

## Briefing on Section 106 of the Equality Act 2010

### Who we are

The [Electoral Reform Society](#) is the UK's leading voice for democratic reform campaigning for a better democracy in the UK. The Society's vision is of a democracy fit for the 21st century, where every voice is heard, every vote is valued equally, and every citizen is empowered to take part. We make the case for lasting political reforms, we seek to embed democracy into the heart of public debate, and we foster the democratic spaces which encourage active citizenship.

[Centenary Action](#) was founded in 2018 by Helen Pankhurst CBE to build on the legacy of the suffrage movement and campaign for a gender-equal Parliament by 2028, the centenary of equal franchise. A leading voice for women's political representation, Centenary Action brings together over 200 organisations, politicians, academics, business leaders and activists to drive change.

Centenary Actions' mission is to eliminate the barriers preventing women, in all their diversity, from participating in politics by fostering collaboration, joint action, and campaigning to enhance women's political representation in the UK. We advocate for the development, improvement and implementation of laws and policies that reduce or remove the barriers to women's political participation.

### What is section 106?

Section 106 of the Equality Act 2010 requires parties to publish data on the [protected characteristics](#) of candidates for general elections (to the UK Parliament) as well as elections to the Scottish Parliament and the Senedd (the Equality Act does not apply to Northern Ireland). Whilst the provision is within the Equality Act 2010 it has never been brought into force (commenced).

The Electoral Reform Society and Centenary Action have been campaigning for the commencement of Section 106 since 2018. The UK Government made a [Ministerial commitment](#) to commence this provision in early 2025. Since this commitment, we have consulted with various academics, members of political parties and political party women's group, statutory bodies, membership organisations and others across civil society, who had a range of expertise and views on this issue. A list of the individuals and bodies consulted is provided in Appendix 1. This consultation process helped us to develop this briefing, which proposes a way forward for effective implementation of Section 106, with the aim of increasing transparency and awareness about diversity in Parliament across England, Scotland and Wales.

### Why should Section 106 be commenced?

Never in Parliamentary history has the UK House of Commons been fully representative of the diversity of people within British society. For example, up until the [2024 general Election the total number of women MPs](#) ever elected would not fill the 650 seats in the House of Commons. Currently, only [10 MPs](#) in the current Parliament have declared a disability, despite one in five people of working age being disabled. It was only at the [last election](#), with [the election of a record number of ethnic minority MPs](#) (14%), that Parliament came close to reflecting the ethnic diversity of the population ([16% of the UK population was from a minority ethnic background in](#)

[2022/23](#)). 263 female MPs were elected in the 2024 election, the largest number ever. However, women are still under-represented, as they only make up [40% of MPs](#), despite being [51% of the population](#) of the UK.

A key factor in increasing representation in Parliament is increasing the diversity of electoral candidates. For example, at the 2024 general election, just [31% of candidates](#) were female, in 50 seats, all of the candidates were male and there were no seats with all female candidates. We undertook [research](#) on this issue at the 2024 election and found that none of the main parties achieved equal numbers of male and female candidates. Whilst [parties have taken steps to try to increase women's representation and progress has been made](#), results have varied, both between parties and across elections.

There is currently no standardised data collection mechanism for collecting equality data on election candidates, nor any legal requirement for parties to publish the data they collect. As a result, there is limited information around the diversity of election candidates. Commencing Section 106 would require parties to report on the protected characteristics of their candidates, improving accountability and transparency. Clear data collection, monitoring and reporting processes would allow parties to identify any gaps in representation and take targeted, meaningful action, such as improving candidate selection practices.

Implementation of Section 106 would shine a light on the issue and give parties the opportunity to share and celebrate the progress they have made towards creating a more diverse Parliament.

