

Murray Blackburn Mackenzie

By email: [REDACTED]

15 December 2022

FAO: Murray Blackburn Mackenzie

Gender Recognition Reform (Scotland) Bill: ECHR compliance

Thank you for your email and attached letter, dated 5th December 2022. The letter asks the Commission for our advice in respect of the human rights implications of any decision by the UK Government to refuse to recognise Gender Recognition Certificates (“GRCs”) granted in Scotland under a model proposed by the Gender Recognition Reform (Scotland) Bill (the “Bill”).

The Commission is unable to give legal advice to individuals or organisations. Our statutory mandate is set out in the Scottish Commission for Human Rights Act 2006. Section 6 explicitly prevents us from responding to requests for our legal advice in connection with any claim or legal proceedings to which a person is or may become a party.

We refer you to our [evidence](#) on the Bill, published in June 2022, which remains the Commission’s position. We also refer you to our more recent [briefing](#), published on 7 December 2022. We do not believe the Bill presents concerns in terms of compliance with the European Convention on Human Rights (“ECHR”).

We understand that the general concern outlined in your letter refers to a possible future UK Government decision not to recognise GRCs issued

in Scotland in relation to UK-wide services, examples could be those services operated by HM Revenue & Customs or access to some social security payments controlled by the Department for Work and Pensions. It is a matter for the UK Government to consider if and how it will recognise GRCs issued in Scotland or from any other country, including any human rights implications. Once concrete decisions have been taken and communicated, it would then be possible to assess ECHR compliance of those decisions.

We hope that these general observations are of use to you in your work.

Yours sincerely

A handwritten signature in black ink, appearing to read 'I. Duddy', with a long horizontal flourish extending to the right.

Ian Duddy
Chair
Scottish Human Rights Commission