Further to the Committee’s questions today [26 September 2019] to our representative, Susan Smith, we wish to bring to your attention the documents linked to in the first reference given in our written submission to provide background as requested.

The Parliamentary Question asked by Kezia Dugdale: http://www.parliament.scot/S5ChamberOffice/WA20181204.pdf
"Applicants to the Equally Safe Violence Against Women and Girls fund are required to provide their LBTI Inclusion plan (or an GBTI plan for organisations providing direct support to men) as part of their application. Applicants without these plans in place are not considered."

"To be eligible for funding, applicants are required to demonstrate the following in their application...Ensure that your service is inclusive to lesbian, bisexual, trans and intersex (LBTI) women. An LBTI Inclusion Plan should be submitted along with your application."

While no organisation has been turned down for Equally Safe funding on the basis of being single-sex, this is simply because any such application would be deemed ineligible in the first instance. The Equality Act provides for single-sex services which may also exclude those in possession of a GRC. By setting out the condition that applicants must have a policy which includes trans women, who are legally and biologically male, the criteria set by the Scottish Government for funding precludes applicants to this fund invoking the single-sex exceptions.

This has led to the situation outlined in the second reference in our submission (http://archive.fo/QTFAF), whereby employment opportunities are advertised using the Genuine Occupation Requirement for a female applicant (under schedule 9 of the Equality Act), while simultaneously encouraging applications from males who self-identify as women.

We would draw your attention to the report from the Westminster Equalities and Human Rights Commission on enforcing the Equality Act and the evidence from Domestic Violence charity Nia about the importance of allowing traumatised women access to single-sex services with particular reference to the following recommendations:

29. We recommend that the Government Equalities Office issue a clear statement of the law on single-sex services to all Departments, including the requirement under the public sector equality duty for commissioners of services to actively consider
commissioning specialist and single-sex services to meet particular needs. (Paragraph 168)

30. We do not believe that non-statutory guidance will be sufficient to bring the clarity needed in what is clearly a contentious area. We recommend that, in the absence of case law the EHRC develop, and the Secretary of State lay before Parliament, a dedicated Code of Practice, with case studies drawn from organisations providing services to survivors of domestic and sexual abuse. This Code must set out clearly, with worked examples and guidance, (a) how the Act allows separate services for men and women, or provision of services to only men or only women in certain circumstances, and (b) how and under what circumstances it allows those providing such services to choose how and if to provide them to a person who has the protected characteristic of gender reassignment. (Paragraph 190)