### **What does commencement involve?**

Commencing Section 106 would be a straightforward process, where a [Statutory Instrument](#) (SI) is laid by a minister before Parliament using the “affirmative resolution” process. This means that it undergoes a Parliamentary process and is approved by resolution of each House of Parliament, before being signed by the minister and becoming law. [Regulations](#) would need to be created, to set out the publication requirements. These might include, for example: what information should be published, what time period the data should cover, what format it should be published in, when it should be published, and descriptions of which political parties are required to publish it.

### **Proposed process**

The UK Government will need to consider how to implement section 106 effectively. To inform their planning process, we are proposing a series of practical steps that we believe would enable a successful roll out of Section 106 provisions. In our view, this process will support consistent data collection and collation and promote secure data storage and publication, in line with data protection requirements.

#### Questionnaire development

1. A list of questions should be developed for candidates, about their protected characteristics. We envision this would be done by an organisation which is not a political party, and which is outside of Government to ensure Section 106 remains independent. Examples of relevant bodies are the Electoral Commission or the Equality and Human Rights Commission (EHRC) (subject to their priorities and resources). The questions should follow national standards and best practice for collecting data on protected

characteristics, such as the [Office for National Statistics \(ONS\) harmonised standards](#), which are well researched and widely used across the UK public sector and within surveys. Using these standards would also allow for comparison against other datasets which use the [ONS harmonised standards / questions](#).

NB: Due to various reviews including [ONS' review on quality of Census 2021 gender identity data](#), [OSR's review of statistics on gender identity](#) and the [Independent review of data, statistics and research on sex and gender from the Department for Science, Innovation and Technology](#) the ONS is currently undertaking a [programme of work](#) to produce new harmonised standards on sex and gender identity, which is expected to conclude in 2027. The Office for Statistics Regulation (OSR) are also updating their [guidance on data and statistics about sex and gender identity](#) following the [UKSC 16 \[2025\]](#) which will provide official statistics producers, such as the ONS, tools to guide their collection and reporting of sex and gender identity data. There is interim guidance provided by the ONS on collection of [sex](#) and [gender identity](#) data, a decision will need to be made whether to use this guidance or wait for the completion of the above mentioned ONS and OSR updates.

2. The nine protected characteristics covered by the Equality Act 2010 are: [age](#); [disability](#); [gender reassignment](#); [marriage and civil partnership](#); [pregnancy and maternity](#); [race](#); [religion or belief](#); [sex](#) and [sexual orientation](#). We believe the questionnaire should include all protected characteristics except the two which Section 106 explicitly excludes: pregnancy and maternity and marriage and civil partnership.

**2a.** When assessing which protected characteristics should be included in Section 106, our view is that all except the existing characteristics which are explicitly excluded (pregnancy and maternity and marriage and civil partnership) should be included to ensure that all protected characteristics are recognised and that Section 106 remains evergreen.

**2b.** We suggest undertaking a consultation to ensure that views from a diverse variety of stakeholders help shape any decisions made on including or excluding certain characteristics. The consultation should include discussion around unintended impacts of publishing data on protected characteristics, such as particular sensitivities around publishing data on characteristics such as religion.

**2c.** Whether the number of those with certain protected characteristics will be too small to publish will be determined by the principle of [statistical disclosure control](#). The principle of [statistical disclosure control](#) minimises the possibility of individuals being identifiable through the published data. This means that any categories which have 10 data points or less should not be reported on.

**2d.** It is likely that for certain protected characteristics, such as gender reassignment, the number will be lower than others such as age or sex, therefore there is the potential for increased likelihood of identification than others. Gender reassignment is particularly sensitive information, and as such caution needs to be taken when collecting and disclosing this information through publication. Whilst not everyone with the protected characteristic of gender reassignment will have a gender recognition certificate, the [Gender Recognition Act \(2004\)](#) made it a criminal offence to disclose information on

protected information, which includes a person's gender history and Gender Recognition Certificate application, without explicit consent.

