Consultation Responses Q1 and Q2 (by date received)

This table presents responses mapped to Questions 1 and 2 of the Commission's consultation. Where submissions were not structured by consultation question, we have allocated comments to each question based on the relevance of the information provided.

	Organisation/ Individual	**Question 1** *In Section A and Section B of our legal paper, has the Commission identified what you consider to be the principal legal uncertainties and issues arising in Northern Ireland from the FWS judgment***.**	**Question 2** *If not, what other legal issues should the Commission be considering?*
#1	Individual	Yes, and with admirable depth and honesty. Your recognition that FWS is not binding here — and your careful analysis of the Windsor Framework and EU case law — shows a commitment to rights-based lawmaking. I also appreciate your acknowledgement that "gender reassignment" in Northern Ireland's equality law may be out of step with current EU standards. Still, I ask the Commission to explicitly affirm that trans women who have undergone gender reassignment surgery and hold a GRC are to be recognised as women for the purposes of accessing services, employment, and protections under the law.	I would urge you to consider: The severe emotional and mental health toll of legal limbo for post-operative trans women. How a narrow biological reading of "sex" would conflict with our rights under the ECHR, especially Articles 3, 8, and 14. How decisions in allied sectors (prisons, healthcare, education) could isolate trans women further without coordinated guidance.
#2	Individual	(i) & (ii) No. The Commission has not identified the principal issues. A) First, the FWS Decision applies ONLY to the Equality Act. Para 2 of the Decision makes that	

		abundantly clear. Any comments therein re GRA s9, are obiter. b) Second, the biggest issue of uncertainty is the definition of “biological sex”. The Supreme Court made no attempt to define what it meant or how sex is determined in biological terms. The Supreme Court completely ignored the biological and legal reality of INTERSEX people. For these reasons, the ONLY medical comments on the Decision were to call it “scientifically illiterate”. If the ECNI is to consider ANYTHING to do with biological sex, it must first have biologists, endocrinologists, geneticists and genito urinary experts etc set out what it is that definitely determines “biological sex” and MUST ALSO properly consider INTERSEX people. No medical oversight bodies or organisations representing Intersex and trans people have been consulted by ECNI so far. Nor are any listed to be consultees or notice parties. This is bizarre. (The FWS decision subject to ongoing legal challenge for inter alia complete failure to properly consult with or hear from Intersex and trans individuals affected by the case or, their representative bodies.) It should be noted that Lady Hale put into the public domain record that after the FWS Decision she met	

		with a group of Doctors who explained to her that "there is no such thing as biological sex". The same issue as to the meaning of "biological sex" arises in your proposed questions for the Court. It MUST be determined what the term "biological …" anything actually means, (if anything) at a biological level, if there is to be ANY continuing reference to "biological….anything" (The Department of Health NI is a political body, NOT a medical body. Any/all responses from the Department will be subject to party political taint. The ECNI should seek independent, medical expert opinions rather than political opinion.) I also draw your attention to the reply to the EHRC consultation, by FWS. In reply, FWS make clear that they do NOT accept any definition based on "assigned at birth" or "sex at birth" and, admit that birth certificates issued at birth are not always correct. (available on FWS' website) c) The proper task for the ECNI is to determine whether NI law and any Guidance properly represents the legal obligations in NI. It is NOT to compare and contrast a Decision or statute that specifically do NOT affect or apply to NI law in any way. For example, in para 30 of your Legal Paper you attempt a comparative exercise between NI legislation and the Equality Act. That is NOT the	

		role of the ECNI in this case, nor would it be so in relation to any other Supreme Court Decisions that do not affect NI law in any way. A primary obligation on the ECNI falls under s3 Human Rights Act, which has been so far completely ignored in the Legal Paper, apparently. The question for the ECNI is whether NI equality laws are being read properly, “So far as it is possible to do so….(to ensure that NI law) is compatible with the Convention rights” ? This requires the analysis of CJEU jurisprudence etc, but NOT any comparison with the EA.	
#3	Individual	No. While the Commission has summarised FWS, it has not fully identified the key legal certainty confirmed by the UK Supreme Court — that “sex” in equality law means biological sex and is not altered by a Gender Recognition Certificate. This interpretation directly affects protections for lesbians, whose sexual orientation under the Sexual Orientation Discrimination Regulations (NI) 2006 is defined in relation to the sex of the persons to whom they are attracted. Any conflation of sex with gender identity creates uncertainty about whether lesbians have the right to maintain boundaries in same-sex associations, events, or services without legal risk. The Commission has also failed to engage with how FWS interacts with Northern Ireland’s large body of allied legislation that uses biological sex	• Statutory consistency: The consistent use of biological sex across NI statutes, from the SDO 1976 to EU-derived workplace safety regulations, shows the legislative intent to maintain sex as a biological category. • Lesbian rights: Case law such as Eadie v Himsworth and Reaney v Hereford demonstrates the risk of discrimination where sexual orientation is misunderstood or undermined. If “sex” is redefined in law, lesbians may be forced to accept males as sexual partners or members in lesbian groups, breaching their own rights to free association and privacy. • Conflict between public guidance and law:

		explicitly — for example, health and safety law protecting “women of reproductive capacity” or “pregnant workers”. These provisions are binding under the Windsor Framework and confirm that biological sex remains a legal category in NI law.	The Commission’s own prior advice (30 April 2025 PAP correspondence) confirms sex in the SDO is biological unless changed for specific legal purposes by statute. Promoting gender identity as determinative contradicts this and risks misleading duty- holders. • GRA 2004 limits: The GRA does not change the meaning of “sex” in discrimination law, per FWS. This must be stated clearly to avoid misinterpretation.
#4	Individual	I approach this subject from a balanced perspective. It is important legislation allows transgender people are able to live in their chosen gender as far as possible, and more support should be provided through health and psychological services. At the same time, sex-based protections must be grounded in birth sex and clear in law to do so. Excluding transwomen from a minority of women’s single-sex spaces is not unlawfully discriminatory: allowing some males into these spaces negates their single-sex character and places women at risk. Without criteria or verification of claims to be transgender, safeguarding collapses. Even where someone is genuinely transgender, government studies confirm that male offending patterns, including for sexual offences, remain disproportionately high and largely unchanged following transition. The risks are	In addition to those already outlined, the Commission should consider: • Safeguarding duties: providers in prisons, schools, hospitals, and refuges require clear legal backing to meet safeguarding obligations. • Verification and enforceability: without clear criteria, single-sex spaces are unenforceable. Allowing some males but excluding others is inconsistent and discriminatory to all. • Human rights compliance: women’s rights under Articles 3 and 8 ECHR (protection from degrading treatment and right to privacy) must be weighed alongside trans protections. Article 8 is qualified and may be restricted where necessary and proportionate.

		therefore not hypothetical but borne out by evidence. Trans people should be included in services where possible, and dedicated provision or safe unisex alternatives should be developed. But in contexts where safeguarding requires single-sex services, the proportionate approach is for trans people to use the facilities of their birth sex rather than expecting women to absorb the risk of male offending. Yes — the Commission has identified the main uncertainties. My views on each are as follows: • Whether the Supreme Court's definition of sex as biological sex in For Women Scotland applies in NI law under the SDO 1976. The SDO was based on the Sex Discrimination Act 1975, which the Equality Act 2010 replaced in GB. Since the Supreme Court has ruled that "sex" in the successor Act means biological sex, the same interpretation should apply in NI to ensure consistency and legal certainty. • The implications of Article 2 of the Windsor Framework. EU equality law permits proportionate sex-based distinctions where privacy, safety, or dignity require it. Affirming biological sex as the basis for single-sex services therefore aligns NI law with both	• Good Friday Agreement parity: women in NI must also not have weaker rights than those in GB. • Government VAWG strategy: weakening women's safeguards undermines government and policing commitments to tackle violence against women and girls.

		safeguarding needs and EU standards. • The absence of statutory definitions of “men” and “women” in NI legislation. This ambiguity creates confusion and weakens protections. Defining “man” and “woman” as biological categories would provide certainty for service providers and courts. • The narrower definition of gender reassignment in NI. Requiring medical supervision excludes some trans people from protection. NI law could be modernised to broaden the definition in line with GB while retaining biological sex as the basis for single-sex safeguards. • The risk of inconsistency across allied legislation. Divergent interpretations of “sex” across statutes create unworkable uncertainty for providers. Harmonisation is needed so that “sex” consistently means biological sex, with additional trans protections delivered under a separate clear category, such as ‘certificated sex’ when holding a Gender Reassignment Certificate such as when required for updating tax records or sex markers on wedding certificates. This allows trans people to live as their preferred gender in their individual	

		lives, whilst also protecting the need for sex based protections in single sex spaces when it affects others in society. Conclusion Women and girls must retain robust and enforceable sex-based protections in law and practice. Where services are described as single sex, they must exclude males in order to be lawful. Otherwise, spaces become mixed sex by default, undermining women's rights and fairness to other men who are excluded on the same basis. This is lawful and proportionate sex-based discrimination, comparable to male-only services which lawfully exclude women to preserve dignity and privacy. At the same time, trans people must be protected from discrimination too but it isn't discriminatory to simply be treated as your birth sex, and trans people have a complex and unique medical journey that isn't shared by non trans people. It creates difficulties in providing trans healthcare whilst disregarding the struggles of that transition from living as one sex to the opposite one. The solution is not to weaken women's rights but to strengthen overall provision: maintain sex-based services, expand unisex and gender-neutral facilities, and improve dedicated support for trans and gender non-conforming people. Reducing women's safeguards would also contradict the Government's VAWG strategy, breach the Good Friday Agreement's parity	

		commitments, and leave NI women with weaker rights than women in GB, the Republic of Ireland or the EU. The Commission has an opportunity to provide clarity, consistency, and fairness by affirming sex as biological sex for women's protections while promoting and strengthening protections for trans people.	
#5	Lewis Silkin Solicitors	Yes, the principle legal uncertainties are identified. However, there are other nuances which also need to be considered (see below).	The following legal issues should also be considered in any legal analysis process: • In the NI Legislation "woman" is defined as "including a female of any age" (and the same in relation to "man"). This is arguably wider than the definition under the Equality Act 2010 and therefore there are a number of legal questions arising: ○ Does the reference to "including" permit the interpretation of woman (or man) to include any person identifying as female (or male) or who has that acquired gender? ○ Is it necessary to provide a definition of "female" and "male"? ○ The reference to "any age" could technically be used to exclude children accompanying a parent into facilities – although it is noted that the interim information suggests that this may not be the case. • It is understood that the jurisprudence of the CJEU includes transgender protections without the need for medical

