

**Witness Statement of John Nicolson MP
On behalf of the Appellant
Date: 31 January 2022
Exhibit: JN1**

Appeal number: CA.2021.0013

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
(CHARITY)**

MERMAIDS

Appellant

and

THE CHARITY COMMISSION FOR ENGLAND AND WALES

First Respondent

THE TRUSTEES OF LGB ALLIANCE

Second Respondents

WITNESS STATEMENT OF JOHN NICOLSON MP

I, John Nicolson MP, of the House of Commons, London, SW1A 0AA, shall say as follows:

1. I have been the Scottish National Party (“SNP”) Member of Parliament (“MP”) for Ochil and South Perthshire since 2019; before that I was the MP for East Dunbartonshire between 2015 and 2017. I am the SNP Shadow Secretary of State for Digital, Culture, Media and Sport (“DCMS”) and a member of the House of Commons DCMS Committee. I am also a Deputy Chair of the All-Party Parliamentary Group (“APPG”) on Global LGBT+ Rights; we work with major UK-based LGBT+ charities and human rights organisations to identify political priorities on LGBT+ issues, domestically and around the world, and advocate in Parliament for positive change in the lives of LGBT+ people.

2. I make this statement in support of the appeal by Mermaids (the Appellant) against the decision of the Charity Commission (the First Respondent) to register LGB Alliance (an organisation run by the Second Respondents) as a charity in April 2021. The statement was drafted with the assistance of Mermaids' solicitors.
3. In the course of making this statement, I shall refer to a bundle of documents, which is now shown to me marked '[JN1]'. References take the form '[JN1/X]', where 'X' is the exhibit page number.
4. Matters within this witness statement are within my own knowledge and belief unless I state otherwise, in which case I give the source of that knowledge or belief. Where matters are within my own knowledge, they are true. Where matters are not within my own knowledge, they are true to the best of my knowledge and belief.
5. In this statement I will focus on two areas:
 - a. Political campaigning, which has been one of LGB Alliance's core activities since its foundation.
 - b. LGB Alliance's denigration of individuals who support trans rights, which, again, has been one of its core activities since its foundation.

Political campaigning by LGB Alliance

Gender Recognition Act reform in Scotland

6. In Scotland, the governing Scottish National Party ("SNP") has - not without internal debate - adopted a progressive stance on trans rights. Our position has been summarised by our leader, Nicola Surgeon: "*As an ardent, passionate feminist, and [I] have been all of my life, I don't see the greater recognition of transgender rights as a threat to me as a woman or to my feminism*" [JN1/2-5]. The Scottish Government has in many ways, in my view, been ahead of the UK Government when it comes to these issues, which may explain why LGB Alliance have focused so much of their attention north

of the border. As an MP representing a Scottish constituency in Westminster, and the Deputy Chair of the APPG on LGBT+ rights, I have closely followed the proposed changes in Scotland (although I have not been involved in the passage of the Holyrood legislation).

7. LGB Alliance seem to have used Scotland as a testing ground for their most aggressive lobbying. LGB Alliance have a significant presence in Scotland; they held a “Scotland launch” in Glasgow on 18 January 2020 and have a “Scotland” page on their website, which gives a postal address in Edinburgh [JN1/6-8]. As far as I know, LGB Alliance is not registered as a charity with the Scottish Charity Regulator, the OSCR.
8. In 2017/18, the Scottish Government started consulting on proposed reforms to the process by which trans people can obtain legal gender recognition in the form of a Gender Recognition Certificate (“GRC”), including by removing the requirement for a medical diagnosis of gender dysphoria. On 17 December 2019 a new consultation was opened on the Gender Recognition Reform (Scotland) Bill (“the GRR Bill”) which ran until 17 March 2020.
9. During the consultation period, LGB Alliance encouraged their supporters to submit responses calling for the GRR Bill to be withdrawn. They provided a set of model responses to be used, warning about “soaring numbers of children who claim to have been born in the wrong body”, claiming that the Bill would “pour fuel on this fire” by “promoting the meaningless concept of gender identity”, and arguing that the Bill would make “the current epidemic worse” [JN1/9-19].
10. In January 2020 LGB Alliance ran an advert in the *Herald* and *Scotland on Sunday* titled “PRESS PAUSE on the Gender Recognition Bill”, which argued that the proposed reform “sounds reasonable enough. Until you think through the implications, especially for women and girls.” The advert suggested that if the GRR Bill passed “there would be nothing to stop any man gaining legal recognition as a woman with a birth certificate to match and thereby accessing women’s hospital wards, refuges, prisons, toilets or changing rooms” and that the law could therefore be “exploited by predatory men who wish to hurt women and girls” [JN1/20].

