

**Consultation Responses Q4 (by date received)**

This table presents responses mapped to Question 4 of the Commission’s consultation. Where submissions were not structured by consultation question, we have allocated comments to this question based on the relevance of the information provided.

	<b>Organisation/ Individual</b>	<b>Question 4</b>  <i>Do you consider that the <b>interim</b> information from the Commission for addressing immediate issues may be problematic/useful for employers and/or service providers and/or your organisation and, if so, in what respects (Annex 2 of our legal paper)?</i>
#1	Individual	<p>While your interim advice is cautious and practical, it may leave too much room for misinterpretation. Without stronger language, there is a real risk that trans women may be excluded from single-sex spaces, not by law, but by assumption or fear.</p> <p>Please consider strengthening this advice by reminding employers and providers that current law still protects transgender people, and that excluding someone purely on the basis of being a trans woman may amount to unlawful discrimination.</p>
#2	Individual	<p>The interim information /guidance to employers and service providers is extremely problematic and/or wrong in law. In brief-</p> <ul style="list-style-type: none"> <li>A) You have failed to address the fact that FWS DOES NOT touch upon or alter the laws that ACTUALLY address toilet provision.</li> <li>B) Those laws DO NOT require single sex anything</li> <li>C) The Judicial Review against EHRC’s guidance is ongoing – specifically asserting that the Workplace and Building Regs etc CAN permit a determination of “sex” that is NOT “biological” anything and CAN include trans and Intersex people, or if that interpretation is NOT correct, a finding that GB laws and “guidance” are incompatible with the UK’s HRA obligations.</li> <li>D) You have failed to address the risk of prosecution in ANY attempt to change toilet provision, arising from s22 GRA.</li> <li>E) You have failed to address the fact that there is absolutely ZERO means by which ANY service provider or employer can determine the biological sex of ANY person and, that there is ZERO lawful means of attempting to do that/test anyone.</li> <li>F) For all the above, the ECNI information/guidance cannot be a correct statement of law.</li> </ul>

#3	Individual	<p>Problematic. The interim information blurs the legal distinction between sex and gender identity, potentially causing employers, service providers, and public bodies to act outside the law by granting access to single-sex spaces on the basis of self-declared gender identity rather than biological sex. For lesbians, this risks the erosion of same-sex spaces and events, undermining protections under the SODR 2006. It also creates legal uncertainty, inviting disputes and litigation rather than preventing them.</p>
#4	Individual	<p>The interim guidance is useful in recognising that single-sex services remain lawful, but it is weakened by avoiding an explicit statement that sex means biological sex. This ambiguity leaves service providers and employers vulnerable to challenge and undermines confidence in applying the law. Without a clear assurance that exclusion of males is proportionate and lawful in safeguarding contexts, the guidance risks eroding women’s protections before final clarity is provided. Service providers should feel confident in requesting evidence of birth sex by way of an original birth certificate if requires, to account for those who have amended theirs with a GRC. It isn’t an onerous request and in signing up to a gym for example, would be essential in meeting expectations of privacy from males that women would rightly expect whilst getting undressed or showered.</p>
#5	Lewis Silkin Solicitors	<p>Yes, it is welcome for employers to have interim information as set out in Annex 2.</p> <p>However, one problem remains, being the protection of trans persons where they either do not have a GRC or where they have not, are not, and do not intend to go through medical supervision, which is plainly evident from the examples as to discrimination and harassment. However, as above, this is a legal issue which is captured in the legal paper and includes whether our domestic legislation is compatible with EU law on this point and therefore whether it is a matter for the Assembly.</p> <p>It is also noted that the guidance on separate sex facilities is useful, pending clarification of the law. However, it would have been useful to consider practical ways in which employers and service providers can accommodate universal facilities. For example:</p> <ul style="list-style-type: none"> <li>• If there are separate facilities only in a building where the employer or service provider is a</li> </ul>

