

HUCA Annual Conference - Trina Budge, 13 September 2025

Good morning and thank you for inviting me to speak to you today. It's a real pleasure to be here and I'm particularly pleased to be in Inverness rather than having to drive down the A9 once again to Edinburgh.

For Women Scotland has had quite the adventure over the last 7 years, from starting as a small grassroots group concerned about how proposals to amend the Gender Recognition Act would affect women, all the way to winning a landmark case at the UK Supreme Court in April, which confirmed once and for all, that "sex" in the Equality Act 2010 is a biological term, and a woman is a biological woman - not a man who thinks he's a woman, and not a man who's obtained a GRC - a Gender Recognition Certificate. It was a real David and Goliath battle and we took on, and ultimately won against the combined might of the Scottish Government, the Equality and Human Rights Commission, and even Amnesty International joined in against us in court.

It all started in June 2017 when the Government introduced a small, really quite obscure Bill about public boards that aimed to increase the proportion of women sitting on them to 50%. At the public consultation stage, a few definitions of the word "woman" had been discussed but, in the end, when the Bill was introduced to Parliament it just referred to "woman", with no further explanation. This was done to align with the meaning as used in the Equality Act which simply says "woman means a female of any age".

However, that all changed when an organisation called Scottish Trans Alliance gave evidence to the Parliamentary Committee who were scrutinising the Bill. They proposed that the definition of women should include anyone who was "living as a woman" - and to this day I still have no idea what that's supposed to

mean! But it was enthusiastically accepted by the 6 members of the Committee - the words “inclusive” and “progressive” were used a lot - and an amendment was duly incorporated into the Bill, and then Parliament voted the Bill through to become law in March 2018, with barely a glance at what was actually a monumental change.

For the first time in law, women were no longer an objectively defined group of people, distinct from men, but any man could choose to be included as a woman. It was self-identification of sex in its purest form and meant that a board could consist entirely of men, if half of them said they were women, and yet still be lawfully said to meet the target for women’s representation.



And significantly, it was done just on the say-so of a lobby group and a handful of MSPs in a Committee. There was no public consultation about the amended

definition, no debate about it on the floor of the Chamber, and no check if it was even still within devolved powers.

I remember watching the Committee sessions and being absolutely appalled that this was going ahead. Women **were** talking about it, mainly on online forums, but we were few in number, anonymous, and I wasn't even sure there were any other people from Scotland paying attention. The first public consultation about the Government's plans to change the Gender Recognition Act was also going on at the same time - which proposed removing medical oversight and making a change of sex on your birth certificate a matter of free choice - but gradually we connected with each other and organised around responding to that consultation. We formed groups online, then met each other in real life, and started openly talking to MSPs and journalists. It was quite a scary time though, because gender ideology was already heavily embedded in public bodies and workplaces, and women were often ostracised or lost their jobs just by raising concerns or asking questions. And by the time For Women Scotland was officially formed we had missed the boat on challenging the public boards Act.

It wasn't until 2 years later that a slim chance to do something about it came up. In April 2020 the Government published their Statutory Guidance for the public boards Act which brought the last sections of it into force, and we thought this might open up the 3 months window again to take legal action. So we consulted lawyers and engaged a brilliant KC, Aidan O'Neill, who agreed we had a good case - and then we went to court for our first judicial review. And lost.

At which point we nearly gave up altogether. We'd garnered a lot of public support from crowdfunding to cover our legal costs but now we were liable for the Government's costs and were facing bankruptcy. But our KC thought we had a good shot at appeal and so we braced ourselves, and carried on. And this

time we won. The highest court in Scotland said the Government had overstepped its powers when it redefined women, and that it had confused and conflated the separate protected characteristics of gender reassignment and sex in the Equality Act. Importantly, it also said that when provision is made for women under the Equality Act, **by definition**, it excludes biological males.

This **should** have had far more impact than it did, and it was hugely frustrating that organisations - including the Government - continued to ignore it and allow biological males to access spaces reserved for women solely on their say-so. Following our win, male murderers and sex offenders remained in women's prisons and Edinburgh Rape Crisis was headed by a man (who identified as a woman), and who said that raped women should "reframe their trauma" if they objected to this male presence.

The Government then did something that, in retrospect, was a terrible error on their part. Instead of striking out the unlawful definition, they added a new one. Updated Statutory Guidance was issued in April 2022 in which they now said "woman" included those biological males who had obtained a Gender Recognition Certificate.

