

FEDERAL APPEALS PANEL

**IN THE MATTER OF AN APPEAL UNDER REGULATION 25 OF THE FEDERAL ELECTIONS
REGULATIONS**

BETWEEN:

Mr Lucas North

Appellant

-and-

David Crowther (Returning Officer)

Respondent

CASE MANAGEMENT DIRECTIONS

Directions

Note: all communications and documents must be sent to the Registrar via the Standards Office e-mail address (standardsofficer@libdems.org.uk) with the subject line 'FAP 76'. Parties are reminded that information not already in the public domain which is received through the FAP process is confidential, subject to any decision by the FAP as to publication.

1. This appeal shall proceed to a Case Panel hearing, to be convened so far as possible prior to close of poll on 11 November 2025 by video-conference, with a time estimate of 3 hours. *This is likely to be in the afternoon or evening of Friday 7 November, subject to availability.*
2. Directions for the Respondent apply to the Returning Officer's team of deputies and staff, and may be discharged by them on his authority. The Respondent may be represented by a member of his team at the hearing if he authorises this.
3. The issue of the FAP's jurisdiction shall remain at large. The Appellant shall indicate by 4pm on Friday 31 October 2025 whether he has lodged a formal written complaint to the Respondent pursuant to regulation 23 of the Election Regulations and if not, what his position is about the FAP's jurisdiction. If he has, please could he provide a copy of the complaint and the Respondent's ruling (if any has been made). If a written complaint has been submitted to the Returning Officer under reg.23 which has not been determined, or any party considers a postponement to otherwise be necessary,

they may apply for the hearing to be postponed and should do so as soon as possible. Both parties are at liberty to apply for any other directions.

4. The Registrar shall ensure that the Cases and Decisions page of the FAP website is updated to include an entry for Case 76 with:
 - (a) a brief description under 'Issues' that it is an appeal against the returning officer's decision on 27 October 2025 as to the application of quotas in the internal elections counts, published at <https://www.libdems.org.uk/internal-elections#2025-timetable>;
 - (b) A note that directions have been given and a link to these Directions in the Decision Notice column.
5. Should any member, officer, party body, or affiliated organisation apply to be added as a party or intervene under rule 9.3 of the FAP's published procedures (including the candidates), they must:
 - (a) apply on Form 3;
 - (b) set out their representations as fully and concisely as possible in writing (limited to a maximum of 3 sides of A4), and submit these for circulation to the Appellant and Respondent no later than midday on Wednesday 5th November.

Permission to be added as a party (i.e. with a right to speak at the hearing) will only be granted if this is considered to assist the FAP and present arguments that will not be addressed by the existing parties.

6. Mr North must provide the Registrar copies of (or stable publicly accessible hyperlinks to) the case law which he relies upon by 4pm on Friday 31st October), and a note as to which numbered paragraphs within each case he relies upon and as authority for what proposition of law. The copies or links and notes shall then be passed to the Respondent and candidates by the Registrar as soon as possible.
7. The Returning Officer and all candidates for posts on a Federal Committee or other Federal body that are being elected in this poll shall be sent an e-mail informing of the appeal and:
 - (a) be afforded access to, or sent a copy of, the grounds for the appeal (redacting the Appellant's personal details), and these Directions as soon as practicable and no later than close of business on Friday 31st October;
 - (b) each have an opportunity to lodge a response and written submissions by midday on Wednesday 5th November (please follow the guidance in the Schedule below);
 - (c) must include copies of or publicly accessible links to any case law relied upon, with a note as to the paragraphs relied upon and the propositions of law said to be set out.

The responses must be circulated to the Appellant and Respondent as soon as possible after being received by the Registrar, as well as being placed in the digital folder for the Case Panel.

