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Liz Truss
Minister for Women and Equalities

Boris Johnson
Prime Minister

19th March 2022

Dear Liz Truss and Boris Johnson

As individuals and organisations concerned with human rights we call on the UK government to support the Equality and Human Rights Commission (EHRC) to fulfil its mandate and produce guidance on the Equality Act 2010 in relation to single-sex services.

As the country's national human rights institution, the EHRC must be independent of government and must follow a clear legal mandate to promote understanding and enforcement of equality and human rights laws. The principle of operational independence and adherence to the rule of law is crucial to protecting everyone's rights.

The EHRC has both a mandate and duty to provide clear guidance, and has committed to doing so.

Guidance on the Equality Act 2010's provisions on single-sex and separate-sex services is needed to provide clarity for service providers and service users. The lack of clear guidance has contributed to uncertainty for all, including the women's sector and businesses, and to an environment that has been described as "toxic" by groups representing women and transgender people.

The new guidance was expected in January 2022.

Sex Matters is a human rights organisation
campaigning for clarity about sex in law, policy and language

Directors: Michael Biggs, Rebecca Bull, Naomi Cunningham, Maya Forstater, Emma Hilton

We are concerned by the letter of 18th February from the Minister for Women and Equalities, Liz Truss, to the Chair of the EHRC, Kishwer Falkner, which was leaked to the “i” newspaper. The Minister directs the commission to produce guidance that is “aligned with the Code”, rather than with the Equality Act 2010, and appears to suggest that the government would not support the EHRC in laying any amendment to the Code before Parliament.

This undermines the EHRC’s independence. Guidance issued by the EHRC should be grounded in statute and case law, and not influenced by political expediency or pressure from interest groups.

The process for amending the Statutory Codes of Practice is set out in the Equality Act 2006. The EHRC must publish and consult on its draft amendment before submitting the final version to the Secretary of State to be laid before Parliament. The Secretary of State can approve or refuse the amendment at that point, by giving written reasons. (Equality Act 2006 S. 14 (6)).

Signalling in advance, through a private letter and media briefing, that the government will not support an amendment that has not yet been drafted or gone through public consultation is an improper interference with Commission’s performance of its statutory task.

We call on the Minister to make it clear that the Government does not seek to constrain the EHRC in pursuing its mandate. The Government must commit to considering any amendments to the Codes of Practice that the EHRC proposes, following a proper process of publication and consultation on its new guidance.

Ian Acheson, Former Chief Operating Officer, Equality and Human Rights Commission

Nimco Ali OBE

Tanya Carter and Tracy Shaw, Spokeswomen, Safe Schools Alliance

Frances Crook OBE

Naomi Cunningham, Chair, Sex Matters

Stephanie Davies-Arai, Director, Transgender Trend

Dr Shonagh Dillon, CEO, Aurora New Dawn

Ruth Dineen, on behalf of Merched Cymru

Jackie Driver OBE

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Maya Forstater, Executive Director, Sex Matters

Dr Ann Furedi, Former CEO, British Pregnancy Advisory Service

Karen Ingala Smith, Chief Executive, The Nia Project

Vivienne Hayes, CEO, Women's Resources Centre

Dr Annette Lawson, Hon. Ambassador, National Association of Women's Organisations

Dickie James MBE, CEO, Staffordshire Women's Aid

Pragna Patel, Co-Founder, Southall Black Sisters

Raquel Rosario Sánchez, President, Women Talk Back!

Ann Sinnott, Director, AEA

Kiri Tunks, Co-Founder, Woman's Place UK

Dr Nicola Williams, Director, Fair Play For Women

Carol Angharad, Lesbian Labour

Jane Ayres, Labour Women's Declaration

Zoe Hollowood, Chair, Liberal Voice for Women

Carole Tongue, Ex- MEP

Karen Varley, Founder, Conservatives for Women

Ceri Williams, Labour Women's Declaration

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Copied to: Kishwer Falkner and Marcial Boo, Equality and Human Rights Commission