

Consultation Responses Q6 (by date received)

This table presents responses mapped to Questions 6 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.

	Organisation/ Individual	Question 6 <i>Do you consider the Commission has identified all allied legislation (Annex 3 of our legal paper)?</i>
#1	Individual	Please ensure allied legislation includes sectors where trans women are especially vulnerable, including prisons, domestic violence services, education, and health and safety regulations. Words like “woman” and “man” in those laws must be interpreted with consistency and dignity in mind.
#2	Individual	<p>Additional comment submitted (16 October):</p> <p>Thank you for your update. It is essential for the Commission to take note of the Detailed Defence filed by the EHRC in the JR presently before the High Court in London. (Copy via Good Law Project latest update on case).</p> <p>In their Defence, the EHRC confirm that the FWS decision did NOT address the Workplace HS&W Regulations or address or alter the meaning of male or female for the purposes of the Regulations. Accordingly, it has been conceded that the precedent set out in Croft v Royal Mail (that workplace facilities can be trans inclusive and that refusal to permit access to a trans person would be unlawful discrimination) remains good law in GB.</p>
#3	Individual	The Commission has listed relevant statutes, but it has not explicitly addressed that many of these are EU-derived and therefore locked into a biological definition of sex under the Windsor Framework. For example, the Control of Lead at Work Regulations (NI) 2003 and Workplace (Health, Safety and Welfare) Regulations (NI) 1993 are based on female biology and cannot lawfully be reinterpreted to mean gender identity. This strengthens the case for interpreting “sex” in NI equality law as biological sex, protecting the statutory rights of women and lesbians.

#4	Individual	<p>The annex is thorough but should be extended to include prison rules and offender management law, education legislation on single-sex schools and facilities, and sports regulations where fairness and safety depend on biological sex. In addition sexual orientation is underpinned on the basis of biological sex and disregarding this removes protections and choice from other marginalised groups. Harmonisation across these areas is essential to avoid inconsistency and to safeguard rights in practice.</p> <p>Comparative justification perspective In GB, the EHRC Draft Code has implemented For Women Scotland by confirming that sex means biological sex and by setting out clear examples of lawful single-sex services.</p> <p>In Ireland, the Equal Status Act 2000 permits single-sex services where privacy or embarrassment would otherwise arise. However, the Gender Recognition Act 2015 allows self-declaration of legal sex, creating ambiguity and weakening women’s protections in practice. This highlights the importance of firm statutory language in NI.</p> <p>At EU level, equality directives expressly allow proportionate single-sex services where justified by privacy, decency, or the protection of victims of sex-related violence. Affirming women’s rights in NI is therefore not only lawful but entirely consistent with EU standards.</p>
#5	Lewis Silkin Solicitors	N/R
#6	Individual	N/R
#7	LGSC	N/R
#8	Fermanagh Omagh DC	N/R
#9	Individual	N/R

#10	Individual	N/R
#11	Girl Guiding Ulster	Yes
#12	Response on behalf of each of the health trusts, ambulance service and BSO.	<p>Yes, although sections referencing legislation could have been better worded. Please refer to (1).</p> <p>However we note absence of other organisations listed in Annex 4: Regulators, government departments and interested parties such as PHA, Patient Client Council, RCN (Royal College of Nursing) and the community and voluntary sector in general in terms of seeking feedback.</p>
#13	CAJ	N/R
#14	Ulster University	<p>We agree that the Commission has identified the core allied legislation, but would like more information on how the application of the High Court ruling can impact on Northern Ireland legislation, in particular concerning:</p> <ul style="list-style-type: none"> • The Gender Recognition Act 2004. • The Human Rights Act 1998. • Additional EU legal provisions for Northern Ireland under the Windsor Framework. • The Public Sector Equality Duty and its operational implications <p>The University reaffirms its commitment to advancing equality, diversity, and inclusion across all aspects of its community. We recognise the challenges ahead when seeking legal clarity for Northern Ireland and for our institution in particular, and we welcome the opportunity to contribute to the next stages of the roadmap and consultation exercise.</p>
#15	Individual	<p>No. You have failed to consider the rights and protections enshrined in a range of equality legislation including S75 NIA 1988, SDO 1976, EA (SO) regs 2006, Employment Equality (SO) regs 2006, Sexual offences (NI) order 2008, and Art. 2 of the Windsor Framework, all of which</p>

		should have been interpreted via the prism of women, girls, lesbians, gay men, and pregnant women who describe themselves as trans.
#16	Individual	<p>No. There are some important pieces of legislation you have omitted.</p> <ul style="list-style-type: none"> - The Equality Act (Sexual Orientation) Regulations (NI) 2006 - Employment Equality (Sexual Orientation) Regulations (NI) 2006 <p>Anti- discrimination legislation in relation to sexual orientation protects women who are lesbians on the clear basis that a lesbian is a same-sex attracted woman. This legislation relies on the definition of a woman being based in biological sex.</p> <p>The Sexual Offences (NI) Order 2008 Rape- Article 5 describes rape as an act committed by a penis and therefore it is clear that the intent is that only a man can commit the act of rape. Clear definitions of man, woman and sex to be based on biological reality are essential for a coherent understanding of this area of law as well as many others.</p> <p>The SC ruling clarified the law which some parties had misrepresented for a number of years. The law has not changed and no-one rights have been diminished.</p>
#17	Individual	I'm not an authority on this by any means. I suspect that there is legislation pertaining to sexual orientation that is absent from your list.
#18	Individual	N/R
#19	Gaels For Fair Play	N/R
#20	Women's Rights Network	<p>No.</p> <ul style="list-style-type: none"> ● The Equality Act (Sexual Orientation) Regulations (NI) 2006 ● Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2006 <p>The omission of these pieces of legislation is particularly significant. Anti-discrimination legislation in relation to sexual orientation protects women who are lesbians on the clear basis that a lesbian</p>

