

## ANNEX A

### ITEM 1

**From:** [redacted – S38(1)(b)] @gov.scot  
**Sent:** 07 October 2025 12:28  
**To:** [redacted – S38(1)(b)] @gov.scot  
**Cc:** [redacted – S38(1)(b)] @gov.scot  
**Subject:** RE: Gender Recognition Bill

[redacted – S38(1)(b)]

I was involved in this procurement.

Originally work on the analysis of the responses to this consultation was programmed for summer 2020 but as a result of the pandemic, all work on the policy for gender recognition reform (which included appointing analysts) was paused on the instruction of Ministers. This pause (along with impacts for other legislation arising from COVID) was [announced in Parliament](#). I recall we withdrew the original ITT as no contractor had officially been appointed and then re-ran the whole exercise again later once the pause on some work was lifted.

Gender Recognition Bill- submission- statement on legislative programme- April 2020- Objective [withheld section 30(b)(i)]

Gender Recognition Bill- submission- analysis-CabSec comments- Apr 2020 details- Objective [withheld section 30(b)(i)]

The revised ITT seems to be October 2020-Gender Recognition (Scotland) Bill- Consultation Analysis- Procurement- ITT final from PCS-Oct 2020 [publicly available] I have not identified when analysts were actually appointed. [redacted – S38(1)(b)] was involved from Equalities analytical team.

Thanks

[redacted – S38(1)(b)]

Scottish Government | Justice Directorate | Civil Law and Legal System | Family Law  
GW-15 | St Andrew's House | Edinburgh | EH1 3DG

**From:** [redacted – S38(1)(b)] @gov.scot  
**Sent:** 07 October 2025 11:48  
**To:** [redacted – S38(1)(b)] @gov.scot  
**Subject:** Gender Recognition Bill

Dear [redacted – S38(1)(b)] @gov.scot

Apologies if you are not the right person for this question! [redacted – S38(1)(b)] recommended you might have been involved in the procurement of the Gender Recognition Bill public consultation:

<https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-analysis-responses-public-consultation-exercise/> [publicly available]

I am responding to an FOI asking about delayed reports and wondered if you have any information about this procurement as I can see from the ITT the report was due in July 2020 but was not published until September 2021. Do you have any documents or correspondence about this delay? I am particularly looking for information about how this delay was communicated?

Any insights would be greatly appreciated.

Many thanks,  
[redacted – S38(1)(b)]

[redacted – S38(1)(b)]  
Social Research Officer  
CAD: Equality and Social Justice Analysis  
Scottish Government

## ITEM 2

### GENDER RECOGNITION

The Gender Recognition Reform (Scotland) Bill was passed by the Scottish Parliament in December 2022. It was then prevented from proceeding to Royal Assent by an order made by the Secretary of State for Scotland under section 35 of the Scotland Act 1998. A judicial review by the Scottish Ministers of the section 35 Order was unsuccessful.

### FUTURE OF BILL

**We have no plans to bring the Gender Recognition Reform (Scotland) Bill back.**

- The Cabinet Secretary for Social Justice has made it clear that we have no intention of bringing the Bill back.
- The UK Government has said it will bring forward proposals to reform the Gender Recognition Act 2004.
- The Scottish Government will engage constructively with any firm proposals brought forward by the UK Government.

### COSTS OF THE JUDICIAL REVIEW OF THE SECTION 35 ORDER

**The Scottish Government is necessarily involved in litigation given the range and importance of its responsibilities. Outlays incurred - like all other costs - are subject to rules about public finance decision-making and accountability.**

- We have been transparent about costs of the judicial review.
- The total costs incurred by the Scottish Government were £370,474.24. These figure are exclusive of VAT chargeable for services provided to the Scottish Government.
- The Scottish Government is necessarily involved in litigation given the range and importance of its responsibilities and outlays incurred.

## NUMBER OF PERSONS OBTAINING GENDER RECOGNITION

- Under the Gender Recognition Act 2004, applications for gender recognition are dealt with by the UK Gender Recognition Panel.
- Around 90 people a year born in Scotland receive a Gender Recognition Certificate.