		<p>tenant with no control over provision of facilities could this lead to claims from trans persons if they are now refused to continue to use their chosen toilet or facility, clarity is needed.</p> <ul style="list-style-type: none"> <li>• If there are current separate facilities only but there is provision of an accessible use toilet, can this be changed to a universal use toilet and what impact this could have on (i) a trans person having to use this facility and (ii) any impact on disabled users given there could be more use of such facility.</li> <li>• If an employer or service provider (or landlord) does not redesignate reasonable facilities as universal, will this be the basis of a claim for a trans person (and/or any other gender identities).</li> <li>• Employers and service providers may be in a position where they permit trans person to use the facilities of their acquired-gender or identified-gender; given the legal uncertainties it is the position of the Commission that this should continue pending the outcome of this process?</li> <li>• It is also not clear how employers and service providers should manage the scenario where a trans person who uses a single sex facility that aligns with their birth sex and other users complain because the trans individual outwardly appears to be from the opposite sex. Commentary and examples of navigating these issues, and the legal risks involved, would be useful.</li> </ul>
#6	Individual	N/R
#7	LGSC	The Commission considers that the Interim Information does not provide a clear stance on the position the Commission should adopt in providing advice to councils and the Housing Executive regarding access to facilities and services by transgender individual, during this interim period while the ECNI seeks clarity from the Court on the impact of the Judgement in Northern Ireland.
#8	Fermanagh Omagh DC	Fermanagh and Omagh District Council is concerned with the lack of clarity provided by the Equality Commission to date in relation to this matter and have made no changes to Council policies or access arrangements to Council facilities, such as leisure centres and public conveniences.

		The Council has resolved to await full detailed guidance from the Equality Commission and following this relevant Council policies will be reviewed in the context of the guidance and any associated recommendations will be reported to the Council for consideration.
#9	Individual	N/R
#10	Individual	N/R
#11	Girl Guiding Ulster	In Annex B, it is recommended that either universal spaces, or single sex and universal spaces are provided. How can this be managed by units of Girlguiding Ulster, who generally operate out of spaces which they do not own and have no control over?
#12	Response on behalf of each of the health trusts, ambulance service and BSO.	<p>This is a sensitive and complex situation. The document poses more questions for us as employers and service providers. It fails to give us practical, operational guidance on how to manage the implementation of any changes. For example, if we were to use biological sex for toilet and changing facilities, how would this be safeguarded and monitored? What would appropriate signage look like? This links back to (2) and the potential for discrimination and harassment.</p> <p>As health and social care providers we may have more exposure to the issues raised by the FWS ruling and we feel we would have benefited from a joint document published by the Equality Commission and Northern Ireland Human Rights Commission on how to manage different beliefs and strong opinions in the interim.</p> <p>The Commission sets out its roadmap to include two periods of public consultation – however until this roadmap is completed, public authorities are at significant risk of and vulnerability of facing challenge or judicial review in the absence of definitive guidance.</p>
#13	CAJ	N/R
#14	Ulster University	<p>The interim information provided by the Commission is useful in offering a cautious approach based on the current legislation and recommended good practices. However, we would welcome more practical examples on:</p> <ul style="list-style-type: none"> <li>• How implementation could be affected in areas of recruitment and equality monitoring.</li> </ul>

		<ul style="list-style-type: none"> <li>• How to address internal messages given the existing uncertainty for trans employees and students in terms of support policies and access to facilities.</li> <li>• How to mitigate the potential risk of misinterpretation of 'biological sex' leading to inconsistent practices across the higher education sector.</li> </ul>
#15	Individual	<ul style="list-style-type: none"> <li>- Your interim advice has caused distress, confusion, and uncertainty. Instead of pursuing your current course, you should have issued a simple statement welcoming the clarity provided by the SC and then following this up with detailed guidance for service providers.</li> <li>- Instead, your ambiguity and delaying tactics has left service providers bewildered and with increased risks of liability.</li> <li>- Your guidance is filled with contradictions and itself contradicts previous guidance you have issued. This is woeful—and was completely avoidable. All that is needed is a clear statement saying that anything designated as single sex (aimed at 'girls' 'boys' 'men' or 'women') MUST be organised by biological sex. That's it. That's all that is needed.</li> </ul>
#16	Individual	N/R
#17	Individual	I think your interim advice should match that issued by EHRC in England - basically put things back the way they were before, when the laws in question were written with the objective of protecting women and girls in mind.
#18	Individual	N/R
#19	Gaels For Fair Play	N/R
#20	Women's Rights Network	The interim information from ECNI for employers and service providers may cause ambiguity and confusion. The ambiguity and confusion could lead to costly legal proceedings for both employers and employees. This could essentially burden women especially who are heavily represented in the service industry and in lower paid work as we are currently seeing with the number of nurses