			supervision in transition; is the SDO 1976 compliant? • Given the expected implementation of Gender Pay Gap reporting, will employers have to assign an employee to 'male' or 'female' despite their recorded gender as different or will it be permitted to rely on self-identity in any reports. • This will have implications, for example in Equal Pay cases. A transgender woman may be included in the report as female but if she is paid less than a male comparator will she be entitled to bring a claim, even where her comparator is of the same biological sex? • Should we have additional protections for trans persons including perceived discrimination?
#6	Individual	N/R	In particular, I would like to address the use of the term "biological sex" within your response. While I understand that this term is commonly used in legal and political contexts, I believe it oversimplifies the complexities of sex and gender, especially when considered from a scientific and sociocultural perspective. The concept of biological sex itself is nuanced and not as binary as it is often presented. Research in biology and genetics has shown that sex exists on a spectrum, with intersex

			individuals, for example, challenging the rigid categorisation of male and female. The term "sex assigned at birth" is a term more reflective of biological reality. Additionally, scientific understanding of sex involves various factors, including chromosomal, gonadal, and anatomical characteristics, which can vary independently of one another, for both cis and trans people. This complexity is sometimes overlooked when terms like "biological sex" are used as if they describe a clear-cut distinction. Given the implications of this language in legal and policy discussions, I believe it is important to recognise and reflect the complexity and diversity of human experiences and biology. Using more precise and inclusive language could help foster greater understanding and respect for all individuals, regardless of their sex characteristics.
#7	LGSC	The Commission have reviewed the consultation questions and are of the opinion that the Commission is not in a position to respond to questions (1), (2), (3) and (6) as they involve the analysis of complex legal issues (and those appear to have been extensively assessed by the ECNI already).	N/R
#8	Fermanagh Omagh DC	N/R	Principal Legal Uncertainties

			The Council wishes to formally recognise the hurt caused to the transgender community and others as a result of the ruling and the confusion this has created in relation to its interpretation and practical implementation, in particular in Northern Ireland. The Council concurs that the unique legal landscape in Northern Ireland introduces significant uncertainties that were not addressed by the Supreme Court in its judgment. The Council notes that the ruling was made in Scotland, where there is lesser defined rights environment, as compared to Northern Ireland and understands the need for the Equality Commission to seek legal clarity from the Northern Ireland Courts to ensure that future guidance reflects an accurate, legally robust interpretation of the law. The Council would urge the Equality Commission to consider that the Supreme Court Ruling in For Women Scotland v Scottish Ministers did not engage with the human rights implications of its judgment in a substantive way. It has been put forward that had the Supreme Court engaged with the European Convention on Human Rights framework, and its obligations under Section 3 of the Human Rights Act, it would have found that the definition of 'sex' it adopts in interpreting the Equality Act is non-compliant with the European Convention on

			Human Rights and may amount to clear violations of transgender persons' Article 8 rights (see article A Third Sex (O'Thomson and Davies) (July 2025)) The Council also notes that independent Human Rights experts have warned that while the ruling was limited to a question of statutory interpretation, it risks entrenching legal uncertainty and undermining the rights of transgender persons in all aspects of life (see article UN experts warn of legal uncertainty (various UN Rapporteurs) (May 2025))
#9	Individual	N/R	N/R
#10	Individual	I would like to express my view on this consultation that NI Equality Law should reflect exactly the judgement given recently by the Uk Supreme Court relating to the definition of biological sex.	N/R
#11	Girl Guiding Ulster	Yes	N/A
#12	Response on behalf of each of the health trusts, ambulance service and BSO.	In general Yes. However we have identified some exceptions outlined in (2). The document is very detailed and comprehensive however due to it addressing the legal uncertainties and legal questions posed by the ruling in Scotland, the language and terminology was at times, hard to understand and challenging for the majority of	The document fails to address our S75 due regard duty to men and women generally which applies to transgender men and women. This may affect any guidance provided by Equality teams and the outcome of any Equality Screenings and Equality Impact Assessments undertaken.

		stakeholders who may not have any specific legal background. For example: "One interpretation is that Article 2 Windsor Framework "bites" such that equality legislation in Northern Ireland must be interpreted in light of European law." (p.28) None of the Equality Leads involved in this response have a legal background and where therefore not familiar with the meaning of "bites". The legal terminology used within the document may have therefore limited our ability to fully respond and cover all potential issues. The use of many abbreviations also added to the complexity of the document. Stakeholders may have benefitted from simplified language or an Easy Read option which is usually recommended as good practice. Within our own Equality Schemes is the commitment to produce documentation in an easily understood format and plain English and/ or use of Easy Read versions.	In Sex Discrimination Order 1976, "gender reassignment" means: "a process undertaken under medical supervision for purpose of reassigning a person's sex by changing physiological or other characteristics of sex, and includes any part of such a process". Due to the requirement for medical supervision, a person could be transgender and yet not have the protected characteristic of gender reassignment. Where do the Trusts and BSO stand in terms of service provision and employment, given that we are not allowed to ask for Gender Recognition Certificate? Does our legislation need to be amended to be more explicit in terms of 'meaning a woman' as opposed to 'including a woman'? Where do Trusts and BSO stand in relation to the classification and disclosure within HSC IT systems of individuals' sex data in light of health and social care not being a designated entity within the Gender Recognition Act (2004), Section 22(4). HSC Trusts are requesting guidance on what a "pragmatic approach" to this would be? It is unlawful for the Trusts to request a Gender Recognition Certificate from staff under current legislation but is this likely to change?

			Article 2 of the Windsor Framework states no diminution, so if we have provided access to facilities for transgender people for the sex that they identify with previously, and stop doing so, we are in effect breaking the law of no diminution? The Trusts would benefit from guidance which outlines at what point discrimination becomes harassment in the implementation of any new Codes of Practice. For example, a report of a female using male changing rooms. Another example may be the use of pronouns, where an individual refuses to refer to a colleague/service user as they/them on the basis of their religious beliefs. Will the new guidance suggest that one protected characteristic takes precedence over another?
#13	CAJ	N/R	**Section 75, ECNI and the Related Legislative Framework** (context for the response is included in general commentary). 6. The statutory equality duty under Section 75(1) of the Northern Ireland Act 1998, places obligations on designated NI public authorities to promote equality of opportunity on nine protected grounds which include the grounds of: *…(b) between men and women generally*

			7. The Section 75(2) 'good relations' duty does not cover this ground. 8. Schedule 9 of the Act places duties on public authorities to adopt Equality Schemes and to impact assess new or revised policies in relation to their implications for equality of opportunity. The Schedule also places duties on the ECNI, including that the ECNI shall: *....offer advice to public authorities and others in connection with [the s75] duties* 9. In relation to Equality Schemes, public authorities are to ensure that their Schemes: *…conform to any guidelines as to form or content which are issued by the Commission with the approval of the Secretary of State* 10. The ECNI has consequently issued several formal advisory and guidance documents in relation to the application and interpretation s75 including: • Section 75 of the Northern Ireland Act 1998 Practical Guidance on Equality Impact Assessment (2005) • Section 75 of the Northern Ireland Act 1998 A Guide for Public Authorities (April 2010) • Model Equality scheme (2010)

			11. The issue of the scope of the Section 75(1) equality duty and the interpretation its ground of 'men and women generally' was not dealt with by the UKSC in FWS, as the case related to the Equality Act 2010 in Great Britain. The Equality Act 2010 itself has a counterpart Public Sector Equality Duty (PSED) in s149. However, it covers 'sex' and 'gender reassignment' as separate protected characteristics. The same interpretation issue therefore does not arise and was not dealt with by FWS. 12. In addition, further to the UK-EU Withdrawal Agreement and Article 2 the Northern Ireland Protocol/Windsor Framework (Art 2 WF), the UK entered into a commitment that there would be no diminution in certain GFA rights in Northern Ireland as a result of the UK's exit from the EU. This includes 'in the area of protection against discrimination' in EU Directives, including Directive 2004/113/EC on equal treatment between men and women in goods and services and Directive 2006/54/EC on equality between men and women in employment. The ECNI is given an implementation role in the Art. 2 WF commitment. 13. The Sex Discrimination (Northern Ireland) Order 1976 (hereafter SDO), first outlawed sex

			discrimination against women in Northern Ireland (and men). The SDO followed the Sex Discrimination Act (SDA) 1975 in Great Britain. In the absence of single equality legislation, the SDO is still in force in Northern Ireland and covers direct and indirect discrimination in employment, training goods, facilities and services, maternity, and protections for women's only spaces. 14. In 1996, the EU- European Court of Justice (ECJ) dealt with the case of P v S and Cornwall County Council ('P v S') *(see endnote 4).* This dealt with the scope of an earlier Equal Treatment Directive *(see endnote 5)*. This dealt with the question of whether an employee undergoing gender reassignment surgery was protected against discrimination on ground of sex (connected to gender reassignment). The case found that there was no remedy under the SDA, as it only covered "situations in which men or women were treated differently because they belonged to one sex or the other, and did not recognise a transsexual condition in addition to the two sexes."*(see endnote 6)* 15. P v S led to the UK introducing the Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999 (SR1999/311) (alongside a similar regulation in Great Britain). These regulations amended the SDO to include a prohibition of discrimination on

			the grounds of 'gender reassignment'. This has been amended several times and includes employment and training, but is more limited in relation to goods, facilities and services. The definition in the SDO of the anti-discrimination ground of gender reassignment remains: *"gender reassignment" means a process which is undertaken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex, and includes any part of such a process. (see endnote 7)* 16. Subsequently, the European Court of Human Rights (ECtHR) in Goodwin v the UK *(see endnote 8),* dealt with the case of a transwoman who had undergone NHS gender reassignment surgery for gender dysphoria for whom there was no provision for legal gender recognition. In the context of significant practical impacts flowing from this lack of legal recognition, a breach of the ECHR was found. Following this the UK introduced the Gender Recognition Act 2004 (GRA), which provided for a process to apply for a Gender Recognition Certificate where a panel issues a certificate if it determines that the applicant: has gender dysphoria; has lived in acquired gender for two years; and intends to live in acquired gender forever. Section 9(1) of the GRA provides that where a Certificate is issued, the person's

			gender becomes, for all purposes, the 'acquired gender'. This is qualified by s9(3) by any provision in the GRA or any other legislation (meaning that the persons gender is not the acquired gender if other legislation requires it not to be). 17. In summary, the focus of FWS was as to whether the protected characteristic of sex in the Equality Act 2010 referred only to biological sex or whether it could be read as including an 'acquired gender' by virtue of the process in the GRA. In practical terms, this related to whether transwomen (i.e., biologically male, gender identity as a women) could assert a right to access women's only provision *(see endnote 9).* FWS held this was not the case and that the protected ground of 'sex' in the Equality Act 2010 referred to biological sex and qualified the provisions of the GRA on acquired gender. **Position on Scope in ECNI Legal Paper** 18. As set out earlier the question in relation to s75 relates as to whether the protected ground of 'men and women generally' is capable of, and is interpreted by, the ECNI as covering gender identity as well as biological sex. 19. The three general areas of consideration in relation to this question appear to be:

			• What is the original legislative intent of s75 as to how the concept of 'men and women generally' should be interpreted? • How has the ECNI advised the provisions should be interpreted? • Has there been any modification of the definitions in s75 due to EU law? 20. The ECNI Legal Paper sets out that, in relation to 'men and women generally' in s75, there is no definition of 'men' or 'women' in the legislation and 'there is no reference to gender reassignment at all'. The Legal Paper then states more definitively that the s75 category as it stands is limited to biological sex and does not cover gender identity: *In Northern Ireland, there is a public sector equality duty contained in s75 NIA 1998. It requires public bodies to have due regard to the need to promote equality of opportunity between, among other groups, men and women generally but not for transgender people (see endnote 10).* 21. The ECNI then states, however, that EU law, given continued affect by Art. 2 WF, may apply. In essence, the ECNI position is that s75 (and the categories within of 'women' and 'men') relate to biological sex only, unless this position has been changed by EU law given continued effect by Art. 2 WF *(see endnote 11).*

			22. This submission will now consider the three areas listed above in more detail before turning to the question of what ECNI now advises public authorities to do in relation to s75 (in this area) and how this might work in practice. **Original Legislative Intent of s75.** 24. It would seem to be straightforward that the original intent of s75 was that the grounds of 'men' and 'women' were intended to cover biological sex only. The statute predates Goodwin v UK, the GRA and the incorporation of gender reassignment into the SDO. The ECNI does not explicitly state this understanding, but it is implicit in the above position. 25. The ECNI Legal Paper does note that the language in the much earlier SDO 1976 differs from that in the Equality Act 2010, as the latter defines 'woman' as 'means a female of any age', and the SDO defines it as ''includes a female of any age' *(see endnote 12)*. 26. This has been picked up in some commentary as a suggestion that the difference in wording should mean a different interpretation for Northern Ireland law. The ECNI Legal Paper notes, however, that the SDO language is identical to that of the Sex Discrimination Act

			1975 in Great Britain (SDA which was considered in FWS) and concludes that the drafting differences between the SDO and Equality Act 2010 make no material difference *(see endnote 13).* 27. In FWS in considering the SDA stated that "First, there can be no doubt that Parliament intended that the words 'man' and 'woman' in the SDA 1975 would refer to biological sex – the trans community of course existed at the time but their recognition and protection did not*." (see endnote 14).* Then addressing the argument that the wording of 'means' and 'includes' should have a different interpretation stated: *We do not consider this change to be significant in context. In both cases, the meaning conveyed is simply to make clear that boys and girls are also included within the definition of man and woman, respectively. We do not see the words "includes" and "means" as sufficiently distinctive to lead to any conclusions about whether the EA 2010 was intended to alter or maintain the position under the SDA 1975 that the terms refer to biological sex only*. (see endnote 15) 28. Given this ECNI may wish to more expressly state its interpretation of the original legislative intent of s75. ....

			Impact of EU Law 35. In summary, the ECNI Legal Paper concludes that the FWS ruling will read over to Northern Ireland equality legislation (including s75) unless there is an EU law provision that has changed the meaning of the terms 'man', 'woman' and 'sex' that is given continued effect by Art. 2 WF. The ECNI Legal Paper states: *In short, unless the Courts and/or Tribunals in Northern Ireland are required to depart from FWS due to the application of Art 2 WF, in the Commission's opinion, FWS should be considered as prescribing the legally required interpretation of the EPA 1970 (see endnote 17), the SDO 1976 and s 75 NIA 1998 (see endnote 18).* 36. The ECNI Legal Paper states that the EU law point particularly relates to "the judgment of the Court in the seminal case of P v S and Cornwall County Council, Case C-13/94, decided in 1996" and subsequent EU law rulings impacting on P v S. *(see endnote 19)* 37. The ECNI Legal Paper points out that the Supreme Court did not consider Art. 2 WF, given as FWS did not concern Northern Ireland (albeit it is worth noting that the primary EU law point re the P v S case and the consequent 1999

			regulations, were dealt with in FWS.) *(see endnote 20)* 38. As alluded to above, the implementation the judgement of P v S by the UK was undertaken through regulations which added an additional protected characteristic of 'gender reassignment' to existing sex discrimination legislation (rather than by amending the definition of 'man' or 'women' in the SDO and SDA). 39. The ECNI approach is to seek what is essentially (in lay terms) an advisory opinion from the Courts in Northern Ireland on the EU law point. The ECNI sets out its interim approach in the final section of the ECNI Legal Paper. **Endnotes** **4.** P v S and Cornwall County Council (Case C-13/94) [1996] ICR 795, [1996] ECR I-2143 ('P v S') **5.** Council Directive 76/207/EEC (OJ 1976 L39 p 40) cited in FWS, para 55. **6.** Cited in FWS para 55. **7.** Section 2 SDO (as amended). This differs from the definition in the Equality Act 2010 which does not have the requirement of medical supervision (s7 "A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or

			has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.") **8.** Goodwin v United Kingdom (Application No 28957/95) (2002) 35 EHRR 18 **9.** The specific subject of FWS related to women only provision on public boards. **10.** ECNI Legal Paper, page 28. **11.** "In short, unless the Courts and/or Tribunals in Northern Ireland are required to depart from FWS due to the application of Art 2 WF, in the Commission's opinion, FWS should be considered as prescribing the legally required interpretation of the EPA 1970, the SDO 1976 and s 75 NIA 1998. On that basis, there would be no significant difference between the implications of the decision in Birmingham and the implications in Belfast. It can be said with significant certainty that the Supreme Court interpreted the term "sex" in the EA 2010 to mean "biological sex", and "women" and "men" to refer to the biological sex of the person at birth, and that a GRC did not change a person's legal sex for the purposes of the EA 2010. The Commission understands this to be the central holding of the Court." **12.** ECNI Legal Paper paragraph 11A. **13.** ECNI Legal Paper, paragraph B6. **14.** FWS [51] **15.** FWS [174] **17.** EPA -Equal Pay Act.

			18. ECNI Legal Paper, para B6. **19.** ECNI Legal Paper Citing 'P. v. S. and Cornwall County Council, Case C-13/94; K.B. v. National Health Service Pensions Agency, Case C-117/01; Sarah Margaret Richards v. Secretary of State for Work and Pensions, Case C-423/04; MB -v- Secretary of State for Work and Pensions, Case C451/16.' **20.** FWS, paras 54-62, 265(iii)
#14	Ulster University	We consider that the Commission is providing clear explanations of the legal uncertainties arising from the FWS judgment, including the challenges to interpret the FWS judgements when there is not a statutory definition for 'sex', 'man', and 'woman' in any Northern Ireland legislation. In addition, the concerns around the interaction between domestic equality law and Article 2 of the Windsor Framework, considering the existing challenges to reconcile domestic law and the new legal provisions emerged from post-Brexit framework for NI. These issues are central to the legal and operational challenges we face as an institution when developing equality and inclusion policies and practices for all staff and students.	We recommend that the Commission could also explore and provide guidance on: • The legal status and recognition of the Gender Recognition Certificate (GRC) in Northern Ireland and how the current process to access and retain the GRC will be potentially impacted in terms of its validity and scope to reassigning a person's sex. • The potential conflict between domestic interpretations of 'sex' and obligations under the European Convention of Human Rights (ECHR) and EU law under the condition of non-diminutions of rights for Northern Ireland, following the UK exit from the European Union. • The implications for Section 75 duties and the promotion of equality of opportunity for trans students and staff as well as the impact on our equality monitoring.
#15	Individual	No. There were no significant uncertainties until you created them. The FWS ruling is clear and unambiguous. You have (seemingly knowingly and	You have failed to consider that not implementing FWS in full leads to the diminution of rights for women & girls, for pregnant trans-identified women, for lesbians, and for gay men.

		vexatiously) created uncertainty for the public here in NI by your actions. - FWS SC had no impact on the EA10 protected characteristic of gender reassignment. This is entirely unaffected by the ruling. It focused on other groups – women, lesbians, pregnant women who describe themselves as trans. - I note however that on your website, and in your legal paper, that you continuously conflate and confuse these entirely separate and distinct protected characteristics. You state correctly in para 6 that people with the characteristic of gender reassignment are separately protected, yet proceed to weave castles in the air later in your paper to try and suggest that FWS has an impact on this group in law. It does not. It merely states the meaning of terms used in law as they have always been. The SC was explicit about this; there has been no diminution in rights for trans identified people as a result of the FWS judgement. - You state correctly that the FWS ruling relates to EA10. However, the Supreme Court in making its judgement, did so based on the only possible logical interpretation of the key words 'man' 'women' and 'sex' in foundational legislation such as SDO, which underpins S75 NIA 1998 as well as EA10. - You rely heavily on Art. 2 of the Windsor Framework, that there should be "no diminution" of	These groups are all protected under S75 NIA 1998 and allied legislation, as well as by Art. 2 of the Windsor Framework. Groups who share a protected characteristic should suffer no detriment through your actions. If FWS is not implemented fully and speedily in NI, they will all suffer clear detriment and it will be your fault. - Instead you seem to have made an assumption that FWS decreases the rights of people with the protected characteristic of gender reassignment (protected by separate regulations here; NOT by NIA 1998). You have not evidenced this or made any argument as to why you believe this. However there seems to be evidence that you were complicit in misinterpreting the law previously and may have given inaccurate advice to service providers. If this current proposal is an attempt to cover up or distract from those failings, that is a small-minded and ungenerous response to the clarifications provided by the Supreme Court. - In suggesting this process (following a pre-action protocol etc), you are actively seeking to diminish and reduce the rights of three different protected groups (sex "men & women generally", sexual orientation, pregnancy & maternity), in direct contravention of your duties and your raison d'être.