11. In March 2020, they ran a similar advert in the *Scotsman* titled “*Self-ID gives predators the green light*”, which claimed that the GRR Bill would “*allow any man to ‘become’ a woman quickly, easily and with no professional oversight. Even a man who has been convicted of sexual offences against women and girls*”, and that that would mean a “*male-bodied person*” could “*choose to share a cell with a woman in prison*” or “*take a place at a women’s refuge*”. It also claimed that making it easier to obtain a GRC would increase crime against women and girls in public toilets and changing rooms, and said that “*every predator typically abuses hundreds of times. So this change to the law will harm thousands of women*” [JN1/21].

12. These materials were riddled with falsehoods and repeatedly misrepresented the law. It was inaccurate for LGB Alliance to state (in their consultation responses) that the reforms would “*allow any man who says he believes he is a woman to gain a [GRC]*” or (in the January 2020 advert) that the reforms would allow a “*predatory man*” to apply for a GRC on a whim and with “*no professional oversight*”. I exhibit a copy of the draft GRR Bill, as it stood at the time of the 2019/20 consultation, at [JN1/22-48]. It will be seen that it contains extensive safeguards: (i) only someone who had lived in their acquired gender for at least three months, and confirmed that they planned to do so permanently, could apply for a GRC [JN1/27]; (ii) a “*reflection period*” of three months would follow the application, after which the applicant would have to confirm that they wished to proceed [JN1/25]; (iii) the application would need to be supported by a statutory declaration and it would be a criminal offence to make a false application [JN1/40]; and (iv) the courts would have the power to revoke a GRC that has been obtained fraudulently [JN1/37]. It is true that the process is more streamlined and less medicalized than the current one, but it is not the kind of rubber-stamping exercise LGB Alliance’s materials claim it to be.

13. LGB Alliance repeatedly claims that the GRR Bill would make it easier for trans women, and (so far as LGB Alliance makes a distinction between them) men, to access women’s hospital wards, refuges, prisons, toilets and changing rooms. This is inaccurate and liable to mislead the public for a number of reasons:
 - a. Under the existing law, a GRC is not required to access any of these facilities in Scotland (or elsewhere in the UK). Hospitals, refuges, prisons, toilets and

changing rooms do not routinely check birth certificates or GRCs to determine who can access them, and there is no legal requirement to do so. It follows that changing the process to obtain a GRC will have no bearing on who is able to enter (for example) women's toilets.