		<p>taking cases against the NHS. This should not be happening to women, ECNI should seek to protect women in NI.</p> <ol style="list-style-type: none"> <li>1. The interim information is not consistent with previous advice given by ECNI over the years which has frequently not been explicit about the protection of single sex spaces and the lawfulness of sex based discrimination for legitimate aims. Indeed past ECNI advice has suggested that requests by women that single sex female spaces should include only women might be considered to be prejudiced and vexatious (Providing Services to Transsexual People). The chequered past of ECNI advice in these matters has made it very hard for employers and service providers to understand and abide by the law.</li> <li>2. The approach undertaken by ECNI in this Legal Paper suggests an absence of conviction in its own advice. Suggesting at various points a possible change to the meaning of woman/man/sex and thereby a distortion of women’s rights is in direct contradiction to the suggestion that women should have single sex toilets etc. The points laid out in the Legal Paper reveal just how precarious women’s rights are under ECNI care. The advice reads like just-in-case advice.</li> <li>3. Further ambiguity arises from the exchange with the Good Law Project. GLP made public part of a correspondence with ECNI which referred to advice ECNI had given to an employer by phone and email. ECNI then unequivocally withdrew this advice. For anyone who has read the ECNI interim information and then observed this exchange there will be huge confusion about what the ECNI advice/information actually is. We can only assume that ECNI initially gave advice consistent with the information in Annex 2. (If not, why would it be different?) And then it withdrew its advice. This makes Annex 2 and the whole Legal Paper look somewhat arbitrary and precarious.</li> </ol>
#21	Individual	No, you have caused confusion. Single sex spaces must be protected in full.
#22	Individual	N/R

#23	Women's Policy Group	<p>It is the role of the EC to offer guidance to employers and service providers on the application of equality law in NI. Guidance is useful so long as it is practical, accurate and uses appropriate, non-discriminatory language.</p> <p>The WPG feels that the lack of legal clarity, coupled with the discriminatory language, undermines the usefulness of the ECNI's interim guidance. We feel that the ECNI's guidance allows for different interpretations of the judgment, which could result in policy change that is not legally compliant from government departments, service providers and employers and we fear that this is already beginning to happen</p> <p>The current guidance leaves several important areas unresolved:</p> <ul style="list-style-type: none"> <li>● Binary framing of service provision: The guidance recognises only two models of service provision based around either "gender neutrality" or "biological sex." This excludes non-binary, gender-fluid, and intersex people, who are left without suitable options. It also risks placing trans people in a separate category, restricting them to "gender neutral" facilities rather than gender-affirming options. This guidance seems to be at odds with the ECtHR decision in <i>Goodwin v UK</i>, which found that: The Court is of the view that chromosomal sex is not definitive in determining legal sex, either for the purposes of gender recognition or for assessing the effects of a change of gender. <i>Endnote 8</i></li> <li>● Unclear mechanisms of enforcement: If employers or service providers adopt a "biological sex" criterion for access (e.g., for toilet use), the guidance does not specify how such rules would be monitored or enforced in a manner that is commensurate with an individual's right to privacy and dignity.</li> <li>● Reinforcement of exclusionary norms: The terminology employed legitimises trans-exclusionary views, contributing to the normalisation of exclusion rather than inclusivity.</li> <li>● Uncertainty in legal application: The legal status of the guidance is unclear. What duty do employers, service providers and statutory bodies have to follow it? Or to disregard it? How</li> </ul>
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		<p>would a discrimination complaint be progressed while the interim guidance is in place and the legal questions remain unresolved?</p> <p><i>Endnote 8 Goodwin v United Kingdom (2002) 35 EHRR 18, [2002] ECHR 588 para [82]</i></p>
#24	Individual	<p>Very problematical. Here is the response from my employer to my request for single sex facilities which was just not good enough.</p> <p>Following the Supreme Court ruling on 16 April 2025, the XXXXX is seeking advice and guidance from the Equality Commission for Northern Ireland on the impact for all employers and service providers in Northern Ireland. The Equality Commission aimed to publish an update in June 2025. As the Equality Act does not apply in NI; we have the Sex Discrimination Order. NI's position is complicated by Article 2 of Windsor Framework which provides for no diminution of rights when comes to equality; equality legislation must also be interpreted in light of European law.</p> <p>The Supreme Court judgment did not consider impact of Article 2 commitments under the Windsor Framework.</p> <p>The Equality Commission has published this said guidance on 25 June 2025 which concludes that legal uncertainties remain and they intend to take different approach to GB in:</p> <p>(1) First ASK for LEGAL CLARITY from the Courts and;</p> <p>(2) Then CREATE GUIDANCE</p> <p>We will review that guidance when it is published before considering the appropriate next steps.</p> <p>In fact we should consider Article 2 of the Windsor Framework as protecting women against a lessening of their rights.</p>
#25	For Women Scotland	N/R
#26	HERe NI and Rainbow Project	We believe that the publication of this 'interim information' without actual clarity as to the proper interpretation of the law could have broad, unintended consequences for the rights of transgender people across Northern Ireland, and for public bodies, businesses and service providers which