		rights enshrined in Northern Ireland equality law. The implication is that you believe there is a diminution of rights for someone or some group/s, yet fail to state who these are. I suspect you are jumping to the demands of trans 'rights activists' who claim to be losing rights without ever stating what rights are being lost, and despite the unambiguous clarification from SC that no rights have been lost. - In fact, failing to implement the outworkings of FWS is clearly a diminution of the rights of women, girls, lesbians, gay men, and trans-identified pregnant women, and this leaves you and any relevant service providers open to legal challenge. You are doing the very thing you are claiming to be preventing. - You state that interpreting the meanings of words like 'man' and 'woman' is complicated where allied legislation applies, due to the lack of definition of the terms. This is nonsense. The SC made clear in FWS that the words should have their ordinary meaning and refer to biological sex. All the foundational legislation developed in the days before the gender trend share this common, well-understood meaning. I would wager that every one of you has at some point asked clarified the sex of a friend's new baby by asking 'Is it a boy or a girl?'	- You are attempting to actively seek to diverge the rights of NI citizens from those living in GB, and in doing so to reduce the rights and protections for me, my daughters, my elderly, vulnerable mother, and my three lesbian nieces. This is unworthy of you, and shameful. It also likely breaches Art. 2 of the WF. The Commission should not be acting unlawfully. - You have also failed to acknowledge that the Supreme Court covers the entirety of the UK. If your delay and obfuscation is successful, it can only be temporary, as there will be (I promise) cases brought that will go all the way to the SC. If you think there is any chance that the SC will disagree with their own ruling, then you will discover otherwise. - In addition, you must be aware that NI and GB are both part of the common law system. Foundational rulings clarifying the meanings of key words in law, are taken seriously — particularly when they are as well thought through and well argued as the FWS ruling. This is a significant judgement that has rippled through all of the lesser courts and will influence future case law throughout all relevant jurisdictions.

		- You acknowledge the concept of 'margin of appreciation' in the context of European Court proceedings, and that such margin is held to be wide in matters relating to member states' interpretation of matters relating to sex and gender, yet you then backtrack with a weak question about whether CJEU might not take a similar approach. You acknowledge that, given the UK's exit from the EU, there is no longer a referral route to CJEU, yet include a considerable section of your paper addressing theoreticals related to CJEU. You must also know that the context for previous ECtHR case law is very different – that states are now acknowledging the conflict of rights, and that public opinion (overwhelmingly in favour of the FWS judgement) would be a key factor in assessing the margin of appreciation. - Your attempt to build an argument based on the European legal context is weak, not well-founded, and suggests an active desire to confuse the public and indulge in faux hand-wringing.	
#16	Individual	Response: No, on the contrary ECNI has created confusion where there was none. The SC ruling was extremely clear that definitions of "man", "woman" and "sex" must not depart from biological reality otherwise many areas of law become incoherent. For example, how can anyone uphold the protected characteristic of sexual orientation unless sex is defined on the basis of biology?	Focus on women's rights. To define a woman in terms other than biology will be detrimental to women's rights and it is part of the remit of ECNI to ensure that women in NI have the same rights as women in the rest of the UK. Do not undermine rights for women in NI by including some males in the definition. The FWS made it clear that clarifying the definition of a woman as always and only

			based on female biological sex causes no detriment to the rights of those with other protected characteristics because the ruling does not change the law or their rights. If inaccurate advice has been published by ECNI or others that caused trans-identifying males or males with a GRC to assume rights which they did not possess then this needs to be corrected immediately.
#17	Individual	I think this section is incredibly laboured and opaque for anyone who's not an expert in law. The outcome of this whole process needs to be a clear, logical definition of what is meant by "woman", "man" and "sex", and common sense dictates that these definitions must be based on biological sex. There is a lot of talk about "gender reassignment" and what this means. Why? FWS is nothing to do with this! The method the Supreme Court judges used was logical - test whether the law made any sense if non- biological definitions were used instead of biological ones. In all cases, the result was nonsense unless biological definitions were used. I would encourage the same modus operandi here.	The rights of women and girls to single-sex spaces, services and sports. The rights of lesbians to assemble and associate freely without men present. The rights of trans-identified women (who claim to be men) to maternity services where relevant.
#18	Individual	N/R	N/R

#19	Gaels For Fair Play	N/R	N/R
#20	Women's Rights Network	No. We suggest that rather than precisely and accurately identifying the questions that arise from FWS regarding NI legislation, instead ECNI has caused significant confusion as follows. ● ECNI has seeded legal uncertainty and has presented a biased approach which uses ideological ideas and language. ● ECNI has failed to acknowledge the real absurdities, anomalies and illogicality (i.e. legal uncertainties) impacting the rights of women and those with the protected characteristic of sexual orientation, especially lesbians, were the definitions other than biologically sex based. ON THE QUESTION OF LEGAL UNCERTAINTIES FWS is concerned with the meanings of woman, man and sex in legislation. The Supreme Court clarified that in various pieces of legislation (some UK, some GB based) woman, man and sex could only be understood to be defined in strict accordance with biological sex, and that this was what these words had always meant and had always been intended to mean. The ECNI sets out to consider the implications for NI legislation. The question for the ECNI and for NI legislation should logically be the clarification of the words woman, man and sex as used in local law.	The detriment to women's rights In its Legal Paper, the Commission has failed to adequately acknowledge and consider the detriment to and effectively the diminution of women's rights were woman/women to be defined as other than based on female biological sex. The Commission should never seek changes in legislation which reduce the rights of women. To do so is a betrayal of its statutory duties to administer the equality legislation of NI and to safeguard the protected characteristic of sex. Furthermore regarding the ECNI role as the dedicated mechanism of the Windsor Framework, this question of detriment to women is an important Article 2 consideration. To define woman in terms other than biological sex (i.e. to remove from law woman as a sex based category) would reduce the sex based rights and protections of women. Article 2 protects women against a lessening of their rights. ECNI has a duty to ensure no detriment to women's rights. ECNI has failed to adequately address the extreme legal anomaly were protections and rights of women in Northern Ireland to be fewer

		We ask why the ECNI added the term gender reassignment to the list of words under scrutiny in its Legal Paper. This adds unnecessary confusion and uncertainty. The definition of gender reassignment (in UK - GB and NI) is unchanged in any way by the Supreme Court ruling. The Supreme Court did not address the meaning of the words gender reassignment. Thus no “legal uncertainty” regarding this arises in NI from the FWS judgement. To add gender reassignment to the list of words under question is to add an invented additional uncertainty and very much to muddy the waters of the entire project. In Section B ECNI describes a coherent logic by which the words, woman, man and sex, would also be defined in relation to biological sex in NI law, even though some pieces of relevant legislation are devolved and therefore differ from GB. It then raises the question of whether Windsor Framework Article 2 has any bearing on the clarification of the meanings of these words. Additionally, ECNI presents several pieces of analysis/speculation which have nothing to do with the definition of the words in question. These are NOT “legal uncertainties and issues arising in Northern Ireland from the FWS judgement”; they are deviations which deal with entirely different matters e.g. comparisons between definitions of	than in the rest of the UK. For years ensuring that women in NI have the same rights as women in the rest of the UK has been a core purpose of the ECNI - but suddenly now ECNI is suggesting women in NI potentially ought to have fewer rights than in GB. Whilst failing to address this relationship between NI and GB legislation regarding women, the ECNI has pro-actively presented a biased and irrelevant comparison between NI and GB legislative detail about the definition and protection of gender reassignment, with the potential aim apparently of changing NI laws about gender reassignment. This appears to be an opportunistic overreach. This process is NOT about the wording of legislation about gender reassignment, it is solely about the meanings of the words women, men and sex in equality law. To be emphatic It is NOT about changing laws, it is about clarifying the meaning of words (women, men and sex) in existing law. NB: The FWS Supreme Court ruling makes explicit that clarifying the definition of woman as always and only based in female biological sex causes NO DETRIMENT to the rights of people who consider themselves to be trans or hold a GRC because the ruling does not change the law nor their rights. The ruling makes clear that the only reason that such people might think that they are subject to a detriment to their rights is

		gender reassignment and questions about indirect discrimination. We ask whether it is even logical to ask whether Windsor Framework Article 2 has jurisdiction over the clarification about what words in NI/UK English language laws mean and have always meant. This simply does not make sense. Article 2 can have no jurisdiction over what a word meant in UK/NI legislation several decades ago. We also consider that ECNI has taken the question of the clarification of the meanings of woman, man and sex in NI legislation as an opportunity to potentially provoke changes in wording in NI legislation regarding the definition of gender reassignment and the details around indirect discrimination based on an argument that these differ from wider UK legislation. The definition of gender reassignment and the question of protection from indirect discrimination are entirely extraneous to the question of the clarification of meanings of woman, man and sex. These questions, and the alignment with UK law are within the remit of ECNI - but they are irrelevant to the question at hand and should not be pursued in this context. We consider that ECNI has purposefully added obfuscation and confusion by doing this. The FWS	because they have been misled. Lobby organisations and statutory organisations have actively misrepresented the law for years. We consider that much of ECNI's published advice and many of its reports about equality and equality legislation have misrepresented the law and encouraged employers and service providers to act unlawfully and to the detriment of women. ECNI has used manipulative gender ideology concepts which are not grounded in NI law, leading to a high degree of confusion around what is and is not lawful and who does and does not have rights to certain protections. In all instances this has been to the detriment of women. **The detriment to lesbian rights** In its Legal Paper, the Commission has failed to consider at all the detriment to lesbians' rights were woman/women to be defined as other than based in female biological sex. The Commission should not seek changes in legislation which reduce the rights of lesbians. To do so is a betrayal of its statutory duties to administer the equality legislation of NI and safeguard the protected characteristic of sexual orientation. Furthermore, regarding the ECNI role as the dedicated mechanism of the Windsor

