



24<sup>th</sup> November 2022

Dear Mr Sarwar, Mr Douglas and Mr Cole-Hamilton

Further to the UN Special Rapporteur on Violence Against Women and Girls, Reem Alsalem's letter, attached with email, to the UK Government raising concerns about the Gender Recognition Reform (Scotland) Bill (GRRB), we are contacting you to offer some context to these concerns.

Frontline Feminists Scotland is a feminist collective aiming to amplify the voices of women in Scotland. Our membership is varied, but includes many survivors and / or workers supporting women who experience male violence, across a variety of sectors.

We welcome the concerns raised by the Rapporteur. Many of these concerns have already been raised in a variety of forums, including strategic groups, meetings with Scottish Executive Officers, individual MSPs and Party representatives. We believe that the Scottish Government and elected members have now been given the information required to halt the current move to gender recognition reform and review current understanding before progressing. This information has come from individual survivors, specialist, government funded direct services, the EHRC and now the United Nations.

The Rapporteur raises a number of questions that, we understand, have been raised by some Local Authorities to Scottish Government as requiring guidance, with no adequate response. Not least of which is the role of single sex services and provision, particularly for women and children who have experienced male violence.

*"The ongoing efforts to reform existing legislation by the Scottish Government do not sufficiently take into consideration the specific needs of women and girls in all their diversity, particularly those at risk of male violence and those who have experienced male violence, as it does not provide for any safeguarding measures to ensure that the procedure is not, as far as can be reasonably assured, abused by sexual predators and other perpetrators of violence."*

There have been many responses to this concern stipulating that men would not go to the lengths of acquiring a GRC to access women's services, which we would dispute. Many workers and survivors have experienced the extreme lengths men will go to access women's spaces, including posing as charity workers, securing jobs that gain them access to vulnerable people in general etc. This lack of concern also does not take into consideration the confusion being caused in relation to self-id. If the legislation does allow for self-id, how can workers in services challenge the gender of men presenting as women, and who claim

to be women? Do the Elected Members wish the services to question each person, male or female, attempting to access trauma services to ensure fairness and inclusivity? We do not believe so.

Guidance can and will be developed post legislation, however, it is essential that all elected representatives consider the consequences, unintentional or otherwise, that the legislation will have on women's safety, *as required by CEDAW*;

*"States parties should provide accessible, affordable, and adequate services to protect women from gender-based violence [and] prevent its reoccurrence"; and that "States parties must eliminate the institutional practices and individual conduct and behaviour of public officials that constitute gender-based violence against women, or tolerate such violence, and that provide a context for lack of a response or for a negligent response"*

This should include the continued funding for single sex services. Some of the members of Frontline Feminists Scotland work in single sex organisations that could not apply for the Scottish Government's Violence Against Women Fund due to the requirement to provide a Trans Inclusion Delivery Plan. Equality policies for all protected characteristics were not acceptable. The challenge for these services is that they are single sex services and under Scottish Law, as highlighted by the Rapporteur, this is based on biological sex rather than gender identity;

*"In February 2022, an appeal division of the Court of Session heard the case For Women Scotland v The Lord Advocate and the Scottish Ministers, which concerned Scottish Government legislation (the Gender Representation on Public Boards (Scotland) Act 2018) which provides for positive action measures aimed at increasing to 50% the percentage of women serving as non-executive members on Scottish public boards. The organisation challenged the definition of 'woman' used in the 2018 Act, arguing that it did not reflect that used in the Equality Act 2010 and that this alteration was beyond the limits of the Scottish Government's legislative competence in a reserved matter."*

This was upheld but the Scottish Government proceeded on the basis that that transwomen who hold a GRC should be included as women. This is now the subject of a further, unresolved court case, the outcome of which will have implications for those who wish to make use of the Statutory exceptions, such as the provision of support to women who have experienced male violence.

It is essential that single sex services work within robust and clear laws. We do not believe the current suggested Bill provides this. Many services are concerned that the confusion could see single sex organisations who do not include biological men who identify as transwomen in support services *on identical terms to women* being accused of discrimination against that group, and that the much expanded group who will now hold GRCs will have an easier legal route to challenge that. Meanwhile those who do include that group on the same terms as women are worried about the effects on the women who they want to support

*"I have, unfortunately, been made aware of reports that indicate a failure to provide single sex spaces to female survivors of male violence, who, because of their experiences, do not feel able to access a trans inclusive service, leading to their self exclusion from support and refuge services. Information of such self-exclusion with regards to services provided by rape*

*crisis centers given the lack of sufficient single sex spaces is provided in a report on single sex services published by the Scottish Women's Convention"*

This confusion could also open services up to discrimination charges by all men, as self-identifying transmen remain under law biological males. We are concerned that admitting only one group of biological men could be challenged under the Equality Act. (See <https://gordondangerfield.com/2022/07/12/with-thanks-to-the-frontline-feminists/>)

Evidence of this confusion includes one of our members' workplaces being contacted by another service who asked if the organisation was "friendly to transwomen". When it was explained the service was single sex and would welcome "biological females of any gender identity" the referring service stated it would be no longer referring anyone to the service. This included transmen, who being of female biological sex, would have been more at risk of male violence throughout their lifecycle than those identifying as transwomen and therefore with potentially more need for the service.

Although these organisational concerns are very real, Frontline Feminists Scotland's main concerns are with women, particularly those who are survivors of male violence. This includes women who are serving custodial services.

It is often a challenge, due to confidentiality, dignity and respect, for services to highlight the individual experiences of women, however in this case the situation in prisons in Scotland, and beyond, is the clearest indicator of confusion over gender recognition reform. The situation for women prisoners housed with biological males who identify as transwomen is unacceptable. The Rapporteur recognised the importance of this issue in the letter to the Scottish Government,

*"robust guidance" should be developed on how a system of self-declaration would work in practice, giving the specific example of male prisoners with a record of sexual assault or domestic violence, who self-identify as a woman, and that they should not be transferred to a woman's prison."*

The fact that this is happening before the enactment of any further legislation and the raising of this concern is resulting in the targeting of those who do so for abuse or their concerns are ignored, should give pause for anyone voting on this Bill. Why is the Scottish Prison Service unable to protect the most vulnerable women, with the least power, in our communities? This should be of significant concern to all elected representatives.

Finally, as raised by the Rapporteur, we can only evidence our concerns due to the abundance of research that identifies male violence against women. If data is not clear and concise future research will not identify the needs based on either biological sex or gender identity. Any legislation that encourages this position is at best misguided.

*"It is concerning, therefore that data in Scotland is generally not collected based on sex, but solely on gender, in a number of areas, despite the clear need for both, and that there has been a reluctance on the part of the Scottish Government to ensure this happens."*

We believe this requires to be addressed immediately or we risk losing ground on any gains we have made in women's safety in Scotland.

We hope these concerns and examples will support your understanding of the potential consequences of the current Gender Recognition Reform Bill. Many of our members will

have already contacted / spoken to you, and we are extremely concerned that despite the many hours, the commitment and the lived experience shared, the Bill does not seem to have moved in any significant way to protect women, and this seems to be continuing as we watch amendments fall.

We stand in solidarity with those elected representatives who raise questions in relation to gender recognition reform. We believe that our membership, which includes healthcare workers, VAW workers, Council officers etc, share their concerns that they will experience guilt by association if legislation that reduces women's safety is passed and services adjust their practice to suit.

As always if you would like to discuss this further with our members, we are happy to meet with you and your colleagues.

Yours sincerely

Dawn Fyfe  
On behalf of Frontline Feminists Scotland