		<p>make changes to their policy and practice in response to this information. The Commission sets out, rightly in our view, that the direct application of the FWS v The Scottish Ministers in Northern Ireland is more complex due to our unique legislative landscape.</p> <p>The publication of interim information which is drafted in such a way that assumes that this judgment will be applied directly and in full in Northern Ireland could encourage public bodies, businesses, and service providers to change their policies and practices to adhere to a view of the law which may not be accurate. This could expose those businesses and public bodies to further legal challenge. As such, the Commission should encourage organisations to maintain the status quo in terms of access to services and gendered facilities for transgender people until such time as the courts provide their own assessment of how this judgment applies in Northern Ireland.</p> <p>HERE NI and The Rainbow Project also believe that the interim information as published takes an unnecessarily broad view of the Supreme Court FWS v Scottish Ministers judgment and may result in transgender individuals experiencing exclusion from facilities and services broader than the intention or scope of the judgment. We saw this impact following the publication of the Equality and Human Rights Commission Guidance<sup>7</sup> which adopts an even broader view, and transgender people in Britain have already expressed the impact this is having. Cis women in Britain have also reported being mis-gendered more frequently and experiencing challenge in gendered facilities following the Supreme Court Judgement.<sup>8</sup></p> <p>Whilst we acknowledge that the interim information provided states that organisations ‘could’ provide facilities like universal showering, toileting and changing, we also recognise that not every organisation has the capacity to do this. In the absence of such infrastructure, the Commission should reinforce that trans people continue to access spaces on the basis of their assigned gender. Moreover, any attempt to segregate transgender individuals to exclusive use of gender-neutral facilities, particularly where those facilities may not be universally available, would directly result in the exclusion and marginalisation of trans people from and within public spaces and society more broadly. There is limited consideration of these impacts within the Commission’s paper.</p> <p>We are highly concerned by the Commission's reference to and equivalence between “lawfully hold[ing] and express[ing] gender critical beliefs”, and holding and expressing “gender identity</p>
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		beliefs”. The term “gender identity beliefs” appears to have been almost entirely made up, with this dichotomy suggesting that these are both ‘political beliefs’ of equal weight. Accepting that transgender people exist is not a political belief, nor is it equivalent to the refusal to accept that transgender people or to respect transgender colleagues. Individuals are free to hold opinions and views on issues affecting transgender people, such as gender recognition legislation, in a similar way that they may hold views on issues affecting gay and bisexual people, such as same-sex marriage. This is vastly different to the holding of views which suggest that gay, bisexual or transgender people simply do not exist.
#27	Anurag Deb Colin Murray Aoife O’Donoghue Sylvia de Mars	The Annex 2 guidance sets out a limited range of examples. These do not fully reflect the position under the EU’s Recast Equal Treatment Directive (Directive 2006/54/EC), by which sex/gender discrimination is generally treated as having a trans inclusive meaning. This should be the baseline for a broad range of examples, and particularly any that relate to the provision of goods and services, employment and social security provision – as the specific areas of activity that continue to be covered by EU law as per Article 2 of the Windsor Framework.
#28	Sinn Fein	N/R
#29	Individual	N/R
#30	Individual	The Commission has consistently misrepresented the law without problems for years. The issue that it could face is that more women are now aware that it is misrepresentation and that their sex-based rights continue to exist. Women are seeking retribution with a slew of court cases against employers. The Commission should note that none of them have lost a case yet. The ECNI needs to deal with the law as it is not as it wishes it to be.
#31	Individual	Your advice is not clear and comprehensive enough. It does not mirror advice given in Britain. Nothing else will do.
#32	Unison NI	N/R