		ruling made very clear that the categories of sex and of gender reassignment are entirely DISTINCT categories. The FWS Scotland ruling made clear that the confirmation that man, woman and sex are defined in relation to biological sex does not infringe upon any rights or protections of people with the protected characteristic of gender reassignment. Logical method vs creating uncertainty Furthermore in ECNI Legal Paper Executive Summary Section A, the Commission states that because the Supreme Court did not examine NI specific legislation, it remains ambiguous what woman, man and sex mean in NI legislation. ECNI does not acknowledge that although the Supreme Court did not examine NI legislation it does nevertheless set out clear and direct methods for examining legislation in order to logically establish that sex means biological sex. This clear and direct method can be logically applied to the relevant legislation in NI: i.e. ● examine 50 years of NI legislation; ● consider the intended meaning in the use of the particular words; ● ensure that illogicality, absurdity and anomaly are avoided. The ECNI outline fails to acknowledge fully the illogicality and absurdity were the law to define	Framework, this question of detriment to lesbians is an important Article 2 consideration. To define woman in terms other than biological sex (i.e. to remove from law woman as a sex based category) would reduce the sex based and sexual orientation based rights and protections of lesbians. Article 2 protects lesbians from a lessening of their rights. ECNI has a duty to ensure no detriment of rights for lesbians. **The detriment to trans identified women who are pregnant** The Supreme Court ruling was specifically concerned to ensure that a woman who identifies as a transman must not lose her right to protections accorded to her due to her pregnancy and her maternity. ECNI has failed to consider this important issue entirely. To not consider this would be a diminution of the rights of women who identify as trans men. ECNI has a duty to ensure that the rights to pregnancy and maternity protections and benefits are afforded to all women irrespective of how they identify. Furthermore, we are concerned that were ECNI to pursue definitions and considerations other than those outlined in the FWS Supreme Court ruling, some protections afforded by some of the 22 pieces of Allied Legislation cited in Annex 3

		woman as anything other than always and only based in female biological sex. In its commentary and Executive Summary Section A the Commission writes that the Supreme Court does not consider legislation outside the field of equality legislation. However, a crucial part of the FWS Supreme Court analysis refers to Lady Haldane's observation that in Victims and Witnesses (Scotland) Act 2014 sex could logically only mean biological sex – even though biological sex was not explicitly mentioned - otherwise its reference to sex would be meaningless. Victims and Witnesses (Scotland) Act 2014 is not part of equality legislation and it nonetheless informs the reasoning for the clarification confirmed by the Supreme Court ruling. We argue that the many pieces of "allied legislation" which ECNI lists could be examined in a similar way to show that it would be absurd and meaningless to propose that in these pieces of legislation women and men would mean anything other than categories defined by biological sex. For example: ● To consider Annex 3: Allied Legislation, number 2. When in the Factories Act (NI) 1965 reference is made to not allowing "a woman or girl to be employed therein within four weeks after she has given birth to a child" this is beyond any doubt referring to women and girls as members of the	might no longer protect women who identify as transmen.

		female sex. It is only possible for members of the female sex to give birth. Women and girls are members of the female sex. Men and boys are not. ● To consider Annex 3: Allied Legislation, number 3. When in the Control of Lead at Work Regulations (Northern Ireland) 2003 reference is made to “activities from which a woman of reproductive capacity is prohibited” this is beyond any doubt referring to women as members of the female sex. It concerns the severe damage that can be caused to a woman’s ovaries, or to a foetus in utero, by exposure to lead. It goes without saying that this is a biologically sex-based definition of woman. Only women have female reproductive systems, including ovaries and uterus. Only women produce large gametes and can gestate human babies. *Note: Please see comment below in answer to Q.2 regarding Allied Legislation and the rights of trans-identifying women to protections in line with their female sex. New legislation does not change the meanings of words in prior legislation The Gender Recognition Act 2004 (GRA) is UK wide legislation, therefore the Supreme Court consideration of it applies directly in Northern Ireland. The FWS Supreme Court ruling is explicit that the GRA does not change the meaning of the words women/woman, men/man and sex in	

		existing laws. Thus, the GRA cannot change the meaning of these words in preexisting laws in NI. Analogously various separate pieces of EU case law (cited in Section B) do not change the meaning of words in existing local laws. There is no more reason to cite these cases now and propose that they might have a bearing on NI laws, than a year ago or next year. It is a speculative exercise. However, ECNI has devoted considerable attention to outlining cases in which challenges about the meanings of the words woman, man and sex have been introduced through interaction with European courts. This current process is not a legal case analogous to these cases. This process is solely a clarification of the definition of particular words in existing NI laws. Article 2 is concerned with the avoidance of detriments to rights post Brexit. A clarification in the law cannot produce a detriment - although it may reveal misrepresentation and misapplication of the law in the past. Some people who have benefitted from the misapplication of the law, may perceive the clarification as creating a detriment, but it clearly does not. The process is about clarification not a change of law. The ECNI seems to be going to considerable lengths to bend the process towards changing laws and potentially redefining the term gender reassignment towards a self-id principle, which is not a legal concept in NI or the rest of the UK.	

		ISSUES ARISING ECNI has underrepresented the endless legal, practical and everyday anomalies that would be created were women in NI a different legal entity to women in the rest of the UK. ECNI suggests that the law could be in contradiction with reality but does not acknowledge this. ECNI fails to recognise that by defining women as other than a female sex-based category it abolishes the legal meaning of lesbian in its entirety, and thus abolishes the protections of lesbians. It would then render the meaning of the protected characteristic of sexual orientation redundant and the law protecting sexual orientation incoherent.	
#21	Individual	No, your idea caused confusion. I feel that there has been bias against women due to language used. Women in Northern Ireland must be treated like the rest of the women in the UK. The definition of woman must be clear and unequivocal. I do not see why we need new definition of the terms women or man.	I feel you are setting out to diminish the rights of women in NI. Women have fought long and hard for our rights and they must not be weakened. I object to any divergence of rights from the rest of the UK.
#22	Individual	No. ECNI has decided to create the smokescreen of a hypothetical future court case being brought against them, to give themselves wiggle room to pretend that they actually believe that the Windsor Framework can reach into the past and change the meaning of the words man, woman and sex in	N/R

		Northern Irish legislation. Please do your job in the present tense and produce the straightforward guidance necessary based on the clarity of the Supreme court ruling.	
#23	Women's Policy Group	The ECNI document has identified several principal areas of legal uncertainty arising from the FWS judgment: ● How the judgment should be applied in Northern Ireland. ● The effect of Article 2 of the Windsor Framework on anti-discrimination law. ● The wider impact of the judgment on related legislation. The Women's Policy Group believes that further issues remain unresolved. 1. Interaction with Human Rights Legislation. One area of concern is how the judgment interacts with existing human rights protections. The Human Rights Act 1998 requires both legislation (section 3) and public authorities (section 6) to act compatibly with Convention rights. Since gender identity is protected under Articles 8, 12, 14 of the ECHR, there appears to be a tension between the UKSC judgment and the HRA. ECNI guidance for public authorities should clarify this point. 2. Status of Gender Recognition Certificates (GRCs) in NI. If a GRC does not change a person's	The outstanding legal issues that should be considered by the ECNI are outlined in the previous question. The WPG would like to add the importance of clearly stating that the FWS judgment reaffirms the rights of trans people not to be discriminated against. It is important to consider the remit and role of the Equality Commission in its development of guidance, and its analysis of legal issues stemming from this judgment. The Equality Commission's Corporate Plan 2025 - 2028 states: "We are seeing a divisive and heated debate around equality and human rights across the world. We must remember that equality and human rights protections were central to the Belfast (Good Friday) Agreement and are just as crucial to creating a peaceful Northern Ireland as they were back in 1998. We must work together not only to protect these rights but to work for an acceptance of the rights of others and for good relations between neighbours as we build a Northern Ireland where everyone - no matter their age, disability, orientation, race, religion or sex - feels safe, respected and truly at home."

		legal sex for the purposes of the Equality Act 2010, what legal effect does it carry? The state has a positive obligation to recognise and give effect to GRCs—guidance must clarify how this obligation is met. 3. Lack of Clarity for Non-Binary, Gender-Fluid, and Intersex People. The guidance also lacks clarity for non-binary, gender-fluid, and intersex people. By relying solely on the concept of "biological sex," it fails to account for those who do not identify within a binary framework. This omission risks exclusion and may conflict with European human rights standards. 4. Data Protection Concerns. Trans status ("gender reassignment") is defined as a special category data under GDPR and the Data Protection Act. As the Rainbow Project and HereNI note in their submission, changes to facility use could inadvertently "out" individuals, creating risks for both employers and employees, as well as trans people in daily life. Current Commission guidance does not reflect the practical difficulties this might present for trans individuals or potential breaches of data protection law.	The Commission's interim information, as currently written, would amount to a segregation order for transgender people in public spaces, in the workplace, in access to goods and services. It would shut transgender individuals out of public life in meaningful ways, limiting their ability to move freely through society, to access basic facilities such as bathrooms and changing rooms, to enjoy recreational activities and build a career. Vague assurances that there must still be provision for trans people through gender neutral/accessible facilities, while maintaining their exclusion from mainstream gendered spaces, is no comfort to those subject to this segregation. This should be considered an unacceptable outcome which goes against the very role of the Equality Commission - to promote and protect equality and human rights, to 'build a Northern Ireland where everyone feels safe, respected, and truly at home'. The Commission's work on this judgment thus far has been focused on interpretation, on analysis of legal arguments and 'seeking clarity' on how it should be applied. While we understand and accept that the Commission must provide up- to-date, legally sound guidance for employers and service providers, its duties to meaningfully promote and uphold equality and human rights for everyone in society is being lost in the name of 'legal certainty'. If this legal certainty requires the marginalisation and segregation of transgender individuals