- b. Both today and if the GRR Bill is passed, a GRC would not guarantee access to women's facilities. Service providers can exclude trans women (whether or not they have a GRC) if they have good reasons for doing so. As paragraph 5.15 of the GRR Bill Consultation Paper explains: *"Nothing in what we are proposing will change the exceptions in the Equality Act 2010 which allow trans people to be excluded when this is a proportionate means of achieving a legitimate aim – for example single sex services, employment, health services"* [JN1/51-52]. It is therefore inaccurate to suggest that the GRR Bill would have an impact on providers of women's services who wish to restrict access to their services by trans women.
- c. Similarly, LGB Alliance's suggestion that the GRR Bill would change the position of trans people in prison – by allowing any trans woman to *"choose to share a cell with a woman"* provided they had a GRC - was also untrue. As set out in its 2014 guidance (which is currently being reviewed), the Scottish Prison Service will allocate trans women - with or without a GRC - to the women's estate, but: *"if there is clear evidence that she, as an individual, may pose a sexual offence risk, then this should be dealt with as for any other person in custody posing a risk. Only where a risk assessment determines it is justified, should she be subject to increased staff supervision or restrictions of her association with other people in custody"* [JN1/83].
- d. Even were it true that a GRC was both necessary and sufficient for entry to women's toilets or other facilities, the suggestion that *"predatory men"* would go through the lengthy process of obtaining a GRC so that they could (lawfully) enter women's spaces in order to (unlawfully) hurt women and girls simply does not make sense. The March 2020 advert, for example, suggested that making it easier to gain a GRC would increase crime against women and girls in public toilets because *"some men are prepared to risk arrest by installing hidden cameras in toilets and showers, or by upskirting in public places. The Scottish*

Government will ensure they will no longer need to break the law to look at women who are naked or partially dressed” [JN1/21]. It is, of course, a criminal offence for anyone to install hidden cameras in toilets or engage in voyeurism and the GRR Bill does not change the law in that regard.

14. Trans women (with or without GRCs) have always used women’s toilets legally (because, as I have explained above, the existing law does not regulate these matters). If LGB Alliance’s fears were founded they would have evidence for it by now. In reality it appears that LGB Alliance is advocating, on the basis of no evidence at all, for new laws which would compel service providers to segregate their users on the basis of “birth sex”.
15. Drawing this together, it can be seen that LGB Alliance’s activity on the GRR Bill was based on fundamental misconceptions, both about the existing law and about the nature of proposed reforms. More generally, the language used by LGB Alliance in these campaigns was inflammatory. For example, their suggested consultation responses referred to an “*epidemic*” of transgender children and young people [JN1/16]. Characterising transgender identity as a disease is an unacceptable stereotype, reminiscent of similarly unacceptable stereotypes of homosexuality.
16. In December 2020, LGB Alliance ran an advert in the *Scotsman* and the *Herald on Sunday*. Drafted as an “open letter” to the UK Prime Minister, Boris Johnson, it argued that the rights of lesbian, gay and bisexual (“LGB”) people were being “*eroded*”, for example because lesbians are being “*threatened with sexual violence if they rebuff the advances of a male-bodied person who “identifies” as a woman*”. This is a sweeping generalisation about trans people, couched in inflammatory language, and I note that LGB Alliance did not provide any evidence to substantiate it. Though it should not need to be said, no one I know, or know of, who supports reform to the GRC process and/or trans rights more broadly believes that anyone should ever be pressured to sleep with anyone. LGB Alliance repeatedly misrepresents this as something LGBT organisations are lobbying for, without evidence [JN1/93].
17. On 5 May 2021, after LGB Alliance had been registered as a charity, they placed another full-page advert opposing the GRR Bill in the *Herald*, titled “*What is a lesbian?*”

In the advert they (characteristically) spoke ominously of grave risks to women and LGB people without going into much detail about what those risks were. The advert said that gay people were the “*canaries in the coal mine*” when it came to the damage that would be wrought by the GRR Bill, though the only example they came up with was lesbian dating apps apparently refusing service to women who say they are “*solely attracted to biological women*”. It is not clear to me how that alleged problem would be exacerbated by the GRR Bill, unless dating apps routinely require users to provide birth certificates / GRCs. The advert also claimed that women’s single-sex spaces “*are necessary*” - again implying, falsely, that the GRR Bill would change the law on single-sex spaces [JN1/94].