SCHEDULE: GUIDANCE FOR RESPONSES

- (1) I do not wish to unduly constrain parties' arguments. However, there is a very tight timeframe for this matter to be adjudicated prior to close of poll so as not to delay the declarations, a very large number of potentially affected candidates, and it is necessary to ensure that everyone has a fair opportunity to participate. It is not going to be feasible or practical to allow every potentially affected person, or interest-group, to be a party making oral submissions at the hearing. ***All participants are requested to focus their arguments on what they consider to be their strongest points.***

Guidance for the Returning Officer

- (2) The published statement on the Party website repeatedly refers to 'the party's legal advice' and purports to extract conclusions from this. It is a matter for the Returning Officer whether he wishes to rely on a document setting out legal advice to the Party (assuming he is authorised by the Party to do so) as evidence, as opposed to simply making arguments that happen to also be set out there. However, it is not fair to rely on a document and cherry-pick passages from it. I do not want the hearing to be bogged down in a dispute as to whether by publishing the statement it has, the Party has waived privilege in its legal advice. Please could the Returning Officer therefore make clear whether he wishes to rely on the document received (in which case, please could he provide a copy via Standards to the FAP and in strict confidence to the Appellant- who shall not further copy or show it to any other person), or simply make arguments of principle as to the basis for his decisions and cite any relevant case law relied upon.
- (3) It would be helpful to have the Returning Officer's response to each point raised by the Appellant as well as the issues raised below under 'Reasons'.
- (4) Please could the Returning Officer address whether, and if so, how, the quota at article 2.5 applies to the Federal Board, only 3 of whose places are to be directly elected.

Guidance for Candidates and Interveners

- (5) Please indicate whether you object to or support the decision of the Returning Officer and the reasons for this.

(6) If you are a candidate in this election who would personally be benefited or adversely affected by the decision or its overturning, because you do or do not fall within a particular protected group and support or object to it on that basis, please let us know which characteristic you rely upon and any explanation necessary. The FAP is less likely to interfere with the Returning Officer's ruling if it is academic and does not infringe the rights of members.

(7) To the extent possible, please co-ordinate interventions on either side of the case so that they are not repetitious. Please do not repeat points already made by the Appellant, or adopt a 'kitchen sink' approach – focus on and develop a few points that are the strongest ones, or points you expect no-one else will make. The Case Panel volunteers need to read and consider all the submissions, and canvas them with the parties, and everyone will have a very limited amount of time to deal with them before the close of polling.

Reasons

1. The Returning Officer published a statement on 27 October 2025 on the Party's website as to how 'positive action' will be applied to the counting process for internal elections to committees.
2. I shall not set the contents of that statement out in full here, but the essence is that 'two clauses of the [Federal Party] constitution need to be reinterpreted by the Returning Officer to make them compliant with the Equality Act 2010', and that this requires the relevant clauses (articles 2.5 and 2.6) to be read as if they were worded differently as set out in that statement, which is said to be 'reasonable' and 'the smallest set of drafting changes that is consistent with the ruling' of the Supreme Court in *For Women Scotland Limited v Scottish Ministers* [2025] UKSC 16.

Procedural rules

3. The following constitutional provisions appear to me to be relevant:
 '[2.2.]... This Constitution and any rules made thereunder bind the Federal Party and the State Parties....
 [...]
 [2.4] The provisions of this Constitution shall be implemented with regard to the principle that men and women shall have an equal opportunity of participating at every level of the Party, subject to the provisions of the

Equality Act 2010.

[2.5] Whenever this Constitution provides for the election by party members to a Federal Committee, not less than 40% or, if 40% is not a whole number, the whole number nearest to but not exceeding 40% of those elected shall self-identify as men or non-binary people, and self-identify as women or non-binary people respectively.

[2.6] Whenever this Constitution provides for the election by party members of ten or more persons to any Federal Committee or other Federal body:

a. not less than 10% or, if 10% is not a whole number, the whole number nearest to but not exceeding 10% shall be from underrepresented ethnic backgrounds;

b. (not less than 10% or, if 10% is not a whole number, the whole number nearest to but not exceeding 10% shall be disabled people; and

c. not less than 10% or, if 10% is not a whole number, the whole number nearest to but not exceeding 10% shall be people from under-represented sexual orientations and gender identities, including trans and non-binary identities.