#33	Individual	<p>The interim information differs from previous guidance issued. Previously the Commission has failed to protect single-sex spaces for women and failed to properly guide employers and service providers on the lawfulness of sex-based discrimination for legitimate aims. The legal paper does not provide any reassurance for women, nor for employers and service providers that the Commission will achieve a consistent approach in the future.</p>
#34	Individual	<p>The interim information was entirely ideologically driven. It has only produced confusion for employers, service providers and the public. In all the areas where you are supposed to protect the public you have failed.</p> <p>The advice you have given is entirely inconsistent with the advice you have given over the last decade. You are complicit in the destruction of women's sex based rights.</p>
#35	Individual	<p>The initial response from ECNI did actually take a practical approach. The backtracking by undertaking this consultation and proposing requesting a legal declaration from the High Court is needless. If activists want to lobby for a change to the law, then they can. Until then, guidance should underline how the law is now, and has been clarified by the Supreme Court. You can't consult on how law applies. That is for the courts to decide, and parliament / Assembly to change.</p>
#36	Newry, Mourne and Down District Council	<p>The Interim Information provided from the Equality Commission is welcome, particularly those sections which outline the minimum standards related to the treatment that transgender people have a right to receive and on the promotion of a harmonious working environment.</p> <p>However, further clarification is required, for example:</p> <ul style="list-style-type: none"> <li>The Interim Information advises that there are various practical ways which public bodies can create facilities which allow all people to feel comfortable, e.g. provision of Universal Facilities only. The advice goes on to explain that sometimes provisions which are thought of as “unisex” will be sufficiently private and secure to fall within this suggestion, but not all and that poorly designed unisex facilities can also lead to feelings of discomfort for people. The Commission should seek to provide more detailed clarification on the design of unisex facilities should an organisation choose to provide them.</li> </ul>

		<ul style="list-style-type: none"> <li>• While the Interim Information suggests organisations could provide separate and universal facilities which would include separate showering, toileting and changing for people according to biological sex whilst also ensuring that there are additional universal facilities which are to be used by all people (regardless of biological sex or transgender identity), the advice also states the importance that there is no risk of “outing” transgender people. Given universal facilities need to be designed so no one could infer a person’s gender or sex simply because they selected this facility, further advice, explanation and clarity in relation to universal facilities would be helpful. It is expected this advice would include detailed guidance on design to ensure that no one could infer a person’s gender or sex.</li> <li>• The Interim Information advises that in all cases, the layout of toilets, changing rooms and washing facilities (showers and sinks for handwashing after toileting) should be designed to maximise and ensure appropriate accessibility, security and privacy. In addition, it also states the needs of persons with disabilities should be taken into consideration. Advice from the Equality Commission outlining practical ways of providing facilities that will take into account the rights of disabled people, biological women and men and transgender women and men would be welcomed.</li> <li>• The Interim information does not address what an organisation should do If universal facilities are not available. Given many smaller premises do not have universal facilities readily available, will the provision of an accessible toilet for all users be satisfactory?</li> <li>• Reflecting upon the context of Section 75 of the Northern Ireland Act 1998 the Interim information states “It is recognised that there may be some circumstances in which there is the potential for a “clash of rights”, for example, between biological women and transwomen in relation to matters like separate sex and single sex services. In these circumstances, it is recommended that, in so far as is possible, a public authority considers the impacts that their proposed decisions may have on (a) men and women generally, and (b) on transgender people compared to non-transgender people. There must always be due regard given to the need to promote equality of opportunity between men and women generally.</li> </ul> <p>Taking this into account, it would be helpful for the Equality Commission to provide practical examples and greater clarity demonstrating the approach to be taken should a clash of rights</p>
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		between biological women and transgender women or with biological men and transgender men arise
#37	Mid & East Antrim	<p>Mid and East Antrim Borough Council is generally satisfied with the guidance provided in relation to promoting a harmonious working environment and ensuring that transgender individuals are treated with dignity and respect. The Council recognises the importance of fostering inclusive workplaces where all employees feel safe, valued, and supported. In particular, the emphasis on minimum standards of treatment and the right of transgender people to fair and respectful engagement is welcomed. These principles align with the Council’s broader commitment to equality, diversity, and good relations across all areas of service delivery and employment.</p> <p>Council would like to raise concerns around:</p> <p>a)The provision of universal facilities only – it is unclear of the actual requirement needed to make this facilitate suitable.</p> <p>Council wishes to raise specific concerns regarding the exclusive provision of universal facilities. While recognising the inclusive intent behind the guidance, there are practical challenges regarding implementation, such as existing buildings, including older facilities, that are not equipped to deliver some of the solutions proposed. Council, therefore, emphasises the need for more clearly defined and practical guidance.</p> <p>Council would also note that real-life scenarios would be particularly helpful in supporting implementation and as such Annex 2 lacks sufficient operational detail to assist Councils in applying the guidance across diverse service areas. There is a clear need for case-based illustrations, sector-specific considerations, and practical tools that reflect the realities of service delivery and workforce management.</p> <p>b) Terminology</p> <p>Mid and East Antrim Borough Council notes that some of the terminology used within the interim guidance is unclear and may lead to confusion in interpretation and implementation. In particular, certain sections would benefit from greater precision and consistency in language, especially</p>

