



30 June 2025

Equality and Human Rights Commission
Information Governance Team

By email to: complaints@equalityhumanrights.com

Dear Team,

I am writing to make a formal complaint against the Equality and Human Rights Commission on behalf of my constituents Abigail Maxwell, Gemma Colling, N J Douglas, Paula Edwards, and NS, a constituent who wishes to use only initials and is part of a family with a 14-year-old trans daughter.

My complaint is that:

- the Commission's interim update on the Supreme Court Judgment was deliberately misleading in nature and has caused significant confusion and distress to these individuals in my constituency;
- the consultation on the Code of Practice for services, public functions, and associations is not accessible, meaningful, or transparent.

The interim update on the Supreme Court judgment published on 25 April 2025 has caused significant confusion and distress. The EHRC's website said:

"We know that many people have questions about the judgment and what it means for them. Our updated guidance will provide further clarity. While this work is ongoing, this update is intended to highlight the main consequences of the judgment."

Speaking in the House of Lords Baroness Falkner said:

"our priority is to explain the law to the public, which we have done in the interim statement, and to undertake a consultation on the practical implications of the judgment."

Speaking to BBC Radio 4's PM programme Akua Reindorf KC said:

"It is not the case, that this guidance – well it's not guidance, it's an update – but it's not the case that either the update or the judgment forces trans people into opposite-sex facilities, if organisations operate in a way that takes into account the dignity and safety of everybody who is affected."

The use of the word 'guidance' has misled individuals and organisations, many of whom have equated the interim update with statutory guidance. Many businesses and organisations seem unclear about their legal requirements, and many trans people who are contacting me are confused and worried about which services they are able to use and how they will be treated. For example:

Abigail Maxwell:

"I have been using women's loos since the 1990s, and never more self-conscious and scared to do so than now. I might be thirsty, and not drink because I will be out. I am a woman. I have breasts, a woman's hair style, I have been living as a woman since 2002..."

"In a city crammed with wonderful pubs, I like to relax with friends and a glass of wine. I now drink at home, more often, rather than risk confrontation. I especially do not want a confrontation when even slightly tipsy, and alcohol is diuretic."

"I love swimming. I swim in the sea. I did not use women's changing rooms, swimming, even before the Supreme Court action because of the risk of challenge: I have not swum in a pool since 2017. Fear of prejudice constrains my life, and stops me doing what I would like to do to keep healthy. The EHRC guidance makes this worse."

Paula Edwards:

"It's a horrible phrase but I'm lucky I pass! I can carry on my life probably without fear of challenge and unless I need to go into hospital for internal surgery or god forbid I make a mistake and get a custodial sentence the judgment won't affect me but it just isn't right that I now have to live in fear and dread that one day my birth status will become more important than who I am today."

NJ Douglas:

"The ECHR's hasty and botched 'interim update' has unleashed a reign of terror for trans men like me. Its incoherent nonsense created a 'bigots' charter' available to anyone who wants to use it to police our presence in public toilets—with harassment or even force if they feel so inclined. This isn't theory; it's already happening. In 2025, in Britain, I should not be afraid to use the toilet because I'm trans. What a disgrace that the organisation charged with protecting my dignity and human rights as a trans man has increased my risk of exposure to public harassment and violence."

Gemma Colling:

"Under the IU we would have to 'agree' to be forcibly outed on every occasion we are out in public. We will not be able to live a normal life. We will not be able to even have the basic bodily function of going to the loo, without be identified, or going to work, going to hospital, restaurants, bars, clubs, cinemas, theatres, or even shopping for food without possibly being outed. We will then become an even greater target of abuse, threats and assaults. The IU actively encourages vigilantism not only against trans people, but those suspected of being trans, i.e. those who do not conform to 'gender norms' and this is already happening. Just in the past week, this vigilantism has been encouraged in social media, causing fear among trans people, just for going about their daily lives."

The consultation on the Code of Practice for Services, Public Functions and Associations is a vital avenue for all those affected by the Supreme Court judgment to feed in to the production of new guidance. However the consultation is not accessible, meaningful, or transparent.

The consultation website does not provide an easy-read or BSL version of any documents.

The consultation has not published the whole Code of Practice, only sections that have ‘been updated.’ It is unclear whether these are updates to the original Code of Practice published in 2011, or updates to the version of the Code of Practice that was consulted on in 2024. In any case, the version consulted on in 2024 is not publicly available. This makes it extremely challenging for members of the public and key stakeholders to provide meaningful feedback.

