approach, rather than regulation, will work – we need to now prove we can do this on our own.

Existence of hard Corporate Board quotas

NONE

QUOTAS IN OTHER DOMAINS

NONE

CONTAGION and CONNECTIONS

Contagion between different domains within the country

Failure of contagion between political parties

Connections with other countries/ international dynamics

As noted above re: Labour's adoption

International and Transnational Diffusion. Whilst international organizations 'do not play a major role in quota debates in Europe' (Krook et al 2009, 803) the practices of sister 'socialist and social democratic parties overseas' were a 'significant influence' on the UK (Russell 2005, 103; 2000); European party quotas exemplified quota adoption in the 1980s (Krook 2006). 'Details' of others' 'experiments' were circulated, and the Socialist International Women (SIW) 'actively sought to encourage change within its member parties' (Krook 2005; Squires 2005, 5). Clare Short the MP who drew up Labour's quota policy for the 1993 conference (Brooks et al 1990) was Vice President of the SIW in 1992.

COUNTRY SPECIFICS

Best practice

The adoption of AWS by Labour in the early 1990s supports three of the four (Krook 2005) basic stories of quota diffusion, supporting in turn Kittilson's (2006) framework of exogenous and endogenous factors. Labour's use of AWS evidences: (1) party women's mobilization; (2) elite acceptance on the basis of electoral gain; and, (3) and transnational learning. In sum:¹⁰ (i) Labour women shifted away from an earlier demand for collective representation of women's interests in the Party to a strategy of descriptive representation for individual women; (ii) women were sufficiently numerous to pass Conference quota resolutions as a result of the prior adoption of internal party quotas; (iii) women could point to quota adoption by their sister parties in Europe; (iv) the women's demand, and underpinning logic, were perceived by the modernizing party leadership to be less demanding than earlier ones, and crucially married with its 'office seeking' strategy. With Labour out of power since 1979 the pro-quota argument was simple: women candidates would address the historic pro-conservative gender voting gap; the arguments were also compatible with leftist concerns with equality and inclusiveness; (v) at the critical 1993 party Conference the vote on Composite 54 reflected the priorities of important union leaders (key actors within Labour's internal party organization), who were prepared to link quotas to leadership election reforms. The support of the then party leader, John Smith,¹¹ was critical in this.

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Feminist analysis and mobilization with the Labour Part. Labour's demand for quotas back in the 1990s reflected an appreciation of what has since been termed parties' 'institutional sexism' (Lovenduski 2005a). Accordingly, exhorting women to seek candidate selection -equality rhetoric - and, or providing them with various equality promotion measures, such as training, mentoring, and, or financial support, could only go so far, and would not solve the unequal political playing field. In other words, would not address selectorate discrimination/lack of party demand for women (Eagle and Lovenduski 1998). As the 2001 election would go on to prove there was no feminist cultural sea change on legislative recruitment in the Labour party post-1997. It would be left to women MPs to point out the continuing necessity of AWS (Lovenduski 2001).¹² Over the ensuing years, Labour women MPs would

¹⁰ This summary, additional to references in footnote 14 above, draws on Atkinson and Spear ????; Short 1996; Norris 1985; Norris 1986; 1996; 1999; Brooks et al 1990; Shepherd-Robinson and Lovenduski; Bartle 2002. Campbell 2006.

¹¹ Smith died unexpectedly in 1994 and was replaced as Labour party leader by Tony Blair.

¹² Harriet Harman cited in the *Guardian* 9 January 2000.

often remark that their party's adoption of AWS was a long and hard-won battle, and one that requires constant vigilance.¹³

Leadership Electoral Opportunism (albeit combined with leadership antipathy) If the introduction of quotas in the 1990s reflected electoral opportunism alongside a principled support for the AWS under the leadership of Smith, Tony Blair's support was driven much more by instrumental rationality.¹⁴ He announced in 1995, for example, that 'the process has not been ideal at all' (Squires 1996) and he appeared content not to contest the 1994 ruling that found AWS illegal.¹⁵ His belated March 2000 commitment to introduce legislative change would be 'after' 2001 and was dependent upon Labour selectorates proving 'reluctant to select women'.¹⁶