**2e.** The number of candidates with particular protected characteristics, such as gender reassignment, may change in years to come; therefore including all the protected characteristics, apart from those explicitly excluded, is important to ensure Section 106 acknowledges the diversity of all candidates.

- 3.** Parties would be free to develop their own additional questions, separately to the questionnaire on protected characteristics, in order to meet their party's needs, e.g. questions on Welsh language skills or parental / caring responsibilities. This would give parties the ability to gain additional information tailored to their own party's demographics whilst the use of the standard questionnaire would ensure that data about protected characteristics is done in a consistent and comparable manner across the different parties. Any additional questions should be developed in line with best practice guidelines laid out by the [ONS harmonised standards](#). Helpful guidance and training on creating questions can be found on the [ONS website](#).

#### Who is covered by S106 and ensuring anonymity

- 4.** Section 106 leaves it to the regulations to provide a description of which political parties the duty applies to. We recommend the provision applies to parties who stand candidates in 30 constituencies or more. Reasons for this figure are outlined below:

**4a.** Smaller parties are more likely to struggle with the administrative burden of collecting and publishing data in a way which does not identify candidates. We would recommend a definition which specifies that the provision applies to parties who stand candidates in over a certain number of constituencies.

**4a.** [Statistical disclosure control](#) applies where there are 10 data points or less, in order to have a large enough dataset to allow for publication of a breakdown of demographic data the figure needs to be sufficiently large enough for statistical data disclosure rules to not apply, or to apply to as few datasets as possible.

**4c.** Applying the provision to political parties which stand in 30 constituencies or more means the dataset will be large enough that it would allow for a breakdown of demographics of up to three categories per protected characteristic.

**4d.** It will also allow for smaller national parties who only stand in those nations to be included in Section 106 e.g. Plaid Cymru and the Scottish National Party as Wales has 32 constituencies and Scotland has 57.

- 5.** Parties should ask all prospective candidates (those who put themselves forward for consideration) to complete the survey as part of their application process. This process should be similar to completing an equal opportunities monitoring form as required in many jobs. Prospective candidates will be completing a range of forms during this process, so this is the optimal time, supporting good response rates. To further support

response rates, prospective candidates should be given explanatory information on the purpose of S106 alongside the questions, to ensure they understand why this information is being collected and how it will be used. They should be advised that the questions are optional and that they are under no obligation to complete them. It should be made clear that this information will not be used during the selection process or for any purposes other than to fulfil the requirements of S106. They should be told how their data will be stored (known as a privacy notice) by the relevant party and reassured that any personal data they provide as part of the survey will be anonymised if published.

**5a.** We do not envision Section 106 to apply for a by-election or other election to fill a vacancy as the dataset would be too small to allow for adequate anonymisation of the data for publication.

- 6.** Section 106 leaves it to regulations to define which candidate data should be collected from the following list:

- (a) successful applicants for nomination as a candidate at the relevant election;
- (b) unsuccessful applicants for nomination as a candidate at that election;
- (c) candidates elected at that election;
- (d) candidates who are not elected at that election.

**6a.** We recommend that Section 106 is implemented in stages, starting with collecting data about selected candidates and elected candidates (s.1606(3)(a), (c) and (d)), with data about unsuccessful prospective candidates (s.106(3)(b)) to be included in the second stage. We believe that this would make the initial roll out more straightforward and enable parties to develop internal processes to collect, analyse and monitor equality information about candidates before being asked to collect a larger amount of data on aspirants.

#### Data protection

- 7.** Candidates must be confident that their data is being protected, stored and used solely for monitoring purposes. Therefore, when the application forms and the questions about protected characteristics are completed, they must be held separately. The candidate selection process must not involve any person who is collecting the data on protected characteristics.
- 8.** As part of the roll out of Section 106, we recommend that training sessions are provided for political parties about data handling; this could be undertaken by the Information Commissioner's Office (ICO). Staff responsible for data about protected characteristics should implement [advice for small and medium organisations](#) and the [guidance on special category data](#) from the ICO to ensure they are handling and storing it correctly. Parties are already required to adhere to the UK General Data Protection Regulation (UK

GDPR), the Data Protection Act 2018 (DPA) and the Privacy and Electronic Communications Regulations 2003 (PECR). So parties should already be familiar with existing requirements. They should have staff with the knowledge and skills to undertake a [Data Protection Impact Assessment](#), to identify any potential risks such as privacy, when handling the data .