			within our society, the Commission must have a view as to how the legal frameworks which exist to protect all communities should be altered or amended to meaningfully protect and uphold the basic rights and liberties of transgender people. To date, the Commission has not been forthcoming as to its views on the impact this judgment may have on these rights, and of the legal basis on which it will work to reaffirm those rights.
#24	Individual	Why try to reduce women's rights here by diverging from the Supreme Courts clarification of the law in the UK? I believe that ECNI have only added to our current confusion here. The FWS case made it clear that the terms man, women and sex refer to Biological sex.	The term women must refer to Biological sex otherwise you are diluting women's and girl's rights. It is clear that trans people are not losing any rights as the law has been misinterpreted.
#25	For Women Scotland	In summary, we consider that the concerns expressed in the June 2025 Legal Paper are wholly misplaced, there is no need for the ECNI to seek the assistance of the courts in order to establish the correct legal position, and the impact of the Windsor Framework in the context of Northern Ireland makes no difference in this matter. The answers to the questions on which the ECNI propose to request the High Court to rule (as set out on page 31, paragraph 12 in Section C of the Legal Paper) are as follows:	The legal opinion of Aidan O'Neill KC, who represented us in the UK Supreme Court, is enclosed for your consideration. (appended)

		a. Whether Article 2 WF applies in such a way as to require Northern Ireland equality law (and allied legislation) to be interpreted to conform to EU law, such that a particular meaning of "men", women', and "sex" must be applied that may differ from that adopted by the Supreme Court in FWS? Nothing in Article 2 WF requires or allows Northern Ireland equality law (and allied legislation) to be interpreted in or applied in a way which gives any different meaning to the words "men", women', and "sex" from that adopted by the Supreme Court in FWS. **If so:** **b. What are the limits (scope) of EU law in terms of subject matter?** Nothing in EU law requires or allows Northern Ireland equality law (and allied legislation) to be interpreted in or applied in a way which gives any different meaning to the words "men", women', and "sex" from that adopted by the Supreme Court in FWS. **c. Does EU law require a particular definition of the protected characteristic of "gender reassignment" that differs from that adopted in the SDO 1976?** EU law does <u>*not*</u> contain, and so does *not* require a particular definition of the protected characteristic	

		of “gender reassignment”, from that set out in the SDO 1976. **d. Does EU law require a particular meaning of “men”, “women” and “sex”?** The meaning of “men”, “women” and “sex” in UK (including NI legislation) is a matter of and only for UK law. EU law does not require any meaning disconform to that stated adopted and applied by the UK Supreme Court in FWS. **e. Does EU law require that the SDO 1976 and/or the EPA 1970 and/or s 75 NIA 1998, and/or the allied legislation listed in Annex 3 must be interpreted such that the principle of equality for biological women/men and transwomen/men is respected?** **f. If so, what is the meaning of this principle in these contexts?** EU law does *not* require that the SDO 1976 and/or the EPA 1970 and/or s 75 NIA 1998, and/or the allied legislation listed in Annex 3 to its Legal Paper to be interpreted such that the principle of equality for biological women/men and transwomen/men is respected. **g. Alternatively, does EU law only impose an obligation of result? That is, rather than there being a specific definition of “sex” which must be used in equality legislation, is it sufficient that biological women and those who have**	

		undergone gender reassignment or are about to or intend to do so, are otherwise protected adequately from discrimination in national law? EU law in this context imposes a substantive obligation of results to be achieved and *not* a procedural obligation of means to be employed. That is - rather than there being a specific definition of "sex" which must be used in NI equality legislation which differs from that set out by the UK Supreme Court in in *For Women Scotland Ltd v. Scottish Ministers* [2025] UKSC 16 [2025] ICR 899 - it is sufficient that men and women (whether with or without the protected characteristic of gender reassignment) are protected adequately from discrimination in national law at least to the level as may be required under EU law. But such recognition and protection of trans rights must always remain consistent with the full recognition and maintained level of protection, to at least the standards required by EU law, of the following, among others, sex-based women's rights: (a) women's participation in political parties and women only shortlists for candidates for election to political office; (b) reservation of places for women in trade union; (c) women's ability to access any particular role or job which has been designated as reserved for women, on the basis that being a woman is an 'occupational requirement' for that role; (d) women's access to training which would help to fit them for particular work;	

		(e) specific protections for women pursuant to an enactment; (f) women's pregnancy and maternity protections; (g) women's right to equal pay with men; (h) women's ability to access to benefits provided by charitable foundations targeted at and for women; (i) women rights to associate only with other women by in non-statutory not for profit voluntary bodies; (j) women's right to access accommodation and services expressly intended to be provided to and for women only, for example in hospitals, rape crisis centres, domestic abuse shelters, and prisons; (k) the provision of single sex schools for girls (including girls-only boarding schools) and single sex education establishments for women; (l) the provision of communal accommodation for women (which would include dormitories or other shared sleeping accommodation) which, for reasons of privacy, should be used only by persons of the same sex; (m) the obligation of public authorities, in the exercise of their functions, to have due regard to, among other things, the need both: to eliminate discrimination against and harassment and victimisation of women; and separately to advance equality of opportunity for women vis à vis men; (n) the prohibition against direct sex discrimination against women - whether in the workplace or in the	

		provision of goods and services – which requires a judgment to be made about whether the treatment of a woman is less favourable treatment, by reference to a comparative analysis of the treatment that was, or would have been afforded, to a man (and vice versa); (o) the prohibition against indirect sex discrimination in relation to "women", whether in the workplace or in the provision of goods and services. Indirect sex discrimination occurs where a provision, criterion or practice (PCP) is applied generally but where it places "women" at a "particular disadvantage" compared to "men", and the application of that PCP cannot be demonstrated to be a proportionate means of achieving a legitimate aim. **h. If so, what are the principles underpinning that protection?** The principles underpinning that protection in UK (including NI) law are that the protected characteristic of "sex" is totally distinct and wholly separate from the protected characteristic of "gender reassignment". So far as the characteristic of sex is concerned a reference to a person who has a protected characteristic of sex is a reference either to a man or to a woman. For this purpose a man is a male of any age; and a woman is a female of any age. When one speaks of individuals sharing the protected characteristic of sex, one is taken to be referring to one or other sex, either male or female. Provisions in favour of women, in this context, by definition exclude those who are	

		biologically male. Neither “transgender women” nor “transgender man” is a category for these purposes. These terms are instead shorthand (not legally defined) descriptions of individuals whose biological (and hence their protected characteristic of) “sex” has remained unchanged, but who claim the additional protected characteristic of “gender reassignment”.	
#26	HERe NI and Rainbow Project	HERe NI and The Rainbow Project acknowledge the Commission’s paper in its utility of outlining the complex legal landscape in Northern Ireland and setting out a roadmap to achieve legal clarity. We have significant concerns around the lack of exploration of the potential human rights implications, as well as some of the language used in Commission’s interim information provided. We are further concerned about the rather exceptional approach the Commission is taking to this particular issue in regards to the treatment of other policy or legal issues which interact with Article 2 of the Windsor Framework, such as the Illegal Migration Act and the Troubles and Legacy Act. HERe NI and The Rainbow Project are unequivocal that this judgement must not lead to a regression in the rights experienced by trans people in Northern Ireland, or anywhere across the UK. We urge the Commission to safeguard the civil rights of transgender individuals, reaffirm	It is worth acknowledging the potentially monumental impact that this judgment and, particularly, the interpretation of this judgment, may have on the human rights and civil liberties of transgender and gender diverse people in Northern Ireland and across the island of Ireland. The implementation of the Commission’s current understanding of this judgment would, undoubtedly, regress the rights of transgender individuals in Northern Ireland, and may result in further legal challenge against either the Commission or public authorities and service providers who attempt to implement it. HERe NI and The Rainbow Project believe that the Commission does not pay enough heed to human rights mechanisms and treaties in its consideration of this Judgment and its implications. While the Commission mentions in passing some human rights frameworks, including the European Convention on Human Rights when discussing the ambit of the term ‘civil rights’ in the Belfast/Good Friday Agreement, it does not explore the wider context

		protections and support for marginalised groups and ensure there is no diminution of rights in Northern Ireland. If you have any questions in relation to our response you can contact us on the email addresses provided above. We agree that the main legal uncertainties are outlined in the Commission's paper. However, we believe there are gaps and inadequacies in the analysis of the Commission which create cause for concern regarding how this uncertainty is being managed and mitigated by the Commission. These gaps include considerations around data protection, and consideration of the non-discrimination rights of non-binary and intersex people, who the Commission have overlooked in both the interim information and the legal analysis. Moreover, while the Commission is seeking to remain tightly within its remit of analysing and giving advice on equality legislation and the impact of this on actual equality in Northern Ireland, the lack of exploration of the potential human rights implications for trans people of this judgment and the Commission's interim guidance is, as we will explore below, extremely concerning. Further, we have concerns that the Equality Commission immediately concluded - and	for the drafting and implementation of the Gender Recognition Act (GRA) 2004, namely the ECtHR case Goodwin v UK which led to its creation. Furthermore, the Commission has not adequately considered the differences in the drafting of the Sex Discrimination Order (SDO) 1976 and the Equality Act (EA) 2010, alongside the wider legislative differences between Northern Ireland and Great Britain. The Commission acknowledges the differences in language between the EA 2010 and the SDO 1976; that the former defines a "woman" as "means a female of any age"2 whereas the latter defines it as "includes a female of any age".3 However, it determines that this difference in drafting would not require Courts and Tribunals in Northern Ireland to depart from the FWS v Scottish Ministers Judgement. We understand the Commission's perspective that this small difference alone may not be fully persuasive for Courts and Tribunals to depart from this judgment. However, we believe that, this difference combined with the alternative focus of the Belfast/Good Friday Agreement on 'gender' rather than 'sex'4, the knock-on impacts of this on s75 of the Northern Ireland Act 2 Equality Act (2010)

