



16th May 2025

Dear CEO

We are writing on behalf of members of the FCA & PSR Unite Branch in response to your update to internal guidance about toilet and shower facilities following the Supreme Court judgment of 16 April 2025 in 'For Women Scotland v The Scottish Ministers'.

We were dismayed to see the FCA act so quickly to introduce temporary guidance in light of this ruling. While we acknowledge the significance of the judgment, we are concerned about the implications of premature implementation—particularly the potential adverse impact on the LGBT+ community.

We respectfully urge the FCA to halt the updated guidance and reconsider taking further steps until the Equality and Human Rights Commission (EHRC) publishes clear guidance on how the judgment should be interpreted. This caution is especially important given that the updates to the EHRC's Code of Practice following the judgment are still being consulted on (not yet launched) and have not been finalised.

No law has yet been passed which requires the measures set out in the FCA's interim policy. Any premature attempts to implement the EHRC's provisional guidance exposes the FCA to potential legal action. The Gender Recognition Act 2004 states that it is a criminal offence to disclose information that enables the identification of an individual who has applied for or obtained a gender recognition certificate. The current legal commentary raises concerns that the FCA's interim policy is not supported by law. We refer you to the following resource for further context: [Good Law Project – Trans Inclusion FAQs](#).

There are also indications that the EHRC may revise or scale back their guidance, adding further uncertainty to the situation.

In contrast to the FCA's approach, comparable organisations have not taken similar immediate action. This divergence raises questions about the need for such urgency and the FCA's rationale for moving ahead without a broader consensus or legal clarity.

We are further disappointed that the FCA has not engaged in consultation with the Staff Consultative Committee (SCC) or relevant employee networks. Feedback shared during recent sessions hosted by Inside Out has highlighted the strength of feeling among staff, and the potential impact of these decisions on the wider workplace community. It is clear from the initial reaction that implementing these measures will have an immediate and serious impact on the health and wellbeing of FCA staff.



To date, the FCA has not provided a clear justification for the speed or direction of its response, nor has it addressed the health and safety implications of the proposed interim arrangements. Additionally, we would welcome a formal Equality Impact Assessment and formal risk assessment be shared regarding the changes to workplace facilities. Each FCA site has unique layout and infrastructure considerations, which we would like to ensure have been fully accounted for before this decision was made and communicated.

Finally, the interim policy lacks enforceability and creates conditions in which individuals could face harassment or discrimination at work.

Had a recognition agreement been in place, Unite would have welcomed the opportunity to collaborate constructively with the FCA to identify fair, practical, and inclusive solutions. Meaningful engagement and consultation could have mitigated the risk of reputational and legal harm, and better aligned the FCA's actions with its stated values of inclusion and transparency.

We strongly encourage the FCA to pause its implementation of the temporary guidance, consult with stakeholders, and await authoritative direction before making permanent decisions.

Yours sincerely

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FCA & PSR Unite the Union Branch