The Rt Hon Bridget Phillipson MP
Minister for Women and Equalities
Cabinet Office
70 Whitehall
London
SW1A 2AS

11th November 2025

Dear Bridget

As Minister for Women and Equalities you have responsibility for strategic oversight of the government's equality policy and of the legislative framework on equalities, as well as overall sponsorship of the Equality and Human Rights Commission.

For the past 15 years the ordinary understanding of the protected characteristic of sex in the Equality Act 2010 has been corrupted and misunderstood, creating serious harms for women and girls in particular alongside difficulties, risks and confusion for employers, service providers, public authorities and other duty bearers.

These duty bearers are required to comply with the law right now. They do not have the option of waiting. As employers they must set policies that are lawful, and communicate them to their staff. If they **knowingly or recklessly make a statement which is false or misleading** in telling employees and contractors that policies are lawful, they are liable for conviction of a summary offence that carries an unlimited fine (under Equality Act 2010 Section 110 (4) and(5)).

The question they need to answer to their employees is what is their policy on whether people who identify as transgender are allowed into services provided for the opposite sex, such as toilets, showers, changing rooms, dormitories, sports, mental health wards, and women's specialist services. It is not a question they can put off or obfuscate. Nor can they tell staff to negotiate it on an individual basis.

It is a simple yes or no question: "no" is a lawful answer, "yes' is not. **Frontline staff and service users need this answer today.**

You have said that you welcome the clarity of the Supreme Court ruling and that duty bearers should follow it. But more than six months on from the Supreme Court's judgment in *For Women*

Scotland, confusion continues to reign, because organisations have been encouraged to wait for updated EHRC guidance, and that has now been delayed.

As you may be aware, our supporters have been writing to their MPs asking them to raise this issue with you and ask you to take action.

Whatever regulatory assessment or process of line-by-line checking you think is needed before the new *Statutory Code of Practice for Services, Associations and Public Authorities* is laid before Parliament, there is nothing to stop you revoking the old 2021 code, and your own department (like the rest of the civil service) is required to have a lawful policy on single-sex facilities in the workplace, and to make this policy clear to staff. **It is your responsibility to take these steps.**

Revoke the outdated code of practice

The 2011 code is legally wrong (at paragraphs 13.57–13.60 and 13.67) and out of date across the board. Baroness Falkner, Chair of the EHRC, wrote to you on 16th October asking you to revoke it. While the code remains extant, it is admissible in evidence in criminal or civil proceedings, and could be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant (under Equality Act 2006 Section 15 (4)).

Baroness Falkner highlighted that this situation "might create uncertainty for the EHRC's ability to take compliance or enforcement action for breach of the Equality Act 2010". Not only that, it creates uncertainty and legal jeopardy for businesses, public services and other duty bearers and rights holders under the Act, and for their employees.

As long as the government does not act to revoke the old code of practice it is putting businesses in a position where they might reassure their staff that their policies are lawful, when they are not. They might then have to defend themself against a criminal penalty.

Provide reassurance of what a lawful policy is

The government is a direct employer of over half a million civil servants. NHS England employs 1.5 million. There are nearly a million staff of state-funded schools in England. All these employees require simple, straightforward direction from their employers on what their policy is on allowing people to access services, spaces and other benefits provided for the opposite sex, in the workplace and in service provision. .

It is clear from the Supreme Court's judgement that:

- **It is a lawful and workable policy** to provide services, facilities and benefits that are for women only, or men only (including those with simple age rules such as that accompanied children under 8 of both sexes are included).
- **There is no lawful or workable policy for allowing some men who identify as women into spaces, services and programmes that are for women**, while excluding other men. Nor is there a lawful or workable policy for forcing women to be quiet when trans-identifying men are allowed into "women's" services (or vice versa). Other people have human rights too.

The Cabinet Office's *Gender Identity and Intersex Model Policy Package* produced in 2019 and adopted across government departments says that:

> "All individuals have the right to express their identity at work and present in their gender. This could mean: ... using any appropriate single sex toilets and other facilities.
>
> "It is assumed that the individual knows which facilities are the best match for their gender identity and expression. Some transgender, non-binary and intersex individuals may feel most comfortable using gender neutral facilities where present, but this is a matter of personal choice.
>
> "People may experience bullying, harassment or discrimination regardless of how they identify. Transphobia is the specific fear or dislike of someone because they are transgender. This includes refusing to accept an individual's gender identity.
>
> "Transgender, non-binary and intersex individuals are entitled to the same levels of respect and fairness as others in life and the workplace. Individuals are entitled to their views and beliefs. However, this does not mean that they are entitled to express these in a way that may cause distress to others in the workplace."

This policy tells staff that some men have permission to use women's facilities (and vice versa). There is no lawful basis for this. It also says colleagues who express discomfort, or who use clear sex-based language to articulate their own concerns and legal rights, are to be accused of "transphobia" and told that they are not entitled to do so. This is harassment and victimisation.

This is an unjust, unsustainable and unlawful situation in which discrimination, harassment and victimisation of women will continue.

Under the Equality Act it is the responsibility of the organisations that have adopted this policy to reassure their staff that it is lawful. **Can you do that?**

Responsibility rests with you

The widespread and deep-seated misunderstanding and misapplication of the Equality Act is not a problem of your making, but the responsibility and the power to solve it rests with you.

The Equality Act regulates a complex network of relationships between people as employers, employees, service providers and service users. Part 8 Sections 106–112 seek to ensure that decision makers are not able to act with impunity while recklessly or knowingly misleading, instructing or inducing those under their command or influence to breach the Act. Frontline workers must not carry the can for decisions that are above their pay grade.

Importantly, under Section 111 of the Act a person A who is in a relationship where they may commit a basic contravention against person B must not "instruct, cause or induce" that person to commit a basic contravention against person C.

The Minister for Women and Equality is person A in relation to every duty bearer under the Equality Act. By not revoking the old code and allowing the civil service model policy to remain in place you risk instructing, causing or inducing persons B (public and private service providers and civil

service employers) to undertake unlawful harassment and discrimination against persons C – service users and civil servants all over the country.

Revoking the code, **removing the unlawful model policy** and **providing lawful policy for its own employees and contractors** are lawful, urgent actions that are the government's responsibility. The buck stops with you, and there is no rational reason for delay.

Please could you let us know at your earliest convenience:

1. **Whether you will revoke the code** or whether you will continue to instruct courts and tribunals to consider its guidance admissible in evidence, and to be taken into account.
2. Whether your department endorses the **Cabinet Office *Gender Identity and Intersex Model Policy Package* as a lawful policy**. We do not believe that it is.
3. **If not – do you identify a lawful workable policy** which civil service employers are able to communicate to employees answer the question about whether in their workplaces and premises men (including those who identify as "transwomen") are allowed to access services, benefits and programmes provided for women (and mutatis mutandis for services for men)?

Please can you reply by the 2nd of December.

Yours sincerely

Maya Forstater
CEO

cc: Kishwer Falkner, Chair, EHRC

Darren Jones, Minister for the
Cabinet Office