		publicly communicated - that this judgement will be 'highly persuasive'[1] to local courts and tribunals, while at the same time identifying that the legal questions are so unclear that they must make use of powers which have never before been employed in Northern Ireland to seek a declaration from the High Court. These appear to be diametrically opposing positions to take on such a complex legal matter, and have already had significant impacts on trans communities locally, particularly through Executive Ministers attempting to implement wholesale their interpretation of the judgment within their Departments. --- [1] Equality Commission for Northern Ireland 'Legal Paper and Information' (2025) p.2	3 Sex Discrimination (Northern Ireland) Order 1976 4 The Belfast Agreement: An Agreement Reached at the Multi-Party Talks on Northern Ireland - GOV.UK 1998, and the fact that the GRA 2004 was implemented after the SDO 1976 in full knowledge of its contents, means that this should be cause for departure from the precedent set by the Supreme Court in its Judgment. Further to this, the differing definition of "gender reassignment" in the SDO 1976 - specifically the requirement for "medical supervision" for an individual to fall under the definition of "gender reassignment" in the Order, compared to a broader definition in the EA 2010 - means that if such a judgment were delivered in Northern Ireland it would have materially different impacts on the rights and protections enjoyed by transgender individuals in Northern Ireland which were not considered by the Supreme Court. The full implementation of the Commission's understanding of the Supreme Court judgment would result in a legal environment wherein transgender people who choose not to or have not yet been able to access medical intervention are only protected from discrimination on the

			basis of their sex assigned at birth, and not on the basis of their trans identity or their true gender. In the context of deeply broken and inaccessible healthcare services for transgender individuals.5 Again, while the Commission references both the EA 2010 and the SDO 1976, it does not adequately state that this may lead to a different judgment or require a different interpretation of the judgment so as to avoid a diminution of rights for transgender people with or without a Gender Recognition Certificate. There has also been limited consideration of the data protection implications of the Commission's interim interpretation of the judgment, or of their Interim Guidance. "Gender reassignment", as in an individual's trans status, is considered to be protected data under both the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. While there is reference to ensuring that any changes to use of facilities does not "out" a transgender individual, there is no indication that the Commission understands how difficult this will be for both employers and employees, as well as individual transgender people going about their lives. Any attempts to segregate transgender people from gendered spaces, as is the general

			direction of travel of this interim guidance, will inevitably 'out' 5 Belfast Live, 2024 - Northern Ireland's only NHS gender identity clinic now has waiting list up to seven years transgender people. If this is being carried out by employers, who may have increased knowledge of an individual's trans history than their colleagues, it could henceforth constitute a breach of data protection rights as well as the right to private and family life within the European Convention on Human Rights. HERe NI and The Rainbow Project are also concerned that other legal issues will undoubtedly arise should the Commission choose a binary reading of sex across equality law. For example, the Commission do not consider the inclusion of intersex or non-binary people in their paper, which fails to acknowledge that people exist outside the gender binary and can have a variation of sex characteristics. Intersex people are already ill served under equality law and risk being even more marginalised following any legal clarity on this judgement.
#27	Anurag Deb Colin Murray Aoife O'Donoghue Sylvia de Mars	In For Women Scotland the UK Supreme Court adopted the position that, for the purposes of the Equality Act 2010, 'sex' refers to 'biological sex', with the result that people with a Gender Recognition Certificates recognising their gender as female do not come within the definition of	Beyond the Annex 1 Directives, there are other compelling reasons for the ECNI, as the body responsible for safeguarding equality protections in Northern Ireland, with circumspection. First, the Annex 1 Directives are not the only elements of Article 2 relevant to the approach to

		‘woman’ under this legislation. The consultation paper asserts that the ECNI’s position, in the June 2025 consultation paper, is to treat “the FWS judgment as highly persuasive in this jurisdiction in the interpretation of equivalent legislation that applies only in respect of Northern Ireland” (p5, emphasis in the original). We accept that a UK Supreme Court ruling on an area of law that is comparable to law in Northern Ireland would ordinarily be regarded as persuasive within the courts and tribunals of this jurisdiction. We also agree that the Equal Pay Act 1970, Sex Discrimination Order 1976 and section 75 of the Northern Ireland Act 1998 provide for a legislative framework applicable to sex/gender as a protected characteristic that is comparable to those provided for in Great Britain under the Equality Act 2010. In this instance, however, the courts and tribunals in Northern Ireland cannot simply follow the position adopted by the UK Supreme Court in For Women Scotland, because of what the ECNI recognise as the ‘real problems “translating” FWS to the distinct legal position in Northern Ireland’ (p9). Despite analogous legislation to the Equality Act 2010, the overall legal framework in Northern Ireland is in practice so different from that applicable to Great Britain as to make any effort at mirroring the FWS judgment unworkable. The UKSC adopted the position that sex was defined as biological in the Sex Discrimination Act 1975, and that although the subsequent 1999 Regulations provided for gender reassignment as a	be taken to the For Women Scotland decision in Northern Ireland. In terms of the general non-diminution commitment, it is significant that the rights commitments of the 1998 Agreement were adopted in an era in which EU law already recognised the significance of data protection rights, under the Data Protection Directive of 1995 (Directive 95/46/EC), which was being transposed into UK law at the time of the 1998 Agreement. In VP, the CJEU has made it clear that individuals are able to rely on their post-transition gender identity in terms of public authorities and their records (Case C-247/23 VP v Országos Idegenrendészeti Főigazgatóság ECLI:EU:C:2025:172). The CJEU here recognised that information concerning VP’s gender identity may be considered ‘personal data’ under Article 4(1) of the General Data Protection Regulation (Regulation (EU) 2016/679). Furthermore, such data qualifies as having been ‘processed’ within the meaning of Article 4(2) of the regulation, given that it was collected and recorded by the asylum authority in a public database. Data protection rights are arguably within the scope of the non-diminution commitment and, if so, this will continue to bind Northern Ireland law in terms of how information about people is recorded. There are also significant reasons not to treat the UK Supreme Court’s judgment as being determinative of the issues it pertains to in the

		Protected Characteristic, they did not change the biological definitions of sex in the SDA. Consequently, neither did the Equality Act 2010. This finding ignores wholly the EU law context of these developments. The 1999 Sex Discrimination (Gender Reassignment) Regulations did not need to change those 1975 definitions to be trans inclusive – EU law already required such an inclusive interpretation of sex. The Explanatory Note for the version of the 1999 regulations in Northern Ireland law explicitly notes that these measures are being adopted to reflect the requirements of the Court of Justice (CJEU) (C-13/94 P v S and Cornwall County Council ECLI:EU:C: 1996:170, para. 21). The general position under EU law, as set out in that case, is that discrimination on the basis of gender reassignment is 'essentially, if not exclusively', a form of sex discrimination. This is particularly important when considering For Women Scotland. EU law recognises, as the UK Supreme Court did, that there are instances of discrimination on the basis that someone has transitioned to another gender. But the CJEU's position is more extensive, accepting that trans people will experience discrimination reflecting their post-transition gender. This position would subsequently be affirmed by the UK House of Lords (Chief Constable of West Yorkshire v A (No 2) [2004] UKHL 21, para 11). The Equality Act was enacted against a backdrop of this understanding of the law, and this superseded – on account of the	jurisdictions of Great Britain. The Court did not undertake any detailed analysis of whether its interpretation of 'sex' is compatible with Article 8 of the ECHR. This is an especially concerning omission, given that the Gender Recognition Act 2004 was enacted in response to Goodwin v United Kingdom. In that case, the European Court of Human Rights held that states must not leave trans individuals in a legal limbo regarding their acquired gender (neither fully recognised as male nor female) except in proportionate and exceptional circumstances, as doing so would constitute a violation of Article 8 (Goodwin v United Kingdom (2002) 35 EHRR 18). The outworkings of the For Women Scotland in Great Britain could thus be subject to Article 8 ECHR challenge. The stated impetus behind the UK Supreme Court in adopting a single approach to the meaning of sex under the Equality Act was to ensure the coherence of the law. In the Northern Ireland context, where significant areas of equality law remain directly connected to EU law, this all- important coherence argument runs in the opposite direction. EU law provides for a trans- inclusive meaning of sex/gender which has binding effect within applicable areas of Northern Ireland law. It is the case that there are limits to EU discrimination law's protections of sex/gender. It does not directly apply to education provision, outside the context of

		UK's EU membership at the time, and the primacy of EU law that applies to all EU Member States - what Parliament had enacted in 1975. Consequently, For Women Scotland has neglected the EU law context of the protection of someone's sex/gender after transition as a form of sex/gender discrimination. In the context of a decision taken with regard to Great Britain, after the UK's withdrawal from the EU, this omission amounts to a significant misreading of the legislative history, but the UK Supreme Court would not ultimately have been bound to follow EU law anymore when it decided For Women Scotland. In Northern Ireland, however, such neglect of EU law is untenable. The ECNI is correct to identify the Windsor Framework as providing a fundamental point of distinction applicable to Northern Ireland law. The Windsor Framework maintained the connection, after Brexit, between Northern Ireland law and operative EU law rights and equality protections. Article 2(1) of the Windsor Framework provides that: The United Kingdom shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination, as enshrined in the provisions of Union law listed in Annex 1 to this	vocational training. But schools are also workplaces, and to attempt to apply For Women Scotland in limited areas in which EU law is not directly relevant will introduce confusion into the application of the law. To allow the UK Supreme Court ruling to have persuasive effect in areas of law where the definition of sex/gender is at issue that are not covered by EU law obligations would be to accept a greater degree of incoherence within Northern Ireland law than that which so animated the UK Supreme Court.