#### Data collection and publication

9. Parties should be provided with clear guidance on how to collate and publish their data, including how to avoid identifying individuals. This should include a template for them to complete, to ensure data is published by parties in a standardised and consistent way, to allow for comparison. The data should be published on a dedicated page on their websites. This would promote transparency and report on the progress parties have made to date, this also would allow parties to celebrate their commitment to S106 and their progress. The template could be provided by the same independent body which provides the questionnaire and collates the data for publication.
10. Our recommended system would also involve parties submitting their data to an independent body, such as the Electoral Commission or EHRC, so they can publish data from all parties in one central, easily accessible location. This could be done either through an online portal or by submitting the publication template to the third party. Having an independent body publish the data alongside the individual parties will allow for comparison between parties and provide a helpful overview about diversity of representation across England, Scotland and Wales.
11. It is best practice to publish data at the most granular (highest level of detail) and disaggregated (broken down into sub-categories) levels possible, whilst ensuring that [individuals can't be identified](#). Additionally, within Section 106 there is a strong anonymity provision and the duty to publish only applies as long as candidates can't be identified. Parties should be provided with guidance on how to publish data whilst ensuring candidates can't be identified. This may mean that even if more detailed data has been collected, it may need to be published in a less detailed form. For example, detailed information may be collected and held on candidates, for example using the more detailed [ethnicity categories in the 2021 census](#) (i.e. Indian, Pakistani, Bangladeshi, Chinese, Any other Asian background). However, it may be appropriate to publish it under the broader category (i.e. Asian or Asian British) so that people can't be identified.

*See Appendix 2 for an example of how this might work with reporting data on race.*

12. [Personal information](#) will be collected under S106, UK GDPR defines personal information as any information relating to an identified or identifiable person either directly or indirectly such as name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity. The data collected under S106 will likely be classified as [special category data](#), special category data has certain extra protections

assigned to it as it is sensitive and private data, “use of this data could create significant risks to the individual’s fundamental rights and freedoms”. More information on the handling, processing and publishing of personal information and special category data can be found in the [ICO personal information guidance](#), the [ICO guide on data protection principles](#) and the [ICO guide of special category data](#).

13. It will be simplest to publish data on individual characteristics. However, the collection process will also generate data on multiple, intersecting characteristics (such as age and disability). While this can provide valuable insight into the combined barriers some groups face, a decision needs to be made over whether this data is within the remit of Section 106 and if publishing it would increase the risk of identifiability. If published parties must exercise caution and follow [statistical disclosure control](#) (as discussed above).
14. We recommend that the anonymised data is published within a set timeframe, on a specified date, after polling day of the relevant election. To enable a moment of scrutiny of candidate diversity across all parties we recommend that the date for publication be as close as possible to the election date to capitalise on election interest and contribute to election analysis.

#### Future considerations

15. We envision Section 106 is commenced in two stages; the first, outlined in this briefing, focused on establishing systems which are operational for parties and the responsible independent body such as the EHRC or the Electoral Commission in terms of designing, collecting and publishing the data.
16. The suggested second stage, introducing s.106(b) unsuccessful applicants for nomination as a candidate at that election; will be focused on embedding these processes and systems within parties throughout the selection process. Further thinking needs to be done to understand how to collect data on s.106(b) unsuccessful applicants for nomination as a candidate at that election; as parties have different processes for determining applicants for nomination.
  - 16a. Stage two could also include extending Section 106 to local government elections; this would require new primary legislation and would need further consideration due to the large number of independent candidates and smaller parties standing in local elections.