[2.7] The provisions of this article shall not prevent places being filled if diversity requirements are not met due to insufficient candidates with the stated characteristic being nominated. Such elections shall take place from a common list and in accordance with the election regulations made by the Federal Board as from time to time in force. Where this Constitution or any Standing Orders made thereunder appear to conflict with the Equality Act 2010, the provisions of the Equality Act 2010 shall prevail.'

4. The following provisions of the Election Regulations appear most pertinent:

'Organisation of elections

[2] The Federal Board shall appoint a Returning Officer to oversee all party elections conducted under these election regulations for a period of three years, or until their resignation, incapacity or death if any of these occur sooner. The Returning Officer shall be responsible for the efficient and timely conduct of these elections....

[...]

[6] At least one month before the count in an election for federal committees or Federal Council as defined in paragraph 1, the Returning Officer shall publish a written description of the counting method to be used to ensure that results are compliant with Articles 2.5, 2.6 and 2.7 of the constitution and that the provisions of paragraph 54 regarding casual vacancies are met.

[...]

Conduct of elections

[15] Party Officers, acting in their capacity as officers at federal, state, regional and local level, are expected, as far as possible, to give equal opportunities and fair balance to all candidates.

[...]

Counting of elections

[...]

[20] The Returning Officer shall have the power to make rulings to facilitate the completion of the count.

Interpretation, complaints and appeals

[21] In interpreting and applying these regulations, and in any case where the regulations are silent, the Returning Officer shall have the power to make all necessary decisions concerning the conduct of these elections, following the aims and principles of public election law.

[...]

[25] Appeals against decisions of the Returning Officer must be referred to the Federal Appeals Panel within 14 days of the decision.

[...]

Committee elections: counting

[52] The committees shall be counted in the order they are listed in the constitution. Once a candidate has been elected to a committee, if Article 8.3 of the constitution concerning candidates being elected for more than one committee applies, they will be withdrawn from all subsequent elections for which they were nominated.

[53] If the specified proportions of candidates with protected characteristics in Articles 2.5, 2.6 and 2.7 of the constitution are not elected by the operation of the above rules, the Returning Officer shall apply the counting method published under paragraph 6.'

Jurisdiction

5. We cannot confer jurisdiction on ourselves and only have such jurisdiction as is conferred upon the FAP by and under the Federal Party Constitution.
6. At this stage, I consider it sufficiently arguable that the FAP has jurisdiction for the matter to proceed to a Case Panel, but the Panel will thereafter need to decide whether it has jurisdiction.

7. Although reg.25 of the Election Regulations refers to 'appeals against decisions of the Returning Officer', the regulations do not expressly specify which decisions are and are not subject to appeal. It is arguable also that this regulation only intends to refer to decisions of the Returning Officer made following a prior formal written complaint to the Returning Officer about infringement of the regulations, that has been made under rule 23. That process also has to allow candidates the right to make representations to the Returning Officer. It appears questionable whether regulations 20 or 21 confer power to postpone the count in the absence of such a complaint. It is arguable that it would unduly undermine the authority of the Returning Officer if every decision they took could be subject to immediate appeal to the FAP without a formal complaint to allow issues to be rectified.
8. To the extent that the FAP does not have jurisdiction under regulation 25, it has jurisdiction under article 22.3 of the Federal Party Constitution to adjudicate upon (a) any dispute over the interpretation of the Constitution, (b) any claim that the rights under the Constitution of a member have been infringed, as well as (d) 'any matter expressly so provided by this Constitution or by rules made thereunder'. However, we would not grant permission to proceed with an application (where there was no right of appeal) if alternative remedies had not been exhausted (FAP Procedures, rules 4.3 and 4.4), subject to any argument under rule 1.4(j) as to whether reference to a 'procedure' allows us to waive compliance with another published rule within our Published Procedures. It might be argued that there is no alternative remedy because the impugned decision does not infringe the Election Regulations, but only the Constitution.
9. Any party member may lodge a written complaint with the Returning Officer under reg.23 up to 7 days after the declaration. It is undesirable that the procedures get in the way of the underlying issues being resolved in a timely fashion. It is also undesirable for us to hold a hearing only to conclude that we have no jurisdiction at all to affect the outcome, or to hold a hearing reaching such conclusion only to find that a further complaint is made in a week's time which is properly subject to further appeal.
10. It would be sensible for the Appellant to immediately submit a formal written complaint to the Respondent under reg.23 if he has not already done so (in the terms of his Form 1B), who can then invite representations from candidates and determine the complaint, and (if the Respondent does not uphold the complaint about his own ruling), appeal that separately to avoid further delay and repetitious process.
11. If the FAP does have jurisdiction, but it does not prove possible to determine the matter before the count (such as if the matter goes part-heard), and no reg.23 complaint has been lodged and appealed, then we may need to invite submissions as to whether the FAP has power to suspend the count or whether there would need to be a formal complaint in writing to the Returning Officer.

