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**BLAC Lib Dems - Appeal decision**

1 message

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**William Charnley** [REDACTED]  
To: Amy Westcott [REDACTED]  
Cc: standardsofficer Officer <standardsofficer@libdems.org.uk>

16 August 2021 at 02:09

Dear Amy,

Thank you very much indeed for sending through the requested papers in respect of the BLAC Lib Dems and party members appeal of the Rooney Rule that I requested. The following papers have been submitted: -

1. The Appeal papers
2. A copy of the adopted rules
3. A copy of the amended rules
4. A copy of the advice received by the Liberal Democrats from Guy Vassall-Adams QC

I have reviewed and considered all the papers and in particular whether there is any necessity for further amendment of the rules for the selection of Westminster Parliamentary Candidates in England in light of the appeal and Section 104 of the Equality Act 2010. Having considered the matter carefully and having reviewed the documentation/evidence submitted and the provisions of Section 104 of the Equality Act 2010, I am of the view that the rules were carefully considered within the ambit of the law and advice was taken from a leading silk in this area and as such, there is no further need to amend the rules at this stage based upon the law and procedures adopted. Indeed, whether or not there were other lawful rules that might have been drafted, it is not the role of the Federal Appeal Panel to write/re-write the rules or dictate a particular selection procedure. I am therefore dismissing the appeal under Rule 3.5(a) on the basis that having regard to the circumstances the appeal is insubstantial.

The effect of Section 104(3) is to make it a pre-condition of any positive discrimination under this provision that (1) its purpose is to reduce inequality in the party's representation in the body concerned and (2) it is a proportionate means of achieving that purpose. Section 104(4) makes it clear that inequality in this context means under representation of persons with the protected characteristics among the party's representatives and the political bodies concerned.

For any analysis under Section 104, the correct starting point should be to ask whether any particular protective characteristics is unrepresentative among Liberal Democrat representatives in the political body in question, by reference of the prevalence of that protected characteristic among the population at large. Unless that condition is satisfied, it is not permissible to adopt positive measures for that particular protected characteristic.

I now turn to the question as to whether that the English Party failed to comply with article 19.4 G of the Federal Constitution, that is there is not a system in place to secure adequate representation of groups having protected characteristics within the meaning of the Equality Act 2010. This in my view is a relatively straight forward position, it is not the role of the Federal Appeals Panel to determine what is adequate for the purpose of that provision, this is a role for the political body drawing up the selection rules.

I am therefore of the opinion that the party is within the rules, complying with the law as is currently enforced, and indeed ensures that any form of discrimination against people with protected characteristics when selecting respective candidates is prohibited by the rules. Based upon this, I do not consider there is any merit in the appeal as what the appellants are asking for is already provided for in the rules and to go further may open up the party to legal action by persons who consider that they have been wrongly excluded or not allowed to stand as candidates.

Best regards,

William

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**William F. Charnley**  
Partner