## ITEM 3

**From:** [redacted S38(1)(b)] @gov.scot

**Sent:** 09 September 2025 09:01

**To:** Cabinet Secretary for Finance & Local Government <[CabSecFLG@gov.scot](mailto:CabSecFLG@gov.scot)>; [redacted S38(1)(b)] @gov.scot; [redacted S38(1)(b)] @gov.scot; [redacted S38(1)(b)] @gov.scot Minister for Equalities <[MinisterforEqualities@gov.scot](mailto:MinisterforEqualities@gov.scot)>

**Cc** [redacted S38(1)(b)] @gov.scot Director for Equality, Inclusion and Human Rights <[DirectorforEIHR@gov.scot](mailto:DirectorforEIHR@gov.scot)>; [redacted S38(1)(b)] @gov.scot; [redacted S38(1)(b)] @gov.scot; [redacted S38(1)(b)] @gov.scot; [redacted S38(1)(b)] @gov.scot; [redacted S38(1)(b)] @gov.scot; [redacted S38(1)(b)] @gov.scot

**Subject:** RE: FINAL - MINISTERIAL BRIEFING: EHRCJ Committee (09/09)

## PS/Cabinet Secretary

The costs of the judicial review of the section 35 Order preventing the Gender Recognition Reform (Scotland) Bill from proceeding to Royal Assent were met by the Family Law budget in the Justice Directorate.

Family Law has the lead responsibility for the Gender Recognition Act 2004 as we have policy responsibility for personal civil status. (We also lead on areas such as marriage; civil partnership; divorce and dissolution; cohabitants' rights).

[redacted S38(1)(b)]

Family Law Policy  
Scottish Government  
[redacted S38(1)(b)]

**From** [redacted S38(1)(b)] @gov.scot **On Behalf Of** Cabinet Secretary for Finance & Local Government

**Sent:** 09 September 2025 08:55

**To:** [redacted S38(1)(b)]; @gov.scot Cabinet Secretary for Finance & Local Government <[CabSecFLG@gov.scot](mailto:CabSecFLG@gov.scot)>; [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot >; Minister for Equalities <[MinisterforEqualities@gov.scot](mailto:MinisterforEqualities@gov.scot)>

**Cc:** [redacted S38(1)(b)] @gov.scot >; Director for Equality, Inclusion and Human Rights <[DirectorforEIHR@gov.scot](mailto:DirectorforEIHR@gov.scot)>; [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot

**Subject:** RE: FINAL - MINISTERIAL BRIEFING: EHRCJ Committee (09/09)

Hi [redacted S38(1)(b)]

Thanks very much for that, Ms Robison has noted. Could the Cab Sec get a steer on which budget this will come out of?

Many thanks

[redacted S38(1)(b)]

[redacted S38(1)(b)]

**Private Secretary to the Cabinet Secretary for Finance and Local Government – Shona Robison MSP**

The Scottish Government | St Andrews House, Regent Road, Edinburgh, EH1 3DG

[redacted S38(1)(b)]

[redacted S38(1)(b)]

Email. [CabSecFLG@gov.scot](mailto:CabSecFLG@gov.scot)

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**From:** [redacted S38(1)(b)] @gov.scot

**Sent:** 08 September 2025 17:04

**To:** Cabinet Secretary for Finance & Local Government <[CabSecFLG@gov.scot](mailto:CabSecFLG@gov.scot)>; [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot >; Minister for Equalities <[MinisterforEqualities@gov.scot](mailto:MinisterforEqualities@gov.scot)>

**Cc:** [redacted S38(1)(b)] @gov.scot; Director for Equality, Inclusion and Human Rights <[DirectorforEIHR@gov.scot](mailto:DirectorforEIHR@gov.scot)>; [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot

**Subject:** RE: FINAL - MINISTERIAL BRIEFING: EHRCJ Committee (09/09)

[redacted S38(1)(b)]

This cost will be in the public domain from 9:30AM tomorrow. So by the time the Cab Sec is in Committee it will be out.

[redacted S38(1)(b)], on copy, will let us know if there is any delay in publication.

