

03 March 2026

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

Dear Ms Claire Loftus, Sir John Manzoni KCB and Rt Hon Sir Ernest Ryder,

We have been in correspondence with the First Minister regarding what we consider to be a breach of the Ministerial Code on openness, honesty and accountability. Ministers have repeatedly stated in Parliament that the Scottish Government accepts and is therefore implementing the April 2025 decision of the Supreme Court on the definition of sex in the Equality Act when, in actual fact, they have averred the opposite to the Court of Session. Far from accepting the Supreme Court ruling, the Ministers say it would be unlawful to implement it and are actively challenging it by seeking a Declaration of Incompatibility in respect of the single-sex exceptions in Schedule 3 of the Equality Act.

Our correspondence with the First Minister is enclosed (attachments 1-4). Unfortunately, this concluded on 15 January when Mr Swinney stated: "[A]s these matters are in relation to live court proceedings, it would not be appropriate for me to refer this matter to the Independent Advisers on the Ministerial Code."

However, it is the very fact that matters reached the stage of a judicial review that demonstrates the statements given to Parliament do not correlate with the actions of the Ministers, and make it all the more relevant and appropriate to be examined and investigated. The Answers and Note of Argument lodged with the court, and [published](#) by the Scottish Government, starkly show the contradiction. The Office of the Advocate General for Scotland was notified on 27 November 2025 (see attachment 5) that the Supreme Court ruling was contested and a Declaration of Incompatibility sought.

It is inconceivable that the Scottish Ministers were unaware of this Notice and we highlighted statements to the contrary made by the Cabinet Secretaries Ms Constance and Mr Gray after this date in our initial letter to the First Minister. Since the Ministers' Answers were lodged on 12 December 2025 we are aware of the following further occasions where statements were given to Parliament in contradiction to those given to the court.

- **19 Feb 2026 - Shirley-Anne Somerville (Cabinet Secretary for Social Justice)**
"I reiterate that the Scottish Government accepts the Supreme Court judgment and is implementing it."
Col 8:
<https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=20084>
- **12 Feb 2026 - Angela Constance (Cabinet Secretary for Justice and Home Affairs)**

“The judgment of the Supreme Court is accepted by the Scottish Government.”

Col 7:

<https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=20067>

- **28 Jan 2026 - Angela Constance (Cabinet Secretary for Justice and Home Affairs)**

“Ms Somerville and the Minister for Equalities met For Women Scotland on 22 May 2025, following the United Kingdom Supreme Court judgment, which the Scottish Government has accepted.”

Col 20 (and correction at col 256):

<https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=16798>

- **15 Jan 2026 - John Swinney (First Minister)**

“The judgment of the Supreme Court is accepted by the Scottish Government.”

“I say once again that the Government unreservedly accepts the Supreme Court judgment”

“The judgment by the Supreme Court is accepted by the Scottish Government and what we are doing is ensuring that our policies comply with all our legal obligations”

Col 19 and 21:

<https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=16793>

- **13 Jan 2026 - Kaukab Stewart (Minister for Equalities)**

“Since the Supreme Court’s ruling, we have been clear that we accept that judgment, and the Government is taking forward the detailed work that is necessary as a consequence of the judgment.”

“We have made it very clear, as I have said—thank you for the opportunity to restate it again—that the Scottish Government accepts the Supreme Court ruling. We expect everyone to comply with the law.”

Col 40 and 46:

<https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=20014>

Given the seriousness of this issue, it is essential that transparency and candour are prioritised over political management and we would be grateful if you could provide the First Minister with independent, impartial advice on whether the record should be corrected and if Ministers have knowingly and deliberately misled Parliament.

By necessity, this letter has been sent via the Central Enquiries Unit rather than a direct email contact, and we would therefore appreciate acknowledgement that it has been safely received.

Yours sincerely,

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

Herald Award, Political Campaigner of the Year 2025
Emma Humphreys Memorial Prize, Legal Award 2025