

06 January 2026

By email from: info@forwomen.scot
to: firstminister@gov.scot

Dear Mr Swinney,

Thank you for your letter in which you state the Ministerial Code was not engaged when Ministers declined to answer questions in Parliament regarding the policy on transgender prisoners and related legal actions pursued by the Ministers. Section 1.7(d) of the Code makes it very clear, however, that Ministers have a duty to be open, candid and accountable to Parliament, withholding information only when required to do so by relevant statutes. We see no justification for failing to provide information in this instance and would reassert that the Code is relevant and has not been complied with.

Furthermore, unless the Scottish Ministers' KC, Mr Moynihan, is currently acting contrary to your instructions by seeking a Declaration of Incompatibility from the Court of Session on the Supreme Court ruling on Schedule 3 single-sex exceptions in the Equality Act, it is also very clear that the Scottish Government does not accept the ruling of the Supreme Court. In fact, the Ministers are refusing to comply with it and are actively contesting it in the Scottish courts. This is the opposite of acceptance.

We would appreciate an impartial investigation of these issues and ask if you will refer copies of our correspondence to the Independent Advisers on the Ministerial Code for their consideration.

Yours sincerely,

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