[redacted S38(1)(b)]

[redacted S38(1)(b)] | Head of Mainstreaming Unit | Directorate for Equality, Inclusion and Human Rights

[redacted S38(1)(b)]

**From:** [redacted S38(1)(b)] @gov.scot > **On Behalf Of** Cabinet Secretary for Finance & Local Government

**Sent:** 08 September 2025 16:54

**To:** [redacted S38(1)(b)] @gov.scot >; Cabinet Secretary for Finance & Local Government <CabSecFLG@gov.scot>; Minister for Equalities <MinisterforEqualities@gov.scot>

**Cc:** [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot >; Director for Equality, Inclusion and Human Rights <DirectorforEIHR@gov.scot>; [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot [redacted S38(1)(b)] @gov.scot

**Subject:** RE: FINAL - MINISTERIAL BRIEFING: EHRCJ Committee (09/09)

Hi [redacted S38(1)(b)]

In the supplementary briefing pack you list the below:

### **COURT COSTS RELATING TO THE GENDER RECOGNITION REFORM (SCOTLAND) BILL**

- On 1 November 2023, we published costs to the Scottish Government to date of the judicial review of the Order made under section 35 of the Scotland Act 1998 which prevented the Gender Recognition Reform (Scotland) Bill from proceeding to Royal Assent.
- The costs published then were £227,866.49
- We are now publishing the final costs.
- The final costs are £370,474.24.

Is the highlighted figure of final costs above in the public domain?

Many thanks

[redacted S38(1)(b)]

[redacted S38(1)(b)]

**Private Secretary to the Cabinet Secretary for Finance and Local Government – Shona Robison MSP**

The Scottish Government | St Andrews House, Regent Road, Edinburgh, EH1 3DG

[redacted S38(1)(b)]

[redacted S38(1)(b)]

Email. [CabSecFLG@gov.scot](mailto:CabSecFLG@gov.scot)

## ITEM 4

GRR Bill consultations and other useful links **[publicly available]**

**GRR Bill consultation-** [Gender Recognition Reform \(Scotland\) Bill: consultation - gov.scot](https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-consultation-scottish-government/) OR <https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-consultation-scottish-government/>

**Citizen Space-** [Gender Recognition Reform \(Scotland\) Bill: A consultation - Scottish Government consultations - Citizen Space](https://consult.gov.scot/family-law/gender-recognition-reform-scotland-bill/) OR <https://consult.gov.scot/family-law/gender-recognition-reform-scotland-bill/>

**Analysis report for Bill consultation-** [Gender Recognition Reform \(Scotland\) Bill: consultation analysis - gov.scot](https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-consultation-analysis/) OR

### **Organisational responses to GRR Bill consultation-**

[Organisation responses to gender recognition consultation: Scotland A-G - gov.scot](https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-consultation-organisation-responses-scotland-a-g/)

[Organisation responses to gender recognition consultation: Scotland H-R - gov.scot](https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-consultation-organisation-responses-scotland-h-r/)

[Organisation responses to gender recognition consultation: Scotland S-Z - gov.scot](https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-consultation-organisation-responses-scotland-s-z/)

[Organisation responses to gender recognition consultation: rest of UK - gov.scot](https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-consultation-organisation-responses-rest-of-uk/)

[Organisation responses to gender recognition consultation: rest of world - gov.scot](https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-consultation-organisation-responses-rest-of-world/)

Bill introduction- News release- [Gender Recognition Reform Bill - gov.scot](https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-introduction-news-release/)

Bill introduction- Factsheet- [Gender Recognition Reform \(Scotland\) Bill: more information - gov.scot](https://www.gov.scot/publications/gender-recognition-reform-scotland-bill-introduction-factsheet/)

2019 Factsheets (announcement about consultation and one with consultation on Bill?)- [Gender Recognition Act 2004 review - gov.scot](https://www.gov.scot/publications/gender-recognition-act-2004-review/) [Review of the Gender Recognition Act 2004: factsheet - gov.scot](https://www.gov.scot/publications/gender-recognition-act-2004-review-factsheet/)

Further 2019 Factsheet (Dec 2019)- [Proposals to reform the Gender Recognition Act 2004 - gov.scot](https://www.gov.scot/publications/proposals-to-reform-the-gender-recognition-act-2004/)- did this accompany consultation on Bill?

