COS-P1183-25 **Pet: For Women Scotland for Judicial Review**

Balfour + Manson LLP

Scottish Government
Scottish Human Rights Commission
Equality and Human Rights Commission

21 August 2026 **Lady Ross**

The Lord Ordinary, having resumed consideration of the cause and the further written submissions of parties, no. 65 of process:

1. finds and declares that the Scottish Prison Service Policy for the Management of Transgender People in Custody Operational Guidance is unlawful insofar as it purports to allow the Scottish Prison Service to accommodate prisoners within prisons for the opposite biological sex;
2. finds and declares that the Scottish Prison Service Policy for the Management of Transgender People in Custody Operational Guidance, insofar as it purports to allow the Scottish Prison Service to accommodate prisoners within prisons for the opposite biological sex, conflicts with the law for the time being relating to equal opportunities within the meaning of section L2 of Schedule 5 to the Scotland Act 1998, and its application is accordingly *ultra vires* under and in terms of section 54(3) of that Act;
3. reduces the Scottish Prison Service Policy for the Management of Transgender People in Custody Operational Guidance;
4. finds the respondents liable to the petitioner in the expenses of the petition process; remits an account of expenses when lodged to the Auditor of Court to tax;
5. finds the petitioner liable to the respondents in the expenses of the opposed motion hearing of 5 November 2025; remits an account of expenses when lodged to the Auditor of Court to tax; and
6. finds the agents for the petitioner entitled to an additional charge in terms of the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019, Chapter 5, Rule 5.2, under reference to heads (b) and (e), with a specified percentage increase of 60%.

Morag V Ross

21 August 2026 **Lady Ross**

The Lord Ordinary decerns against the respondents for payment to the petitioner of the expenses referred to in the foregoing interlocutor as the same shall be taxed by the Auditor of Court.

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Author: Nicola Marchant