		Protocol, and shall implement this paragraph through dedicated mechanisms. This provision imposes two obligations upon the UK. First, it explicitly references the 1998 Agreement and generally commits the UK to ensuring that Brexit does not lead to any reduction in EU law protections that underpin the chapter on Rights, Safeguards, and Equality of Opportunity. There is no question as to this chapter of the Agreement being relevant to the case: it recognises 'the right to equal opportunity in all social and economic activity, regardless of class, creed, disability, gender or ethnicity', and at the time of the Agreement, EU anti-discrimination law already treated discrimination against people because they are trans as 'essentially, if not exclusively', a form of sex discrimination. The second element specifically recognises a list of EU anti-discrimination laws detailed in Annex 1. These include the EU's Recast Equal Treatment Directive (Directive 2006/54/EC, covered by Annex 1), which covers discrimination against sex/gender as a protected characteristic in relation to the provision of goods and services, in employment and in relation to social security. Once again, as noted above, the CJEU adopts a trans-inclusive approach to this protected characteristic for the purposes of this area of EU law. The direct consequence of these commitments is that Northern Ireland law cannot be interpreted, in general, to align with the UK Supreme Court judgment in For Women Scotland without	

		breaching the Withdrawal Agreement. In the Allister case, the UK Supreme Court held that, under section 7A of the European Union (Withdrawal) Act 2018, the Windsor Framework (then described as the Northern Ireland Protocol) is part of domestic law and must be implemented accordingly (In re Allister [2023] UKSC 5, para. 74). This position was upheld by the Northern Ireland Court of Appeal in Dillon, in the context of Article 2, although that ruling is currently under appeal to the UK Supreme Court (In re Dillon and Others [2024] NICA 59, para. 85). The Dillon judgment interpreted the term 'civil rights' under the 1998 Agreement broadly, and the inclusion of specific measures in Annex 1 strongly suggests that these laws are considered integral to that commitment. But, as noted above, in this case even a narrow approach to the 1998 Agreement's rights commitments encompasses protections for trans people in relation to their post-transition gender. The ECNI's June 2025 legal paper recognises the potential applicability of this provision, but not the overriding force of these obligations within Northern Ireland law. In so far as EU law applies, the authorities in Northern Ireland are absolutely bound to follow EU rights and equality law as maintained by the Windsor Framework.	
#28	Sinn Fein	.....	N/R

		The British Supreme Court's ruling on "For Women Scotland" case concerned the definition of 'woman' within the 2010 Equality Act. The Equality Act applies in England, Scotland and Wales but it is important to note the Act does not apply in the North of Ireland. We note the ruling made no reference to the Good Friday Agreement (1998) (GFA) which forms the bedrock of the local institutions, the Assembly and the Executive. The GFA required the British Government to adopt the European Convention on Human Rights (ECHR) which would apply to the north and this was achieved through the Human Rights Act 1998. There was also no reference in the ruling to the Irish Protocol/Windsor Framework (WF) which was negotiated between the British Government and European Union following on from Britain's exit from the European Union, against the expressed will of the majority of people in the North of Ireland. Article 2 of the WF guarantees no diminution of rights enjoyed by people in the North of Ireland prior to Brexit. The Commission's recognition of the importance of this provision within the WF must be a consideration with regards to assessing any implications of the ruling for the north. Implications for the various pieces of Allied Legislation should also be investigated as well as	

		the implications for the public sector Equality Duty (Section 75, NI Act 1998).	
#29	Individual	N/R	N/R
#30	Individual	No. I believe that ECNI is confusing the matter due to it's own bias and previous incorrect advice. Had the ECNI consistently followed the law as it already exists, it would not find itself in the predicament of having to try to appease a small but very loud and volatile minority. Women's rights existed before the SCR. Rights to self identify as the opposite sex is not ,and never has been, the law in N.I.	The ECNI should be considering the diminution of women's rights, including the rights of lesbians to same sex association and the rights of trans identified women to maternity protections. It needs to stop concentrating on giving a very small but vocal minority the right to trample on the safety, privacy and dignity of women. The Commission needs to look back at its previous advice over the years and ask itself why it misrepresented the law and misled employers, employees, service providers and service users as to the extent of the law with regards to Self ID and the GRA.
#31	Individual	No, ECNI has only just gone and confused employers, employees and the public! ECNI have gone beyond their remit which is to question the law rather than upholding the law which is in place to protect the rights of women and girls. ECNI has failed to present a paper that works in the favour of women and girls but focuses on arguments that perhaps work against them. It has discussed the problems they see in gender reassignment legislation which is not what FWS	The diminution of women's rights. If the definition of woman was anything other than biological then women have no rights. ECNI has a duty to ensure that women's rights are not lessened and I would like to see some research and arguments for that in this paper. In fact, it appears to be the opposite. Reconsider your balance of argument and your emphasis on gender reassignment. It appears to a focus on changing laws in favour of gender reassignment rather than pushing to protect woman and girls.

		was about. Are ECNI using this paper to argue for a change in gender reassignment legislation. FWS was to clarify that when man and woman is mentioned in legislation that it is in the biological sense, because nothing else makes sense. Is ECNI trying to cast doubt on the meaning of language in legislation that has existed for years before gender ideology or gender reassignment were even thought about. Is ECNI trying to advocate for gender identity. I hope not as it is a very contested idea and has no legal status. Where is the positive commentary on the similarities of the way legislation was written in the Britain and Northern Ireland. ECNI has not discussed the implications for lesbians. This is a hugely important point because if the FWS judgement does not apply here, then the meaning of lesbian means nothing and they have no protections.	ECNI should be considering why people think that the FWS judgement is working against them. ECNI must make it clear to people that they been misguided and misled by policies that were influenced by lobby groups rather than legislation. Indeed , ECNI must look at the advice that they have given in the past to perhaps create this confusion. ECNI must consider the effect and detriment to lesbians and should not seek legislation that diminishes their protections.
#32	Unison NI	N/R	N/R
#33	Individual	No. I felt that the judgement of the UK Supreme Court in the case of For Women Scotland Ltd v The Scottish Ministers was a shining example of clarity and a presentation of the law in a way that the ordinary citizen could understand. Despite the	The Commission should be looking at how to protect the rights of lesbians and other women. The legal paper should have presented the case made in the judgement from the UK Supreme Court on the importance and relevance of biological sex to understand the

		reassurances of the SC judges to the contrary, I realise that some trans people were concerned that some of their rights were being denied. I attribute this entirely to the influence of organisations like Stonewall and Mermaids, various gender ideologists and academics and statutory bodies like yourselves which have misrepresented the law to the trans community and consequently caused enormous distress to trans people. Section A presents the UK Supreme Court judgement in such a manner so as to minimise its significance for Northern Ireland and the people who live here. The Commission ignores the reasoning of the judges with regard to the rights of women generally and particularly those of lesbians if our equality laws are not based on the material, biological reality of sex. In Section B the Commission raises the issue of protections for trans people and gender reassignment – although the judges in the Supreme Court were not addressing this issue. The Commission claims to be seeking legal certainty. In Section B we are told that the Courts in Northern Ireland have set out the "six elements test" to determine the extent to which there may be a diminution in rights happening. Various scenarios are presented as to how the Windsor Framework might dictate that equality law in Northern Ireland might have to follow EU legislation. But these are not tested against the six elements. One is left with	needs and rights of these two protected groups. This consultation process was an opportunity for the Commission to show how it would achieve this – a missed opportunity. The Commission should give consideration as to how it is going to avoid the diminution in the rights of lesbians and women if this pathway to the Windsor Framework is used by gender ideologists to subvert them.

		the feeling that they would not pass the test and the presentation of these situations is bogus. This is an attempt to introduce uncertainty with the threat of the Windsor Framework, the imposition of EU law, political crises and breakdown – in the hope that in the midst of the confusion the Commission can cover its embarrassment and blushes at its failure to protect the rights of women over the past years. The Equal Pay Act (NI) 1970 and the Sex Discrimination (NI) Order 1976 are referenced and the absence of a definition of "woman", "man" and "sex" bemoaned. The idea that the legislators or the public needed these words defined in the 1970's is risible. It appears that the Commission is endeavouring to lever into law in Northern Ireland the concept of gender identity. The term is used is Annex 6 but no definition is given.	
#34	Individual	There are no legal uncertainties. ECNI has a responsibility to all members of the community not just the Trans community. ECNI has deliberately betrayed women and ignored our voices. Your willingness to capitulate to trans activists and their need to erase women and gay and lesbian people will be a black spot on your organisation and it will destroy the legacy of your Chief Commissioner who has sponsored this and betrayed her own. ECNI have for over a decade misled and misinformed on this issue, They have been one of	ECNI must consider women's rights, the rights of lesbians, the rights of trans identifying women to sex based rights like maternity protections etc and a divergence of rights with the rest of the UK. You have a responsibility to safeguard the rights of those with the protected characteristics of sex and sexual orientation but you seem to have forgotten that.

		the leaders in the destruction of women's rights by operating on a biased and ideological approach. The most egregious part of your proposal and the extensive legal papers that you have produced is the glaringly obvious omission of any of our laws around Sexual Orientation and the lack of consideration of the protected characteristic of sexual orientation. This is frankly shameful and shows your clear capitulation with the aim to erase sexual orientation which is dangerous and homophobic. This attitude is particularly dangerous for lesbians (women who are sexually attracted to other women, not a certificate). - Self-ID is not a legal concept here and was not at the time of Brexit - There should not be any inclusion of Gender Reassignment in this "pathway" as the Supreme Court was clear that the ruling had no effect on the GRA 2004. Sex and Gender are distinct as was made clear. Those with the protected characteristic remain protected against discrimination across the UK including NI. - Your pathway should be primarily focused on the meanings of woman, man and sex in NI Law. - You should not be trying to introduce Self-Id as a concept as this is not a decision you can make, it is for the Assembly to decide and is effectively beyond your purview and shows a lack of impartiality. This should be examined by TEO as	

		you are not representing the law accurately and wasting tax payers money. - The law in NI for the last 50 years were written with the same intent as the laws in the rest of the UK. While some clauses may have been changed the intent that man and woman meant anything other than biological sex if ludicrous. ECNI is creating a deliberate divergence from the rest of the UK and has not considered at all the diminution of women's rights. The process to examine this issue was raised by the Supreme Court and you should be asking the High Court to use the same method. Indicating that woman would mean anything other than biological sex would make many of our laws as mentioned in 'Allied Legislation' (Factories Act, Control of Lead at Work) and other your haven't listed (Sexual Orientation Regulations and Sexual Offences Order) entirely incoherent.	
#35	Individual	I don't believe there are legal uncertainties. The legislation in NI referring to sex, man and woman, follows the original Uk legislation and takes these to mean their ordinary meaning, biological sex. This is a blown up non-issue, perpetuated by ECNI proposing to take this action.	None. The law should be implemented as clarified by the Supreme Court, and as always originally intended.
#36	Newry, Mourne and Down District Council	Council is not in a position to respond to questions 1, 2, 3 or 6 as they involve the analysis of complex legal issues.	N/R

#37	Mid & East Antrim	Mid and East Antrim Borough Council is of the view that, given the complexity and sensitivity of the legal issues involved, it would not be appropriate to offer comment at this time.	N/R
#38	Armagh, Banbridge, Craigavon DC	N/R	N/R
#39	NICCY	N/R	N/R