LGBTQI+ POLICY WEBSITE INFO- [Gender recognition - LGBTQI+ - gov.scot](https://www.gov.scot/publications/gender-recognition-lgbtqi+/)

Section 35 announcement of no appeal, news release- [Section 35 judicial review - gov.scot](https://www.gov.scot/publications/section-35-judicial-review/)

News release on raising judicial review- [Section 35 Order challenge - gov.scot](https://www.gov.scot/publications/section-35-order-challenge/)

News release on announcement re consultation on draft Bill- [Gender recognition reform - gov.scot](https://www.gov.scot/publications/gender-recognition-reform-consultation-draft-bill/)

## ITEM 5

**From:** [Redacted – S38(1)(b)] @gov.scot **On Behalf Of** Cabinet Secretary for Social Justice 2024

**Sent:** 09 September 2025 17:24

**To:** [Redacted – S38(1)(b)] @gov.scot

**Cc:** [Redacted – S38(1)(b)] @gov.scot ; [Redacted – S38(1)(b)] @gov.scot; [Redacted – S38(1)(b)] @gov.scot; [Redacted – S38(1)(b)] @gov.scot; [Redacted – S38(1)(b)] @gov.scot; [Redacted – S38(1)(b)] @gov.scot >;

Communications Finance and Local Government

<[CommunicationsFinanceandLocalGovernment@gov.scot](mailto:CommunicationsFinanceandLocalGovernment@gov.scot)>; [Redacted – S38(1)(b)];

@gov.scot [Redacted – S38(1)(b)] @gov.scot; [Redacted – S38(1)(b)]

@gov.scot; [Redacted – S38(1)(b)] @gov.scot >; Communications Constitution, External

Affairs and Culture <[CommunicationsConstitutionExternalAffairsandCulture@gov.scot](mailto:CommunicationsConstitutionExternalAffairsandCulture@gov.scot)>;

Communications Social Justice Housing <[CommunicationsSocialJusticeHousing@gov.scot](mailto:CommunicationsSocialJusticeHousing@gov.scot)>;

[Redacted – S38(1)(b)] @gov.scot [Redacted – S38(1)(b)] @gov.scot

**Subject:** Re: For clearance: Media query (Sun) - s.35 judicial review costs

Hi all,

The Cabinet Secretary is content.

Many thanks,

[Redacted – S38(1)(b)]

[Redacted – S38(1)(b)]

### Private Secretary | Office of Cabinet Secretary for Social Justice

St Andrews House, Regent Road, Edinburgh, EH1 3DG

Email: [CabSecforSJ@gov.scot](mailto:CabSecforSJ@gov.scot)

Phone [Redacted – S38(1)(b)]

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**From**[Redacted – S38(1)(b)] @gov.scot

**Sent:** Tuesday, September 9, 2025 5:13:49 PM

**To:** Cabinet Secretary for Social Justice 2024 <[CabSecforSJ@gov.scot](mailto:CabSecforSJ@gov.scot)>

**Cc:** [Redacted – S38(1)(b)] @gov.scot [Redacted – S38(1)(b)] @gov.scot [Redacted – S38(1)(b)] @gov.scot [Redacted – S38(1)(b)] @gov.scot [Redacted – S38(1)(b)] @gov.scot [Redacted – S38(1)(b)] @gov.scot >;

Communications Finance and Local Government

<[CommunicationsFinanceandLocalGovernment@gov.scot](mailto:CommunicationsFinanceandLocalGovernment@gov.scot)>; [Redacted – S38(1)(b)] @gov.scot

[Redacted – S38(1)(b)] @gov.scot [Redacted – S38(1)(b)] @gov.scot [Redacted –

S38(1)(b)] @gov.scot Communications Constitution, External Affairs and Culture



“Women and girls across Scotland breathed a sigh of relief when Alister Jack blocked Nicola Sturgeon’s reckless gender self-ID bill. But instead of accepting they had got things badly wrong, the SNP chose to fight the decision out of blind loyalty to gender activists and a desire to create a constitutional row with the UK government.

“SNP ministers threw good money after bad in an effort to throw women under a bus – and even now appear in denial about the Supreme Court’s ruling.”

