

***For Women Scotland v
The Scottish Ministers
UK Supreme Court judgment***

Briefing for MPs, 21st April 2025

The Supreme Court clarified on 16th April 2025 that “sex” in the Equality Act 2010 means biological sex. This briefing from human-rights charity Sex Matters sets out immediate steps the government should take. It will help MPs and peers to ask the necessary questions in Parliament as soon as possible.

***Summary and practical advice on the judgment:
sex-matters.org/supreme-court-advice.***

More briefings at sex-matters.org/for-mps, or on request.

The Supreme Court has made clear that the Equality Act 2010 protects women (and men) against sex discrimination and secures their right to single-sex services, sports, associations and charities. **Operating these services based on “gender identity” is unlawful.**

Under both Labour and Conservative-led governments, the law has been misunderstood. Policies have been implemented that contravene the law and harm women's rights.

It falls to this government to ensure the Equality Act is properly understood and implemented.

Across government, regulators, employers, service providers, schools, colleges, charities and sports governing bodies, everyone must understand that “sex” means biological sex.

- On 16th April 2025 the UK Supreme Court handed down a judgment in *For Women Scotland Ltd v The Scottish Ministers*¹ that determined the correct interpretation of the protected characteristic of sex in the Equality Act 2010. It concluded (at paragraph 264): “the words ‘sex’, ‘woman’ and ‘man’... mean (and were always intended to mean) biological sex, biological woman and biological man.”
- The court held that the Scottish Government was acting unlawfully in treating men who identify as women (transwomen) and have a gender-recognition certificate (GRC) as women in relation to “positive action” under the

¹ *For Women Scotland Ltd (Appellant) v The Scottish Ministers (Respondent) [2025] UKSC 16.*

Equality Act. Equality law is reserved to Westminster, and the judgment therefore applies across England, Wales and Scotland. It will also be persuasive in the interpretation of sex-discrimination regulations in Northern Ireland.

- The judgment said (at paragraph 175) that “**the concept of sex is of foundational importance in the EA 2010**”. It will make it easier for employers, service providers and others to **fulfil their legal responsibilities**, and for employees, service-users and citizens to understand their rights and duties.

What should the government do?

A culture shift is needed within organisations that have acted on guidance based on a misinterpretation of the Equality Act from the Government Equalities Office (now the Office for Equality and Opportunity), the Equality and Human Rights Commission (EHRC) and lobby groups such as Stonewall. The government must show leadership by being absolutely clear that “sex” means biological sex wherever the Equality Act applies.

1. **The Minister for Women and Equalities** should support and ensure that the EHRC withdraws unlawful guidance and issues **emergency guidance that is in line with the**

law, and which the government commits to implementing.

- 2. The Secretary of State for Health and Social Care** should ensure **NHS bodies** review their policies and record biological sex. This includes in relation to single-sex hospital accommodation ([Annex B” policy in England](#)), single-sex facilities for staff, patient and staff records, and same-sex care.
- 3. The Home Secretary should ensure that police forces** revise policies to record sex accurately, and to ensure that all policies referring to and using sex do so accurately, including in relation to searching.
- 4. The Secretary of State for Justice should ensure prison and probation services** review policies and ensure that all prisoners are housed according to their sex, during their sentence and upon release.
- 5. The Secretary of State for Education** should ensure that the **Department for Education** releases the long-awaited guidance for schools on “gender-questioning” children, and ensure that it is in line with the Supreme Court’s ruling and that groups that reject the ruling do not advise schools.
- 6. The Secretary of State for Culture, Media and Sport should advise all sports governing bodies** and public

fundamental to ensure policies and guidance are based on sex-based rights, and that the women's category is for women and girls only. Communal changing rooms should be single-sex.

7. **The Minister of State for Skills, Apprenticeships and Higher Education** should ensure that **universities** bring all policies into compliance, both those concerning toilets and changing facilities, accommodation and sports, and those concerning free speech and academic freedom.
8. **The Secretary of State for Work and Pensions** should ensure that **all employers** ensure workplace policies are in line with both the Equality Act and the 1992 workplace regulations regarding single-sex facilities. **Cabinet Office ministers** must ensure that the civil service does the same.
9. **The government** should work with regulators including the **Health and Safety Executive, the Charity Commission, the Care Quality Commission and Ofsted** to ensure that regulated sectors do not misunderstand or misrepresent the Equality Act.
10. **The Prime Minister, Secretary of State for Women and Equalities and Cabinet Office ministers** must ensure policy-making and operational delivery across

government use frameworks that comply with the public-sector equality duty, and that lobbyists such as Stonewall and civil service networks such as a:gender, which have promoted the political erasure of sex contrary to the Equality Act 2010, no longer influence government policy.

11. Most urgently, the **Secretary of State for Science, Innovation and Technology** should immediately say how the department plans to ensure all the recommendations of the Sullivan Review² are implemented, so that data on sex is collected to facilitate policy-making in compliance with the public-sector equality duty. The Secretary of State should also ensure that the **digital-identity** system being developed via the Data (Use and Access) Bill accurately verifies data on sex.

For more information contact Sex Matters:

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*Sex Matters is a charitable incorporated organisation
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² UK Government (2025) *Independent review of data, statistics and research on sex and gender.*