In addition to these dynamics, the implementation of AWS has and is periodically beset, by *intra-party conflict*, although this should not be overstated in terms of its ultimate impact. So far the Centre has stood firm – Labour's senior women would not stand for anything less. Even so, AWS have never been presented by the Party (as distinct from by women in the Party) either to the public or members as a Labour policy success. It is rather the Party's dirty secret. One Cabinet Minister, Peter Hain, even apologized for them.¹⁷ Party conflict over quotas was associated with ideological differences between new and old Labour, and the latter's hostility to 'feminism'. But it is most especially linked with intra-party democracy; constituency autonomy over selection, especially in the Party's safe seats. Party members prize their role in selecting parliamentary candidates, especially so in a context of the professionalization of political parties which empowers the party leadership at the cost of the activist members (Cross and Katz 2013). Against this backdrop, centralized measures to increase the descriptive representation of women can be experienced as an unwelcome infringement. This debate speaks more broadly to an observed opposition between more inclusive selection processes (greater democracy at the local level) and diversity of parliamentary representation (at the system level) (Rahat and Hazan 2001; Rahat 2013). Such conflict came to head in the Welsh constituency of Blaneau Gwent in 2005, where an ex-Labour party member, Peter Law, stood as an independent and won against an AWS candidate (Cutts et al 2006).¹⁸ This was one of Labour's safest seats. Criticism of AWS reared up most recently again in Wales in summer 2014, begging questions of whether there is something culturally specific about Welsh hostility. Hain, the apologizing MP noted above represented a Welsh Constituency.¹⁹ Irrespective of this, intra-party conflict whilst mostly managed away by the Centre, nevertheless symbolizes a failure to better 'sell' the policy to Labour Party members, and suggests something less than a transformation of party culture (see Kenny 2013).²⁰

Failures

Failure to shift from time frame for party quotas to outcome measure: The Gender Special Advisor to the 2010 Speaker's Conference (Childs) was unable to transform a 'time' commitment (Equality Act 2010 extends period - sunset clause - of SD (EC) Act to 2030) one that would see the provisions in place until parity, or some other percentage of women in Parliament, had been achieved.

Failure to adopt legislative quotas

Speaker's Conference Recommendation 24 not implanted: All Party Parliamentary Group has a recommendation – although not a key one – for parliament to consider debating legislative quotas

Furthermore, the Report stated:

¹³ Speaker's Conference and APPG sessions; private information.

¹⁴ Squires 1996; Perrigo 1995, 1996; Norris 1995.

¹⁵ See below regarding: privately criticism of the Party's decision not to contest the industrial tribunal ruling.

¹⁶ *Guardian* 8 March 2000.

¹⁷ <http://news.bbc.co.uk/1/hi/wales/4982084.stm>

¹⁸ Note that this anti-AWS 'success' is a one off. AWS do not lose votes because they are AWS. This is also true at the 2010 elections (Cutts and Widdop 2011).

¹⁹ <http://www.walesonline.co.uk/news/local-news/fury-over-labours-women-only-plan-7210576>.

²⁰ This point was made in a BBC Radio Wales discussion in 2014 by the author.

The Inquiry recognises that quotas in politics are not universally accepted; indeed only the Labour Party has used them in the form of All Women Shortlists for parliamentary selections. That said, given the 'fast-track' results that often arise from their introduction, it would be useful for the House to find time to debate prescriptive quotas for Westminster.

The inclusion of these recommendations alongside wider acknowledgement of the efficacy of well-designed and well-implemented quotas was a clear success for advocates of quotas involved in the Inquiry.

Quota debates in the UK characterized by inter-party competition over the issue.

Like the SC, the impact of the APPG Inquiry and Report rests with the political will of parties, the Government, Parliament, and individual MPs; there are no enforcement powers held by the APPG. Yet if one of its seven key recommendations - the establishment of a Women's and Equality select committee - were to be implemented in the near future, this would constitute such an institution, and the likelihood of subsequent reforms would be massively enhanced.