



Shona Robison MSP
Cabinet Secretary for Social Justice, Housing and Local Government
Scottish Government
St Andrew's House
Regent Road
Edinburgh, EH1 3DG
By email: CabSecSJHLG@gov.scot

31 January 2022

Dear Ms Robison,

EHRC Statement on Gender Recognition Reform

We are writing to you in response to the Equality and Human Rights Commission's recent letter to you on gender recognition reform.

We are aware that the EHRC have called for "more detailed consideration" on a range of issues before proceeding with reform.

This position is incoherent, considering reforms to the Act are one of the most consulted on policies in the Scottish Parliament's history. In the last five years, there has been two high-profile public consultations on reform, including on a draft Bill. When a Bill is introduced to the Scottish Parliament this year, there will be a lengthy period of detailed scrutiny of its provisions through the parliamentary process, allowing for the more detailed consideration the EHRC have called for.

We would note that EHRC Scotland responded to both of those previous consultations, supporting reform, and identified the simplification of the gender recognition process as one of their [key policy priorities](#) going into the 2021 Scottish Parliament election.

Several of the issues they have raised requiring "more detailed consideration" they have previously spoken directly to, asserting that they do not present barriers to reform, and in fact advancing the exact opposite assertion. For example, in their response to the UK Government's consultation on reforming the Gender Recognition Act, they said that:

"The process for seeking legal gender recognition should not perpetuate the false assumption that being trans is a mental illness, and should therefore not rely on any medical diagnosis or intervention."

We would also highlight that whilst their letter states that they look forward to "working with you and others" on improvements to gender identity services in Scotland, the significant change in their position on gender recognition reform has been reached without any direct consultation with trans people in Scotland, or organisations advocating for their equality and human rights.



We think that this lack of direct consultation with trans people is a central reason that they have been able to come to a position so far removed from previously publically stated ones, in line with well-established international human rights principles. We regret that this change in position would seem to fundamentally undermine their role to uphold and protect the equality and human rights of all people with protected characteristics, and has understandably seriously damaged the confidence that many LGBT+ people, particularly trans people, have in the Commission to do so.

We would welcome assurances that the Scottish Government still intends to progress with legislation to reform the Gender Recognition Act in this first year of the parliamentary session, and that this will not be subject to any unnecessary delays.

Kind regards,

Tim Hopkins
Director
Equality Network

Mhairi Crawford
Chief Executive
LGBT Youth Scotland

Colin Macfarlane
Director
Stonewall Scotland

Maruska Greenwood
Chief Executive
LGBT Health and Wellbeing

Vic Valentine
Manager
Scottish Trans Alliance