		<p>where legal or operational terms are used without definition. The Council recommends that the Equality Commission for Northern Ireland (ECNI) provide clearer explanations and, where possible, include specific examples or real-life scenarios to illustrate how the guidance should be applied in practice. This would support local authorities in ensuring compliance while maintaining confidence in decision-making across service areas.</p>
#38	<p>Armagh, Banbridge, Craigavon DC</p>	<p>The Council welcomes the Interim Information provided from the Commission. The sections which we believe to be useful are those outlining the minimum standards of treatment that transgender people have a right to receive and on promoting a harmonious working environment.</p> <p>However, there are sections of the Interim Information that are problematic and without further clarification will make it difficult for the Council to implement, for example:</p> <p>The Interim Information advises that there are various practical ways which public bodies can create facilities which allow all people to feel comfortable, e.g. provision of Universal Facilities only. The advice goes on to explain that sometimes provisions which are thought of as “unisex” will be sufficiently private and secure to fall within this suggestion, but not all and that poorly designed unisex facilities can also lead to feelings of discomfort for people. The Council therefore believes the Commission should provide detailed clarification on the design of unisex facilities should an organisation choose to provide them.</p> <p>It was also suggested in the Interim Information that organisations could provide separate and universal facilities which would include separate showering, toileting and changing for people according to biological sex whilst also ensuring that there are additional universal facilities which are to be used by all people (regardless of biological sex or transgender identity.) The advice goes on to say that it is important, however, that there is no risk of “outing” transgender people, and the universal facilities would need to be designed so no one could infer a person’s gender or sex simply because they were selected.</p> <p>The Council would appreciate further advice and explanation in relation to universal facilities. This should include detailed guidance on design to ensure that no one could infer a person’s gender or sex.</p>

		<p>The Interim Information advises that in all cases, the layout of toilets, changing rooms and washing facilities (showers and sinks for handwashing after toileting) should be designed to maximise and ensure appropriate accessibility, security and privacy. It also states the needs of persons with disabilities should be taken into consideration. The Council would welcome advice outlining practical ways of providing facilities that will take into account the rights of disabled people, biological women and men and transgender women and men.</p> <p>Many smaller premises do not have universal facilities readily available. The Interim Information does not address what an organisation should do if universal facilities are not available. For example, is an accessible toilet for all satisfactory?</p> <p>In the context of s.75 of the Northern Ireland Act the Interim Information states “It is recognised that there may be some circumstances in which there is the potential for a “clash of rights”, for example, between biological women and transwomen in relation to matters like separate sex and single sex services. In these circumstances, it is recommended that, in so far as is possible, a public authority considers the impacts that their proposed decisions may have on (a) men and women generally, and (b) on transgender people compared to non-transgender people. There must always be due regard given to the need to promote equality of opportunity between men and women generally.</p> <p>The Council believes it would be helpful to provide practical examples to show the approach to be taken when there is a clash of rights between biological women and transgender women or with biological men and transgender men.</p>
#39	NICCY	N/R