



The Scottish Parliament
Pàrlamaid na h-Alba

Rt Hon Caroline Nokes MP
Chair, Women and Equalities
Committee

Equalities, Human Rights and Civil Justice
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9 February 2023

Dear Chair,

Gender Recognition Reform (Scotland) Bill and Equality Act

As you will be aware, the Equalities, Human Rights and Civil Justice Committee was the Scottish Parliament lead committee for scrutiny of the [Gender Recognition Reform \(Scotland\) Bill](#).

Stage 1 scrutiny was concluded, following debate, on 27 October 2022. Stage 2 proceedings were concluded on Tuesday 22 November 2022 with the Bill being passed at Stage 3 on Thursday 22 December 2022, with 86 votes for, 39 against and 4 no votes. As such, the Committee's role of formal scrutiny of the Bill is concluded.

The Committee, however, agreed to invite the Secretary of State for Scotland to give evidence to provide clarity on his decision to make a Section 35 Order in relation to the Bill because of the unprecedented nature of his decision. An invitation was also extended to the Scottish Government's Cabinet Secretary for Social Justice, Housing and Local Government.

- [Letter to Secretary of State for Scotland \(17 January 2023\)](#)
- [Letter to Cabinet Secretary for Social Justice, Housing and Local Government \(17 January 2023\)](#)

The Secretary of State for Scotland confirmed that he would not accept the invitation to attend via a letter on [20 January 2023](#). A similar invitation from the Scottish Parliament's Constitution, Europe, External Affairs and Culture Committee was also declined.

The Equalities, Human Rights and Civil Justice Committee then extended the invitation to the UK Minister for Women and Equalities on [19 January 2023](#). The Minister [responded on 23 January](#) to indicate she too would not attend the evidence session.

After further consideration at its meeting on Tuesday 24 January, the Committee agreed, in lieu of any appearance, to write once more to the Secretary of State and the Cabinet Secretary respectively, setting out several questions to which the Committee would welcome a response. This was for the purposes of understanding the decisions taken and the scope to proceed from this point.

- [Committee letter and questions to the Secretary of State for Scotland \(25 January 2023\)](#)
- [Committee letter and questions to the Cabinet Secretary for Social Justice, Housing and Local Government \(25 January 2023\)](#).

The Committee received a response to its letter and questions from the Secretary of State on [30 January](#). The response from the Cabinet Secretary was received on [5 February 2023](#).

The Committee considered the responses at its meeting on 7 February. It is notable to the Committee that there is a stark difference in the detail of the responses. The Committee is particularly disappointed that the Secretary of State for Scotland has made little attempt to answer directly any of the questions, whereas the response from the Cabinet Secretary takes each point raised in turn and provides a response.

The Committee welcomes the recent evidence session that your Committee held in relation to this matter. This was a helpful exploration of some of the issues that have been discussed around the use of the section 35 order.

It is of course for you and your members to decide what, if any, next steps you may choose to take on this matter. Should you consider the questions we posed to the Secretary of State for Scotland to be worthy of an answer then it would be open to you to ask these. We would be interested in any steps you do choose to take.

I am copying this letter to the Cabinet Secretary for Social Justice, Housing and Local Government for her interest.

Yours sincerely,



Joe FitzPatrick
Convener
Equalities, Human Rights and Civil Justice Committee