		<p>is a same sex attracted woman. This legislation relies on the definition of a woman being based in biological sex; thus, a woman is an adult human female.</p> <p>With this omission ECNI has failed to consider the severe detriment to lesbians if woman is defined as anything other than sex based. The relevance of the sex-based definition of ‘woman’ to lesbians was a key part of the Supreme Court’s consideration in FWS.</p> <p>To define lesbian as other than a woman with a same sex attracted sexual orientation effectively destroys the structure, logic and purpose of the Equality Act (Sexual Orientation) Regulations (NI) 2006. Any other definition of the word woman would make this legislation and the protected characteristic of Sexual Orientation incoherent.</p> <ul style="list-style-type: none"> • The Sexual Offences (Northern Ireland) Order 2008 <p>In Part 2: Rape, Article 5 it describes rape as an act committed by a penis. This piece of legislation was based on the Sexual Offences Act 2003 with the same language and intent. While it does not use the language “man/men” it is clear the intent is that only a man can commit the act of rape. To not understand that this would mean man/men would make this incoherent.</p> <p>Rape—Part 5.— (1) A person (A) commits an offence if—(a) he intentionally penetrates the vagina, anus or mouth of another person (B with his penis</p>
#21	Individual	<p>No, I see no mention of the equality act 2006 or The Employment Equality (sexual orientation) Regulations NI 2006.</p> <p>We do not need a different approach from the rest of the UK. You are using elements of the Windsor Framework to suit the purposes of those trying to diminish women’s rights.</p>
#22	Individual	N/R
#23	Women’s Policy Group	<p>The WPG is concerned about the identification of so-called, ‘allied legislation’. Again, the FWS judgment insisted that it was adjudicating on the meaning of the word ‘woman’ within the provision of the Equality Act 2010:</p>

		<p>It is not the role of the court to adjudicate on the arguments in the public domain on the meaning of gender or sex, nor is it to define the meaning of the word “woman” other than when it is used in the provisions of the EA 2010. 11</p> <p>Given this statement, it is unclear why the ECNI feels the need to list all NI legislation/regulations that mention ‘man’ or ‘woman’. The implication is that the ECNI believes the scope of the FWS judgment to be far-reaching and capable of reinterpreting more than simply the EA 2010.</p>
#24	Individual	N/R
#25	For Women Scotland	N/R
#26	HERe NI and Rainbow Project	<p>The Commission has identified a wide range of allied legislation. It is possible that other allied legislation could be affected that is not yet known to us, and due to capacity we are unable to conduct a wide-ranging analysis of potentially allied legislation. Moreover, HERe NI and The Rainbow Project have some concerns that the Commission has identified an extremely wide breadth of legislation that references the terms ‘woman’, ‘man’ and ‘sex’.</p> <p>However, the Supreme Court was at pains to stress that this applied to the reading of sex within the Equality Act 2010:</p> <p style="text-align: center;"><i>‘It is not the role of the court to adjudicate on the arguments in the public domain on the meaning of gender or sex, nor is it to define the meaning of the word “woman” other than when it is used in the provisions of the EA 2010.’⁹</i></p> <p>We understand and accept that many pieces of legislation rely on or refer directly to terms and definitions set out in the This is, therefore, potentially a significant overreach of what the Judgement intended.</p> <hr style="width: 20%; margin-left: auto; margin-right: auto;"/> <p>⁹ JUDGMENT For Women Scotland Ltd (Appellant) v The Scottish Ministers (Respondent) p. 2</p>

#27	Anurag Deb Colin Murray Aoife O'Donoghue Sylvia de Mars	We have not identified any additional legislation connected to this issue.
#28	Sinn Fein	N/R
#29	Individual	N/R
#30	Individual	I am not a lawyer, but I'd guess probably not as you tend to cherry pick laws to suit your own agenda which appears to have been to convince everyone that self id is and always has been the law.
#31	Individual	No Consider the following legislation. The Equality Act (Sexual orientation) Regulations (NI) 2006 Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2006
#32	Unison NI	N/R
#33	Individual	N/R
#34	Individual	No. You have omitted all legislation relating to sexual orientation and also not considered sexual offences legislation where men are the only ones who can rape with a penis. A woman cannot rape!
#35	Individual	No. It has omitted critical sex orientation legislation which underpins why the meaning of sex as biological is paramount. Whether this was an accidental or deliberate omission, it doesn't bode well for the competence of the ECNI to carry out their statutory function.
#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.

ECNI Consultation - Responses to Q6

#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.
#38	Armagh, Banbridge, Craigavon DC	N/R
#39	NICCY	N/R