

D Cooke
request-644735-25b772b2@whatdotheyknow.com

Our Reference: 202000015418
Your Reference: Gender recognition consultation

08 April 2020

Dear D Cooke,

I have now completed my review of our response to your request under the Freedom of Information (Scotland) Act 2002 (FOISA), in relation to:

"With reference to the current Gender Recognition Reform (Scotland) Bill Consultation. As a matter of some urgency I request the definitions of terms used in the documents and draft bill, they have not been supplied. Including but not limited to sex, gender, "a person's gender", "acquired gender", "living in acquired gender". Clear, logical, non-circular definitions and explanation of the meaning of terms, and examples."

You sought a review because you considered that the initial response referred you to other sources, which you did not find acceptable. You also felt that the definitions intended for this bill and its contents should have been documented in the consultation itself, a complete set of definitions with examples, all in one place, without the need for searches or assumptions.

You may find it helpful to note that this review has been dealt with separately to the complaint that you raised in relation to this matter.

In conducting my review, I have considered the circumstances of the case afresh, taking account of the points you raised in your request for review. I have concluded that the original decision should be confirmed with modifications.

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Our response of 5 March 2020 explained to you that the terms used within the Gender Recognition Reform (Scotland) Bill Consultation may be defined differently depending on the context in which they are being used, or how they may be defined in particular legislative provisions. Unfortunately these terms could not be defined in a straightforward manner for the purposes of the consultation, and we considered that the simplest way to provide you with the information you requested was as given in our response of 5 March.

I have concluded that, whilst our initial response provided some of the information you requested we did not provide you with a complete set of definitions with examples all in one place. I have determined that we were unable to provide this information because a complete set of definitions of these terms is not held by the Scottish Government in the way in which you set out.

I have therefore concluded that our initial response should have included a formal notice that section 17(1) of FOISA applies to some of the information you have requested for the reasons set out above. However, the Scottish Government will consider when preparing a Bill for introduction into Parliament whether any of the accompanying documents, such as the Policy Memorandum, and any of the Impact Assessments could say more in relation to these terms.

I appreciate that we did not respond as quickly as you had hoped, but the initial response was provided as soon as possible and in line with the FOISA timeframe. The consultation ran from 17 December 2019 to 17 March 2020.

If you are unhappy with the outcome of this review you have the right to appeal to the Scottish Information Commissioner about our decision within 6 months of receiving this letter. Information on how to make an appeal, along with an application form, is available on the Commissioner's website at: <http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.>

You can also contact the Commissioner at:

The Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

E-mail: enquiries@itspublicknowledge.info

Telephone: 01334 464610

Should you then wish to appeal against the Commissioner's decision, there is a right of appeal to the Court of Session on a point of law only.

Yours sincerely

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