

1 August 2022

By email from: [info@forwomen.scot](mailto:info@forwomen.scot)  
to: [vawgfundingreview@gov.scot](mailto:vawgfundingreview@gov.scot)

Dear Sir/Madam,

**Independent Strategic Review of Funding and Commissioning of Violence Against Women and Girls Services: call for evidence**

We note that the information below the first question in the consultation states that violent and abusive behaviour is directed at women and girls *precisely* because they are women and girls. We are at a complete loss why then, 'woman' has been redefined from its clear and commonly understood definition to the imprecise and circular "anyone who defines themselves as a woman".<sup>[1]</sup>

This has two significant implications for any VAWG service. First, it discriminates by denying services to women who claim the Equality Act protected characteristic of gender reassignment but who are, nonetheless, still covered by the protected characteristic of sex, which means "a female of any age" when referring to women. Evidence shows that girls and young women are over-represented in referrals to gender-identity clinics,<sup>[2]</sup> some of whom will be engaging in a process of reassignment as a response to trauma from male violence or sexual assault and may therefore be in particular need of VAWG services. It logically follows there may also be a continuing need for such services, even after gender reassignment, as a consequence of high risk choices to use men's single sex spaces.

Secondly, it extends women's resources to any man who defines himself as a woman. Men who hold such identities may be protected by gender reassignment but their sex will always remain that defined in the Equality Act as "a male of any age". These men may not be best served by inclusion in women's services where professional expertise is tailored to the quite different experiences suffered by women. Additionally, many surveys conclude that not only do women highly value women-only services, but they will opt to exclude themselves from accessing much needed help if they are not available.<sup>[3]</sup> Please read the recent report from the Scottish Women's Convention<sup>[4]</sup> which, for the first time, allowed women to give their testimonies on self-exclusion, and recommends that "all organisations have to state clearly that they have women only spaces under the Equality Act 2010 single sex space provision" and that "proper support, counselling and trauma informed services are available to women at all times which can help them to deal with the violence they have faced at the hands of males".

We also note any recognition that men are the overwhelming perpetrators of violence against women is distinctly lacking in the consultation document and it should be

immediately obvious that placing members of that sex-class in close proximity with female victims, either as service-users or employees, is problematic and likely to cause re-traumatisation.

Perhaps the Scottish Ministers have failed to widely circulate the information but, since it has clearly escaped your notice, we bring to your attention the Inner House Court of Session decision<sup>[5]</sup> of 18 February 2022 in *For Women Scotland v Lord Advocate and Scottish Ministers* which ruled it is outwith the Scottish Government's competence to redefine the Equality Act's protected characteristics, including the term 'woman'.

From Paragraph 36 of the court's judgment: "So far as the characteristic of sex is concerned, it would be open to the Scottish Parliament to make provision only for the inclusion of women, since a reference to a person who has a protected characteristic of sex is a reference either to a man or to a woman. For this purpose a man is a male of any age; and a woman is a female of any age. Section 11(b) indicates that when one speaks of individuals sharing the protected characteristic of sex, one is taken to be referring to one or other sex, either male or female. **Thus an exception which allows the Scottish Parliament to take steps relating to the inclusion of women, as having a protected characteristic of sex, is limited to allowing provision to be made in respect of a "female of any age". Provisions in favour of women, in this context, by definition exclude those who are biologically male.**" (Emphasis added.)

When questioned by Lady Dorrian at the Inner House hearing on 22 March 2022, Ruth Crawford QC, acting on behalf of the Lord Advocate and the Scottish Ministers, accepted that the effect of the court's decision is that the term 'woman' **must** be governed by the Equality Act.

It is, therefore, untenable that this consultation seeks to introduce a redefinition of 'woman'. To do so clearly falls foul of established law and the consultation should be immediately revoked and reissued with a correction to ensure it is lawful. Ignoring the court's verdict would be both unwise, and detrimental to women who are in need of VAWG services.

Yours faithfully,

Trina Budge, Marion Calder and Susan Smith  
Directors, For Women Scotland

## References

1. <https://www.gov.scot/publications/independent-strategic-review-funding-commissionin-g-violence-against-women-girls-services-call-evidence/pages/4/>
2. <https://www.transgendertrend.com/current-evidence/>

3. Findings from the Women's National Commission survey on women-only services, 2010

99% believe it is important to be able to access a women-only service

[https://web.archive.org/web/20110818090820/http://wnc.equalities.gov.uk/publication/cat\\_view/143-policy-documents/77-equalities.html](https://web.archive.org/web/20110818090820/http://wnc.equalities.gov.uk/publication/cat_view/143-policy-documents/77-equalities.html)

The impact of changes in commissioning and funding on women-only services, Equality and Human Rights Commission, 2012

95% of users said the women-only aspect of the service was important, most would not access the service if it was not women-only

<https://www.equalityhumanrights.com/sites/default/files/research-report-86-the-impact-of-changes-in-commissioning-and-funding-on-women-only-services.pdf>

Female Only Provision: A Women and Girls in Scotland Report, 2019

A majority of women (80.1%) said that female victims of male violence should be able to access female-only survivor support services and refuges, and a majority (71%) said that if they had reason to use survivor support services or a refuge, they would not be comfortable if the service was inclusive of trans-identified males.

<https://wgscotland.org.uk/reports/>

#TERF/Bigot/Transphobe - We found the witch, burn her!, Shonagh Dillon, 2021

Findings show the silence of MVAW umbrella bodies resulted in frustration from some of their own members, the wider movement, and female victims and survivors.

<https://shonaghdillon.co.uk/research/7-conclusions-and-recommendations/>

4. <https://www.scottishwomensconvention.org/files/single-sex-spaces-report.pdf>
5. <https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2022csih4.pdf>