Interventions and third-party participation

12. It is essential in the interests of fairness for all candidates in the election to have a fair opportunity to make representations. There are inter alia 11 candidates for Federal Board posts, 48 candidates for Federal Council, 46 candidates for FPC, 36 for FCC and 16 for FIRC (though there is overlap as some of the same candidates are running to sit on multiple committees). I am told there are more than 100 candidates potentially directly affected by the decision of the Respondent. It is not going to be practicable for each of them to speak at the hearing if it is to be kept to a manageable length. Still less will it be possible for all Members who may have an interest in the operation, variation or abrogation of 'positive action' quotas to speak at the hearing.
13. Without precluding applications to be added as a party, it appears that the sensible way to facilitate their participation would be to permit limited and focused written representations.

Timetabling

14. Polls close on 11 November 2025. It is obviously desirable that this matter be adjudicated before then, so that the count can go ahead on time. However, that leaves a very short window for the matter to be considered and it may not, in the event, allow for all issues to be fairly dealt with.
15. This appeal was received at lunchtime on 29 October 2025. Mr North applied for a direction that evidence be submitted by 7 November with the hearing to be held before the close of poll. The date of the hearing will need to be one that can be attended by both parties and a Case Panel. It is necessary to work backwards from then to allow the Respondent to know the full case he has to meet, allow for representations by affected parties, let everyone else have enough time to respond, and then for the responses to be received by the Appellant and by the Case Panel in sufficient time to consider them before the oral hearing. As such, a more precise skeleton of legal references must be provided by the Appellant this week, to allow a few days for responses, and then at least a clear day or two for the Case Panel to work through them. As such, a deadline of 7 November is too late and I have set other deadlines above.

Grounds raised

16. The FAP is not a court of law; its role is to interpret and enforce the Party's own rulebook. However, in this case the relevant articles of the Constitution refer to the Equality Act 2010, and so the Case Panel may need to rule on what that statute requires.
17. Mr North makes various arguments under 9 heads. I shall make some preliminary observations about those here, in order to assist the parties to focus their submissions. They are not intended to foreclose any points, nor to decide any issue. The final decision will be a matter for the Case Panel collectively after receiving all submissions, and not for me at this stage.
18. Without pre-judging the view that the Case Panel may form when it meets, it appears that the Appellant's strongest argument is comprised in his grounds 1, 2, 3, and 7 namely that the Returning Officer is going beyond interpretation or filling in gaps and in effect unilaterally redrafting the Constitution, which may only be amended by Conference, and is not, he says, mandated by the Equality Act 2010 or the terms of article 2.7 of the Constitution.
19. I do not follow how Mr North contends that the decision is itself discriminatory for the purpose of the Equality Act or 'renders approximately 80% of the positions inaccessible to trans and non-binary members', given its wording. Nor is it clear whether or on what basis it is contended that 'non-binary' amounts to a protected characteristic for the purposes of the Act.
20. Mr North contends that the decision was a procedurally unfair moving of goalposts because candidates would or might have withdrawn or changed the way they campaigned had the rules not been 're-interpreted', and says they were not consulted. It is not clear what evidential foundation there is for that submission. He also argues the decision was itself ambiguous, which is a point that requires further explanation at the hearing.
21. Ground 8 relates to data provided by candidates, as well as the workability of the decision in terms of checking who belongs to different categories. It appears to me those are consequential questions which do not bear on the principle of whether it is permissible to make the impugned decision.