Individuals and organisations have only been given six weeks to digest, take advice and respond to the consultation – to what is a very complicated policy area with far reaching implications – instead of the standard 12 weeks. Constituents have told me about their views on the consultation and the distress this has caused:

NS:

“A risible initial 2 week window said loud and clear how little understanding and compassion was to be shown to families already reeling and expected to then digest and understand the implications fully in time to respond. Emergency emails were sent to schools across the country from anxious parents such as us wondering if it was safe for our children to attend school - many ‘outed’ overnight, would kids previously thriving at school now refuse to attend altogether? Schools have been left to try and interpret the clearly rushed guidelines which themselves seem to have been backtracked upon (eg single sex toilet provision now not mandatory after all). Trust that the EHRC in any way represents transgender people and their families and friends is broken to the degree that even though we feel compelled to respond to the (still ridiculously short) consultation, we feel little hope that it will be objectively and neutrally run.”

Abigail Maxwell:

“I had no faith in the EHRC consultation. I have seen too many such consultations. In a consultation on conversion therapy, I shared my own experience of aversion therapy, with great emotional cost, and there is no result, nearly four years later. Born in Scotland and living in England, I have answered several consultations on gender recognition, and despite the overwhelming vote of the Scottish Parliament to reform it, nothing has happened.

“The EHRC published a draft code at the end of last year. That was before the Supreme Court judgment, but still the draft code significantly reduced the statements of trans rights. For example, it stated that neither the Gender Recognition Act nor the Equality Act prohibit asking a person for proof of their sex at birth or legal sex. That would be the Human Rights Act, which the code does not mention.

“On 11 June the ECHR published their judgment in the case of TH v Czechia, which again confirmed trans people’s right to privacy. I would have thought that a bona fide human rights body would be interested in supporting everybody’s human rights, and would have taken account of this case. I see no evidence that the EHRC has. So I have no faith in the EHRC consultation.

“Considering the content on asking about sex at birth, it is my view that this is an unlawful breach of the human right to privacy. However, Change 2.2 permits such questions. Then the questionnaire only asks whether the explanation in the code is clear, not whether it is wrong. There is no space to argue that the explanation of the law tramples trans people’s human rights. And, even if there had been, I have no faith that this EHRC would take any notice of it. So I answered the consultation using the Good Law Project’s form, merely stating that being forbidden to use the women’s services I have used for more than twenty years is a horrific attack on my sense of self.”

NJ Douglas:

“After a botched ‘interim update,’ the EHRC adds insult to injury with a paltry six-week sham consultation—on a ruling that will impact trans lives like mine forever. If this isn’t proof they neither grasp nor care about the harm done by this devastating ruling, I don’t know what is. More evidence, if any were needed, that the leadership of the EHRC is utterly unfit for purpose and cannot be trusted to run this consultation.”

Overall, the actions of the EHRC following the Supreme Court Judgment on 16 April 2025 have increased distress and confusion for individuals in my constituency:

NJ Douglas:

“When the EHRC Chair and Commissioners signal in public pronouncements that trans people should simply accept their status as second-class citizens as a result of the Supreme Court ruling, how can we possibly trust them to deliver fair, balanced and sensitive guidance? As a trans man, I have zero faith in the so-called Equality and Human Rights Commission: a body that has botched one policy ‘update’, rushed a consultation in order to bias the outcome, and made a mockery of its name. Any decent government would have demanded their resignations.”

NS:

“Families like ours learned of the EHRC’s interim guidelines and consultation from the media within the context of an already highly toxic framing of the Supreme Court ruling. The EHRC’s communications and approach did little to assuage our concerns of a total lack of any impact assessment of the ruling, the consultation, the interim guidelines and the EHRC’s own messaging on our children’s and our lives.”

Abigail Maxwell:

“The guidance published in April was horrific. It called me a ‘biological man.’ I am not a man, and as Lady Hale said in response to a question I put, she understands the concept of ‘biological sex’ in this context is biologically meaningless.

“It said, baldly: ‘trans women (biological men) should not be permitted to use the women’s facilities and trans men (biological women) should not be permitted to use the men’s facilities, as this will mean that they are no longer single-sex facilities and must be open to all users of the opposite sex.’ That is legally mistaken. It is entirely lawful to specify that toilets are inclusive, for example by the formulation Quakers use: ‘These toilets are trans inclusive. This area has toilet cubicles, a shared handwashing area, and baby changing facilities.’ But also, it was a slap in the face

for me. I move through the world as a woman, and now according to the EHRC I was banned from doing so. I felt great fear, and also uncertainty: my rights had been ripped away. What would happen next? Aversion therapy permanently damaged my ability to trust society, and now it appeared to be deliberately targeting me."

Paula Edwards:

"As a happy 71 year old fully medically and socially transitioned trans woman living in the Brighton I am horrified at the way our very small section of the population is being misrepresented and vilified and at times in almost hysterical terms in both parliament and the press at this current time."

I understand that you are required to respond formally to my complaint within 20 working days. I shall follow up this letter if I do not hear back from you within that timeframe.

I look forward to hearing from you in the very near future.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Siân Berry', with a stylized flourish at the end.

Siân Berry MP
Green Party, Brighton Pavilion