#### **First stage**

The first stage of Section 106 would apply to data about selected candidates and elected candidates (s.106(3)(a), (c) and (d)).

#### **Second stage**

The second stage of Section 106 could include data on unsuccessful applicants for nomination (s.106(3)(b)), fulfilling all the provisions currently set out within Section 106. Additional primary legislation could also be laid to extend Section 106 to local elections.

**Appendix 1: Briefing consultees**

Association of Electoral Administrators (AEA)

Professor Susan Badnucci (University of Birmingham)

Dr David Barrett (University of Exeter)

Bates Wells & Braithwaite London LLP

Dr Chris Butler (University of Antwerp)

Dr Sofia Collingnon (Mile End Institute, Queen Mary University)

Disability Policy Centre

Disability Rights UK

Electoral Commission

Professor Elizabeth Evans (University of Southampton)

Equality and Human Rights Commission

Fawcett Society

Information Commissioner's Office

Dr Sarabajaya Kumar (University College London)

Labour Women's Network

Liberal Democrat Women

Merched Plaid (Plaid Cymru)

Dr Stefanie Reher (University of Strathclyde)

Dr Caitlin Schmid (King's College London)

The Society of Local Authority Chief Executives and Senior Managers (Solace)

Professor Alice Sullivan (University College London)

Issy Tanner (University of Exeter)

Welsh Government

Women to Win (Conservative)

## Appendix 2: Reporting on sub-categories of data

When reporting on race, whilst parties may collect sub-categories such as Ethnic group classification 20b, only larger aggregated categories such as Ethnic group classification 8a should be reported on. This example is taken from the [2021 census group classification](#).

| Ethnic group classification 20b                                           | Ethnic group classification 8a                               |
|---------------------------------------------------------------------------|--------------------------------------------------------------|
| 1 Asian, Asian British or Asian Welsh: Bangladeshi                        | 1 Asian, Asian British or Asian Welsh                        |
| 2 Asian, Asian British or Asian Welsh: Chinese                            | 2 Black, Black British, Black Welsh, Caribbean or African    |
| 3 Asian, Asian British or Asian Welsh: Indian                             | 3 Mixed or Multiple ethnic groups                            |
| 4 Asian, Asian British or Asian Welsh: Pakistani                          | 4 White: English, Welsh, Scottish, Northern Irish or British |
| 5 Asian, Asian British or Asian Welsh: Other Asian                        | 5 White: Irish                                               |
| 6 Black, Black British, Black Welsh, Caribbean or African: African        | 6 White: Gypsy or Irish Traveller, Roma or Other White       |
| 7 Black, Black British, Black Welsh, Caribbean or African: Caribbean      | 7 Other ethnic group                                         |
| 8 Black, Black British, Black Welsh, Caribbean or African: Other Black    | -8 Does not apply*                                           |
| 9 Mixed or Multiple ethnic groups: White and Asian                        | *Students and schoolchildren living away during term-time.   |
| 10 Mixed or Multiple ethnic groups: White and Black African               |                                                              |
| 11 Mixed or Multiple ethnic groups: White and Black Caribbean             |                                                              |
| 12 Mixed or Multiple ethnic groups: Other Mixed or Multiple ethnic groups |                                                              |
| 13 White: English, Welsh, Scottish, Northern Irish or British             |                                                              |
| 14 White: Irish                                                           |                                                              |
| 15 White: Gypsy or Irish Traveller                                        |                                                              |
| 16 White: Roma                                                            |                                                              |
| 17 White: Other White                                                     |                                                              |

- |    |                                            |  |
|----|--------------------------------------------|--|
| 18 | Other ethnic group: Arab                   |  |
| 19 | Other ethnic group: Any other ethnic group |  |
| -8 | Does not apply*                            |  |

\*Students and schoolchildren living away during term-time.