22. The ninth ground asserts a breach of the Human Rights Act 1998 on the basis that the decision ‘compels disclosure of...birth-assigned sex rather than their lived or legally recognised gender’ so as to amount to a breach of candidates’ right to a private life. It is asserted that the Party exercises ‘public functions’ so as to be caught by the Act. It is not apparent to me that the Party is subject to the Human Rights Act 1998 at all, as a private association, nor that any candidate is compelled to rely on ‘positive action’ quotas, nor that ‘legally recognised gender’ is necessarily the same as self-defined gender or that asking for a person’s sex is any more intrusive than asking for their self-defined ‘gender identity’. If this submission is to be pursued then the Appellant will need to argue it properly at the hearing and provide full citations of authority in sufficient time to permit the Respondent to respond.
23. The FAP would be assisted by argument from the parties as to:
- (a) Whether an exercise in interpretation of a document can extend to a rewrite in the manner contemplated and any relevant case law about the interpretive role of an officer of an unincorporated association or tribunal where there is no statutory or contractual provision requiring a notional rewording of a document;
 - (b) what specific provisions of the Equality Act 2010 and/or decided cases the Respondent contends compel the approach taken and in particular:
 - (i) is it contended that articles 2.5 or 2.6 as drafted were unenforceable for the purpose of s.142 of the EqA 2010 and if so, on what basis?
 - (ii) how does the express provision for modification of unenforceable terms by a county court at s.143 of the EqA 2010 relate to the decision taken here?
 - (iii) Do the Liberal Democrats qualify as an ‘association’ so as to be governed by Part VII of the EqA 2010 and in particular, what aspects of the membership application process ‘involves a process of selection’ to bring it within the meaning of s.107(2)(b) of the Act?
 - (iv) Does the Respondent argue that articles 2.5 and 2.6 of the Federal Party Constitution are ‘selection arrangements’ within the scope of s.104 of the EqA 2010 and if so, why?
 - (v) Does the Respondent rely on s.158 of the EqA 2010 and if so, why is it contended that this *compels* positive action, as ‘re-interpreted’, when the wording is ‘does not prohibit’? If s.158 is relied upon, please could he provide the evidence base upon which he determined that
 - the relevant persons suffering each protected characteristic suffered a relevant disadvantage, had relevantly different needs or had disproportionately low participation (s.158(1)); and

- the quotas were proportionate action towards achieving the relevant aim(s) in s.158(2)?
- (vi) Does the Respondent rely on other provisions of the EqA 2010 and if so, which?
- (vii) Are transgender individuals with gender dysphoria ‘disabled’ for the purposes of the EqA 2010 s.6(1) and to what extent are requirements to make reasonable adjustments for the disabled (s.20(3) and (6), s.103(1), s.107(8) and sched.15 para 2) engaged in respect of such individuals; if engaged does a duty to make reasonable adjustments extend in any relevant way to modifying the rules and procedures for elections that would otherwise apply?;
- (c) which specific provisions of the Equality Act 2010 and/or decided cases the Appellant contends render the decision discriminatory and on what basis;
- (d) (if the Human Rights Act argument is pursued) what specific authority is relied upon by the Appellant to argue that the Party is a public authority and is in breach of the Act by taking the impugned decision.

David Graham
Case Manager
30 October 2025