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The Lord ALTON of Liverpool

Chair of the Joint Committee on Human Rights of the Parliament of the United Kingdom

Ms Sarah OWEN MP

Chair of the Women and Equalities Committee of the House of Commons of the United Kingdom

Strasbourg, 3 October 2025

Dear Chair of the Joint Committee on Human Rights,
Dear Chair of the Women and Equalities Committee,

My mandate is to foster the effective observance of human rights in all member states of the Council of Europe. An important part of my work is to engage in dialogue with governments and parliaments of member states, and to assist them in addressing possible shortcomings in their laws and practices.

I am writing to you in relation to the human rights situation of trans people, which was one of the topics of my recent visit to the United Kingdom (30 June to 4 July). During the visit, I also had an exchange with Lord Alton. In my [end-of-visit statement](#) of 8 July 2025, I expressed my concern about the current climate for trans people in the UK. I would like to provide you with some further observations, in view of your respective Committees' interest in and engagement with this topic. These reflect similar observations shared with the Secretary of State for Education (Minister for Equalities), as well as the Chair of the Equality and Human Rights Commission.

My observations relate to the need to respect the human rights of trans people, in line with the UK's international human rights obligations, including as regards further steps following the Supreme Court's judgment in *For Women Scotland Ltd. v. The Scottish Ministers*. This is particularly important as the Supreme Court did not engage with these human rights issues. I understand that an updated code of practice for services, public functions and associations has recently been submitted for consideration by the UK government, as the last step before the document becomes subject to Parliamentary approval. In this respect, I note that Parliament has an important role as a guarantor of human rights, and in ensuring coherence and compliance.

The European Court of Human Rights (the Court) has recognised that, the very essence of the European Convention on Human Rights (the Convention) being respect for human dignity and human freedom, it guarantees the right of trans people to personal development and to physical and moral security. Gender identity is covered as an aspect of private life under Article 8 of the Convention. This protection entails an obligation to provide for legal gender recognition, in order to avoid the unsatisfactory situation in which trans people live in an "intermediate zone [as] not quite one gender or the other" (*Christine Goodwin v. the United Kingdom*). The Court has further emphasised the importance of the impact on trans people of a discordance between their social reality and the law, with the coherence of the administrative and legal practices within the domestic system being an important factor in assessing whether there has been a violation of Article 8 (*Hämäläinen v. Finland*).

It should be ensured that steps taken towards implementing the Supreme Court judgment avoid a situation where a person's legal gender recognition is voided of practical meaning, to the extent that it leaves trans people in an unacceptable "intermediate zone". Where possible, inconsistencies within the domestic system, particularly with regard to the interplay between key legal frameworks such as the Equality Act and the Gender Recognition Act, which could lead to legal uncertainty or to dissonance between the lived experiences of trans people and their treatment in law, should be avoided. It is also to be recalled that not all trans people wish to obtain legal gender recognition, and in reality simply live

according to their gender identity. This does not in any way diminish their right to be treated with dignity, to be protected from discrimination, and to be able to participate in all areas of everyday life.

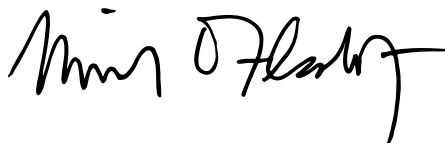
As I note in my end-of-visit statement, I observe a tendency to see the human rights of different groups as a zero-sum game. This has contributed to narratives which build on prejudice against trans people and portray upholding their human rights as a de facto threat to the rights of others. Such a zero-sum approach risks certain inferences being drawn from the UK Supreme Court judgment that could lead to widespread exclusion of trans people from many public spaces. This, in turn, may severely infringe on their ability to participate fully and equally in society. This is particularly the case, as discussions about how access to services and facilities will have to be regulated following the judgment have tended towards the exclusion of trans people. It would therefore be crucial for all stakeholders to receive clear guidance on how inclusion of trans people can be achieved across all areas, and how exclusion can be minimised to situations in which this would be strictly necessary and proportionate, in line with well-established human rights principles. In reality, tensions between the human rights of different groups in this context are likely to be exceptional in nature, and resolvable through nuanced, reasonable and balanced accommodations. This would also be in line with the approaches taken by various bodies of the Council of Europe (such as the Committee on the Prevention of Torture (CPT) or the Group of Experts on Violence Against Women (GREVIO)), which recognise the particular vulnerability of trans people, and which begin from the position of their inclusion within spaces according to their gender identity – with exceptions made on a case-by-case basis as necessary.

Another area of concern is that blanket practices or policies on access to gender-segregated spaces could be put in place, which would require trans people to habitually “out” themselves publicly when accessing services or facilities, either directly (by being asked about their sex assigned at birth) or indirectly (by having to use services or facilities in such a way that it becomes apparent they are trans). Forced or non-consensual disclosure of private data falls within the sphere of private life under Article 8 of the Convention (see *Bazhenov and Others v. Russia* in relation to disclosure of sexual orientation). While this right is not absolute and can be subject to limitations in the interests of a number of grounds, this may only be done in accordance with the law, when necessary in a democratic society and proportionate to the aim sought. Disclosure requirements may have significant implications not only for trans people, but for others too, especially for those whose gender expression does not conform to their gender identity. Beyond privacy concerns, being forced to disclose sex assigned at birth may also significantly increase people’s vulnerability to harassment, abuse and even violence.

I conclude by emphasising that the foregoing in no way detracts from the need to continue improving measures to prevent violence against women and girls, as well as the protection and promotion of women’s rights and gender equality more generally. I am concerned that a debate about violence against women, framed in a way that restricts the human rights and freedoms of trans people, risks undermining the comprehensive, evidence-based approach needed to address this epidemic.

I would appreciate if you could share a copy of this letter with all members of your respective Committees.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michael O'Flaherty', with a stylized, cursive script.

Michael O'Flaherty