**[Redacted – S38(1)(b)] | Communications: News (Net Zero & Rural Affairs)**

Scottish Government, St Andrew's House

**e:** **[Redacted – S38(1)(b)] @gov.scot**

**m:** **[Redacted – S38(1)(b)]**

## ITEM 6

**From:** **[Redacted S38(1)(b)] @gov.scot On Behalf Of** Cabinet Secretary for Social Justice 2024

**Sent:** 05 September 2025 13:58

**To:** **[Redacted S38(1)(b)] @gov.scot**

**Cc:** First Minister <[FirstMinister@gov.scot](mailto:FirstMinister@gov.scot)>; Minister for Equalities

<[MinisterforEqualities@gov.scot](mailto:MinisterforEqualities@gov.scot)>; Lord Advocate <[LordAdvocate@gov.scot](mailto:LordAdvocate@gov.scot)>; Solicitor

General <[SolicitorGeneral@gov.scot](mailto:SolicitorGeneral@gov.scot)>; Permanent Secretary

<[PermanentSecretary@gov.scot](mailto:PermanentSecretary@gov.scot)>; DG Education & Justice <[dgej@gov.scot](mailto:dgej@gov.scot)>; Director of

Justice <[DirectorofJustice@gov.scot](mailto:DirectorofJustice@gov.scot)>; Director for Equality, Inclusion and Human Rights

<[DirectorforEIHR@gov.scot](mailto:DirectorforEIHR@gov.scot)>; **[Redacted S38(1)(b)] @gov.scot [Redacted S38(1)(b)]**

**[Redacted S38(1)(b)] @gov.scot [Redacted S38(1)(b)] @gov.scot [Redacted S38(1)(b)] @gov.scot [Redacted S38(1)(b)] @gov.scot [Redacted S38(1)(b)] @gov.scot [Redacted S38(1)(b)] @gov.scot**

**[Redacted S38(1)(b)] @gov.scot [Redacted S38(1)(b)] @gov.scot [Redacted S38(1)(b)] @gov.scot >;**

SGLD Finance <[SGLDFinance@gov.scot](mailto:SGLDFinance@gov.scot)>; Communications Social Justice Housing

<[CommunicationsSocialJusticeHousing@gov.scot](mailto:CommunicationsSocialJusticeHousing@gov.scot)>; >; **[Redacted S38(1)(b)] @gov.scot**

**[Redacted S38(1)(b)] @gov.scot [Redacted S38(1)(b)] @gov.scot [Redacted S38(1)(b)] @gov.scot**

**[Redacted S38(1)(b)] @gov.scot Cabinet Secretary for Social Justice 2024 <[CabSecforSJ@gov.scot](mailto:CabSecforSJ@gov.scot)>**

**Subject:** RE: Routine- Gender recognition reform- Submission on final costs- section 35 judicial review

Hi **[Redacted S38(1)(b)]**

Ms Somerville is content.

Many thanks,

**[Redacted S38(1)(b)]**

**[Redacted S38(1)(b)]**

**Deputy Private Secretary | Office of Cabinet Secretary for Social Justice**

St Andrews House, Regent Road, Edinburgh, EH1 3DG

Email: [CabSecforSJ@gov.scot](mailto:CabSecforSJ@gov.scot)

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## **ANNEX B**

### **Section 30(b)(i)**

An exemption under section 30(b)(i) of FOISA (free and frank provision of advice) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, inhibit substantially the free and frank provision of advice. This exemption recognises the need for officials to have a private space within which to provide free and frank advice to Ministers and other officials before the Scottish Government reaches a settled public view. Disclosing the content of free and frank advice of this subject matter will substantially inhibit the provision of such advice in the future, particularly because these discussions relate to a sensitive or controversial issue.

This exemption is subject to the 'public interest test'. Therefore taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government and to inform public debate. However there is greater public interest in allowing a private space within which officials can provide full and frank advice to Ministers and other officials, as part of the process of exploring and refining the Government's position, until the Government as a whole can adopt a decision that is sound and is likely to be effective. This private thinking space is essential to enable all options to be properly considered so informed decisions can be made. Disclosure is likely to undermine the full and frank discussion of this subject matter between Ministers and officials, which in turn will undermine the quality of the decision-making process, which would not be in the public interest.

### **Section 38(1)(b)- personal details**

An exemption under section 38(1)(b) of FOISA applies to some of the information you have requested because it is the personal data of a third party, i.e. names and contact details of individuals, and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exemption is not subject to the 'public interest test' so we are not required to consider whether the public interest in disclosing the information outweighs the public interest in applying the exemption.