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Dear Kishwer,

Thank you for your further letter of 5 April.

I am grateful for the information you have provided in our correspondence, though it remains unclear to me how this has led to the change in EHRC's position on gender recognition reform, given that it is largely the same evidence that informed EHRC's previous position. It is also unclear how the other issues you have raised are relevant to the proposals in the Bill, the scope of which is specific and limited. You refer to a need for further consideration before proceeding with reform in this area but you have not set out specifically what further evidence or consideration you think would be required.

I welcome EHRC's publication of the analysis of consultation on your Strategic Plan 2022-2025, but I note there were no references to gender recognition reform in the draft plan or consultation questions.

I remain of the view that it would be helpful for you to clearly set out the evidence base for EHRC's change of position away from advocating for a de-medicalised system to change legal sex in order to better support trans people to live their lives free from discrimination.

I also note the publication of EHRC's guidance on separate and single-sex services on 4 April. I welcome efforts to promote clarity and consensus around a challenging issue and acknowledge that this guidance is intended to do so.

However, it would be helpful if you would clarify the interaction of this guidance with EHRC's existing Statutory Code of Practice (the Code). As I understand it, the Code is intended to be a guide to the Equality Act 2010 and is described in the Foreword section at page 18 as "the authoritative, comprehensive and technical guide to the detail of law".

The Code states the following in relation to 'Gender reassignment discrimination and separate and single-sex services':



- 13.57 – If a service provider provides single or separate sex services for women and men, or provides services differently to women and men, they should treat transsexual people according to the gender role in which they present.
- 13.60 – ... any exception to the prohibition of discrimination must be applied as restrictively as possible and the denial of a service to a transsexual person should only occur in exceptional circumstances.

Can you clarify if the intention of the Guidance is that the starting principle for any decision about trans people using separate or single-sex spaces should be to treat them according to their lived gender and include them as far as is possible and reasonable? Do you also mean that excluding trans people from these spaces should be an exception to a general rule of inclusion, and that this recourse should only be used when there is a legitimate reason to do so? It would be helpful if EHRC would reaffirm the general principle of inclusion within the Guidance as also set out in the Code.

Finally, you refer in your letter to the interim review of gender identity services in England for children and young people by Dr Hilary Cass. Whilst the Cass Review has no role in reviewing NHS Scotland clinical services, the Scottish Government will consider the findings and have noted the publication of the review's interim report.

The Scottish Government's [NHS Gender Identity Services: Strategic Action Framework](#) commits to the establishment a national reference group to oversee the implementation of commitments within the framework. Information on the work of the reference group will be published on the Scottish Government's website in due course.

One of the Framework's commitments was to support the current review and update of the NHS Scotland Gender Reassignment Protocol. You may be interested to read about the progress of that work [Gender Reassignment Protocol \(GRP\) 2022 \(scot.nhs.uk\)](#).

I look forward to your reply.

Yours sincerely,



SHONA ROBISON