So I went back to our legal team at this point, and said this really didn't match the court's decision that it excluded biological males, and was there anything we could do about it? And I wouldn't normally mention this next bit, but since our KC has told the story himself, I may as well. He said no, he didn't see a problem with it, because section 9(1) of the Gender Recognition Act says a certificate changes a person's sex for **all** purposes, and that was pretty much the end of the matter. But, I argued, what about section 9(3) which says that can be disapplied by other legislation? It seemed clear the Equality Act must have disapplied GRCs, because it couldn't actually work in practice unless there was

a consistent biological definition of sex, not least because pregnancy and maternity protections referred exclusively to women, so any other definition would deny these rights to women who obtained a GRC saying they were men in law. Eventually, Aidan was persuaded we had a case, and judicial review number 2 was born.

The timing was interesting because, at the same time, the Government was steering Nicola Sturgeon's pet project of gender reform through Parliament. We repeatedly asked Ministers what rights they thought were conferred by a GRC. But when it was discussed in Parliament, the excuse was that it was a simple admin change, only important for documents like marriage certificates, and made no difference to access to single-sex spaces. But in court they argued the opposite, it was a vitally important legal change which entitled a man to take a woman's space on a public board. The Government was seemingly arguing for what we called Schrodinger's GRC, simultaneously trivial and yet greatly significant.

Sadly, the Court of Session did not share our opinion and decided that acquiring a GRC **did** change someone's sex for the purposes of the Equality Act. This judgment was handed down just 9 days before Parliament passed the Gender Recognition Reform Bill in December 2022 - despite all the best efforts of Scottish Conservative MSPs, who argued strongly against it.

It seemed the SNP Government had achieved what they had long desired. Any man could self-identify as a woman at will and gain a GRC - it was no longer restricted to just the small group of those with a diagnosis of gender dysphoria - and this would give them full access to women's sex-based rights. There was no medical oversight, and no need for any change in appearance. And of course, since these were confidential certificates that no one was supposed to

know about, women could not question the presence of the obvious male stripping off in her changing room.

We had no choice but to appeal. And of course, we will be forever grateful to Alister Jack, then Secretary of State for Scotland, for stepping forward with a Section 35 order which stopped the Gender Reform Bill from becoming law, on the grounds that it adversely affected the operation of the Equality Act throughout the UK.

We lost the appeal at the Inner House where the court managed to modify the previous decision to make it even more convoluted. They said that where the Act referred to pregnancy it obviously refers to biology, but different parts of the Act could mean certificated sex, although this did not have to be explicitly set out. This would have led to an almost impossible situation where legislation which referred to men or women would be constantly open to challenge.

Even the Scottish Government's lawyers decided this lack of consistency was a bit too Alice in Wonderland and accepted there were grounds for a case to be brought to the UK Supreme Court.

Thankfully, having listened to the Scottish Government's arguments about pregnant men and definitions of lesbians - which were sometimes 2 women, sometimes a man and a woman, and sometimes 2 men, depending on who had a GRC - the Supreme Court decided that any reading of certificated sex made the Equality Act unworkable, and not only for women.

The Scottish Government had already conceded that the cohort **without** a GRC did **not** have the right to access spaces or services for the opposite sex and this,

as the judges correctly identified, created a two-tier category in Gender Reassignment as well as making a mockery of sex-based rights.

Sadly, in the wake of the ruling, there has been a great deal of misinformation, much of it deliberate. The “rights” which some trans groups claim they possessed and have now lost, were **never** conferred by law but had been the result of steady encroachment and campaigns of misdirection. They are not content that Gender Reassignment remains fully protected under the Equality Act and adaptations should be made where possible for trans individuals, but continue to demand an access-all-areas pass to women’s spaces, services and sports.

Much has been made by them that the Supreme Court judgment breaches some unspecified human right and if they can just get a case to the European Court of Human Rights, it will somehow be overturned. In my opinion, that’s not going to happen. For the first time in such a long time due weight was afforded to women’s human rights and if indeed this could cause any such breach to the fundamental rights of others, the Supreme Court would have been obliged to issue a declaration of incompatibility.

I would love to end my talk at this point with the news that the final arbiter on the law has conclusively and unambiguously ruled, and that the Scottish Government has fallen into line, learned the errors of its ways, and restored women’s sex-based rights. However, such is the continued power and influence of trans groups in Scotland that the Government continues to drag its heels over implementing the ruling and, five months on, very little has changed. It’s absolutely infuriating and I would say at this point it’s not so much a delaying tactic, but outright defiance. As a result, we recently announced the launch of case number 3, and we’ll be returning to the courts to ask for orders to quash

unlawful guidance in schools and prisons. I can't imagine how Mr "Rule of the Law" Swinney can justify continuing to instruct schools to allow teenage boys into the girls toilets and changing rooms, but it looks like we'e about to find out early next week.

And just to finish off with a little titbit of trivia. Way back at the beginning of all this, the Commissioner for Ethical Standards gave evidence on the public boards Bill and said that in the previous year the percentage of board members who were women was 49%. There was absolutely no problem to fix, and the legislation was simply not needed at all. Any sane person would have binned the Bill and saved us all a heap of trouble.

Thank you.