

t: 0131 200 1299
f: 0131 608 1004
e: sindi.mules@balfour-manson.co.uk
DX: ED4 Edinburgh

SNP
info@snp.org

BY E-MAIL ONLY

Our Ref: SM/CG/FWS

Your Ref:

08 October 2020

Dear Sir/Madam

ALL-WOMEN SHORTLIST STIRLING CONSTITUENCY

We have been instructed by For Women Scotland, which is a group made up of ordinary women from all over Scotland who came together in June 2018 with the aim of giving ordinary women in Scotland a stronger political voice and to campaign and press for the strengthening of women's rights and children's rights in Scotland.

We understand that the SNP has chosen to run all-women shortlists (AWS) in several constituencies for the upcoming Scottish election, namely Aberdeen Donside, Argyll and Bute, Banffshire and Buchan Coast, Caithness, Sutherland and Ross, Clydesdale, Falkirk East, Stirling, plus Uddingston and Bellshill.

As you will be aware, AWS are a means of redressing the historical under-representation of women in Parliament and other elected positions. They are legislated for by the Equality Act 2010, Part 7, section 104[1] and the accompanying Explanatory Notes.[2]

The Equality Act is quite clear: these shortlists are single-sex, and are restricted to candidates who share the protected characteristic of the sex that is under-represented, specifically, the Equality Act provides that in relation to the protected characteristic of sex, "a reference to a person who has a particular protected characteristic is a reference to a man or to a woman"[3] and that a woman is defined as a "female of any age".[4]

It has been brought to our clients' attention that the party is breaching this legislation in the Stirling constituency where a male candidate is included on the list of potential candidates.

The Equality and Human Rights Commission confirms that the provisions in the Equality Act apply differently to a trans person with a Gender Recognition Certificate (GRC) than to those without a GRC. They also state that "a trans woman who does not hold a GRC and is therefore legally male would be treated as male".[5]

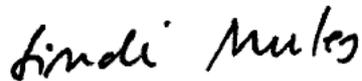
It is confirmed in the video "What's next for the Gender Recognition Act?"[6] (at 13:16 minutes) that the candidate Mridul Wadhwa does not have a GRC, so is therefore legally male.

As such, the arrangements as we understand them to be, currently in place in Stirling contravene the law and we are writing to ask that immediate steps are taken to comply with the terms of AWS in the Equality Act.

There may be a similar breach in other constituencies, in particular Argyll and Bute, and we also request that the SNP ensure legal compliance in all such constituencies bound by all-women shortlists.

We look forward to receiving a substantive reply to this letter by 14 October 2020.

Yours faithfully,



Sindi Mules
Partner
Balfour+Manson LLP

[1] <https://www.legislation.gov.uk/ukpga/2010/15/section/104>

[2] <https://www.legislation.gov.uk/ukpga/2010/15/notes/division/3/7/5>

[3] <https://www.legislation.gov.uk/ukpga/2010/15/section/11>

[4] <https://www.legislation.gov.uk/ukpga/2010/15/section/212>

[5] <https://www.equalityhumanrights.com/en/our-work/news/our-statement-sex-and-gender-reassignment-legal-protections-and-language>

[6] <https://www.youtube.com/watch?feature=youtu.be&v=zELQr0jQsx8>