



Equality
Network



Scottish
Trans

PRESS RELEASE

August 9th 2023 – for immediate release

SCOTTISH TRANS JOINS LEGAL CHALLENGE TO UK GOVERNMENT'S VETO OF GENDER RECOGNITION REFORM (SCOTLAND) BILL

Scottish Trans, part of LGBTI human rights charity Equality Network, have been granted permission to intervene in a legal case which is seeking to overturn the section 35 order issued by UK Secretary of State for Scotland, Alister Jack MP, which is preventing the Gender Recognition Reform (Scotland) Bill from gaining royal assent and becoming law.

The charity says that the Secretary of State's block of an improved gender recognition process achieves nothing other than to "force trans men and women to continue to have to use an intrusive, difficult and expensive process simply to live their lives with the dignity we all deserve."

The Bill, passed by 86 of Scotland's 129 MSPs, across all five parties, would make the process that trans men and women use to update the sex recorded on their birth certificates in Scotland much simpler and fairer than the one that has been in place across the UK for nearly 20 years.

The case is due to be heard by the Court of Session between 19th and 21st September 2023.

A senior judge has granted Scottish Trans permission to act as third-party 'public interest interveners', which means that they can submit written evidence to the court about why they believe that the UK Government's reasons for blocking the Gender Recognition Reform (Scotland) Bill are wrong or inadequate.

Scottish Trans believes that the Gender Recognition Reform (Scotland) Bill will simply have a positive impact on the small number of trans men and women who wish to update the sex recorded on their birth certificate to reflect who they are and how they live their lives. They do not believe that any of the negative effects that the UK Government is claiming would result from the Bill becoming law would be realised. They believe that the court should overturn the section 35 order, and allow the Bill to gain royal assent and become law.

Vic Valentine, Scottish Trans Manager said:

“The Gender Recognition Reform (Scotland) Bill would significantly improve the process that trans men and women in Scotland use to update the sex recorded on their birth certificates, so that at important moments of their lives, such as registering to be married, they would be able to show a document that reflects who they truly are.

“More than 30 countries or territories around the world have laws that are similar to or even more progressive than the one agreed by a large majority of MSPs at the end of last year. Evidence from those places shows that all these laws result in are better lives for trans people.

“We think that it is very important that the voices and views of trans people in Scotland are heard in this case, which is why we applied to intervene.

“The UK Government’s block of this Bill does nothing but force trans men and women to continue to have to use an intrusive, difficult and expensive process, simply to live their lives with the dignity we all deserve.”

Scottish Trans is represented pro bono by the Scottish Just Law Centre, part of the human rights legal charity JustRight Scotland. Kay Springham KC and David Hay are instructed as advocates (see below).

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For more information, contact:

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Notes for editors

1) About the case:

The Scottish Government is challenging, by judicial review, the UK Government’s decision to issue a section 35 order under the Scotland Act 1998 to block the Gender Recognition Reform (Scotland) Bill from gaining royal assent and becoming law.

This is the first time that the section 35 veto power has been used to block a Bill of the Scottish Parliament, since the devolution settlement.

Section 35 allows the Secretary of State for Scotland to block a Bill passed by the Scottish Parliament, and which covers devolved matters, for these reasons:

“(1) If a Bill contains provisions—

(a) which the Secretary of State has reasonable grounds to believe would be incompatible with any international obligations or the interests of defence or national security, or

(b) which make modifications of the law as it applies to reserved matters and which the Secretary of State has reasonable grounds to believe would have an adverse effect on the operation of the law as it applies to reserved matters”

2) About the Gender Recognition Act 2004 and the reasons for reform:

You can read our “Five reasons to support reforming the Gender Recognition Act” digestible guide for how the law currently works, and why it needs change here: <https://www.scottishtrans.org/wp-content/uploads/2022/10/5-Reasons-To-Support-Gender-Recognition-Reform-Booklet.pdf>

3) About other countries with similar laws around Europe

See TGEU’s report: “Self-determination models in Europe” here: <https://tgeu.org/wp-content/uploads/2022/11/tgeu-self-determination-models-in-europe-2022-en.pdf>

4) About Scottish Trans

We are part of the Equality Network, and work to improve the equality, human rights and inclusion of trans people in Scotland. We have four full time staff and provide training, advice and support to organisations on how they can remove barriers that trans people face and properly respect and include them. We also work with trans people and communities to facilitate their direct involvement in improving trans equality in Scotland: <https://www.scottishtrans.org>

4) About Scottish Just Law Centre

The Scottish Just Law Centre at JustRight Scotland works to reduce discrimination and disadvantage by helping people use equalities and human rights law as an effective tool for social change: <https://www.justrightscotland.org.uk>

5) About Kay Springham KC and David Hay:

Kay is based at Compass Chambers, and has extensive experience in Judicial Review and Human Rights Law.

David is based at Westwater Advocates, and his specialisms include equalities and employment law, and public and administrative law.