

E: DirectorProprietyandEthics@gov.scot

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24th September 2025

Dear Ms Budge,

Thank you for your letter to the Permanent Secretary of 22nd August. You have indicated that you are not satisfied with the conclusion that there had been no breach of the Civil Service Code arising from the concerns you raised in your previous letter of 24th June 2025. In that correspondence you raised concerns that at a stakeholder meeting on 5th June 2025 Catherine McMeeken, Deputy Director in the Equalities, Inclusion and Human Rights Directorate, misrepresented the position of the Equalities and Human Rights Commission (EHRC) on updating guidance following the recent Supreme Court judgment. I have been asked by the Permanent Secretary to provide this response.

It may be helpful for me to set out the basis on which I provided assurance to the Permanent Secretary that there had been no breach of the Civil Service Code.

Following your letter I spoke to a number of attendees of the meeting of 5th June, including attendees from outside the Scottish Government. I also read the transcript of the meeting which you provided me, and considered other notes of the meeting with which I was provided. The accounts of the meeting from the attendees and the meeting notes were broadly consistent.

In your account, supported by the transcript, Catherine McMeeken said the following: “*EHRC gave us the same views as they gave to the UK Government and the Welsh Government, which is, wait until we have come out with the guidance, do not do anything in advance of that.*” (my emphasis). Overall, I understood your account to be that Catherine McMeeken said the EHRC were comfortable that the Scottish Government “do nothing” or “take no action” until the EHRC Code of Practice emerges.

Catherine McMeeken’s position is that she did not say the EHRC were comfortable that the Scottish Government were “doing nothing”. Rather they were comfortable with the preparatory work the Scottish Government was undertaking, and understood the risk legal advisers had raised about issuing updated guidance before the EHRC did so. This would be compatible with the EHRC written response to For Women Scotland, which you shared with the Permanent Secretary.

I considered your concerns on the premise that Catherine McMeeken did in fact say the words you attributed to her (without reaching a conclusion on that one way or other). In any scenario, the context in which remarks are made is critically important, and there is a risk that focussing

on isolated statements can be misleading. I therefore considered the various accounts of the whole meeting, what else Catherine McMeeken said, and the wider discussion that took place. When accounts of the whole meeting are considered, it is clear that Catherine McMeeken went to some length to set out the action which the Scottish Government was taking: the audit of legislation and guidance that would need to be considered, identifying any unintended consequence of changes, and so on. It is clear to me that some stakeholders were not satisfied that this action was sufficient, or happening at sufficient pace. But it is also clear that the activity was set out by Catherine McMeeken, and explained. I concluded therefore that Catherine McMeeken could not have intended to give the impression that the Scottish Government was literally “doing nothing” until the EHRC issued its finalised Code of Practice.

The Civil Service Code provides that Civil Servants are expected to carry out their roles with a commitment to the core values of the Civil Service, which include honesty (defined as “being truthful and open”). However, the Civil Service Code cannot be breached in circumstances where a Civil Servant misspeaks, or inadvertently misrepresents a position, before then setting the position out accurately at some length. This view is supported by paragraph 8 of the Civil Service Code which provides that civil servants must “correct any errors as soon as possible”. I am satisfied that even if Catherine McMeeken made the statements you attribute to her, it is sufficiently clear from the context of the whole meeting that the position of the EHRC was not ultimately misrepresented, because the alleged statement, if made, was clearly qualified by the subsequent explanation of Scottish Government activity that was underway.

In conclusion, I did not find it necessary to reach a view on whether Catherine McMeeken said the words attributed to her by For Women Scotland, which you consider misrepresented the position of the EHRC. This is because even if she did say the words attributed to her, it was sufficiently clear from all the accounts of the meeting as a whole that the EHRC’s position was not misrepresented. Moreover, Catherine McMeeken repeatedly referred attendees to the EHRC directly if clarity on its position was required.

You will appreciate that the additional meeting note you have obtained under Freedom of Information legislation, between EHRC and Scottish Government dated 30th April 2025 which confirms the EHRC’s position does not change this assessment.

I hope this is helpful.

Best wishes



Michael Chalmers
Director for Propriety and Ethics