18. In all of the adverts, LGB Alliance severely misrepresent the current law and the impact of the proposed reforms, so that they can pretend to advocate for the maintenance of the legal status quo when they are in fact pushing for existing protections to be withdrawn. They seek to generate support for those propositions by falsely casting trans women as the real perpetrators of male violence against cis women.

Politics at the United Kingdom level

19. LGB Alliance have also engaged in extensive political activity at a UK-wide level. For example:
 - a. They have repeatedly lobbied the Equality and Human Rights Commission (“EHRC”), as shown by letters published on their website:
 - i. On 23 October 2019 [JN1/95-96] they wrote to EHRC asking it to investigate Stonewall, which they argued may be in breach of the Equality Act 2010 for its “*purposeful elision of sex and gender*” (its belief that the category of, for example, “same-sex attracted men” includes trans men).
 - ii. The EHRC replied on 14 November 2019 [JN1/97-98] to explain that the Equality Act 2010 did not, in any event, apply to Stonewall since it is

not a public body. LGB Alliance's lawyers sent a lengthy reply on 3 February 2020 [JN1/99-105] arguing that Stonewall should be treated as a public body and urging the EHRC to open an inquiry into "*the evolution and adoption of policy by public sector organisations in relation to transgender rights*" influenced by Stonewall. The EHRC confirmed on 18 March 2020 [JN1/106-108] that such an inquiry did not fit within its identified priorities for the coming period.

- iii. LGB Alliance replied on 25 March 2020 saying that "*an enormous amount of detailed research went into the letter sent to you. You do not acknowledge the findings of that research or the serious concerns expressed...This leads us to believe that you have not fully absorbed either the seriousness of the concerns we raise or the need for prompt action*" [JN1/109-110]. They suggested that the EHRC had set its priorities with too much focus on trans people's needs, saying that most of the LGBT groups the EHRC had consulted prioritised trans people "*because Stonewall has conducted a campaign...to promote the rights of trans people ahead of those of same-sex attracted people*". The EHRC reassured them on 29 May 2020 that it had considered LGB Alliance's arguments fully, and that their concerns about the adequacy of the EHRC's consultation regarding its strategic priorities - which had been open to the public - were unfounded [JN1/111-113].
 - iv. LGB Alliance subsequently sent an email to Marcus Bell, Director of the Equality Hub (part of the Cabinet Office), complaining about the "*rebuttal*" they had received from the EHRC and explaining that: "*We are approaching the new Chair of EHRC, Baroness Falkner, to request a meeting, as we have made no progress with [EHRC's CEO] Rebecca Hilsenrath*". They said that Stonewall had "*enormous influence*" over the EHRC and accused the EHRC of "*colluding*" with LGBT groups [JN1/120-121].
- b. Recent FOI responses reveal that LGB Alliance has engaged in lobbying of Government Ministers and other MPs, all of which sought to promote "gender critical" beliefs:

- i. On 13 July 2020 Beverley Jackson and Kate Harris met with Kemi Badenoch (Minister for Equalities). A briefing note prepared by the Minister's staff describe it as an *"introductory meeting with the LGB Alliance to listen to their lobbying priorities"*, which were: *"Relationships and Sex Education guidance in schools, GRA reform, healthcare for young people who are questioning their gender, and diversity of thought on sex and gender identity."* In a section setting out *"lines to take"* in response, the note recorded that *"for many years transgender people have used single-sex spaces in their acquired gender without issue. We have no interest in curtailing or policing this"* [JN1/139-143].
- ii. On 12 October 2020 Beverley Jackson met with the strategic policy adviser to Liz Truss (Minister for Women and Equalities) proposing an agenda which included discussions about *"tightening up the provisions on single-sex spaces"* and whether Stonewall would continue to be consulted by Government departments given that (according to LGB Alliance) Stonewall *"now opposes the policy of HM Gov"* [JN1/114].
- iii. LGB Alliance emailed an official inviting them to a one-year anniversary meeting on 22 October 2020; the event was to feature discussion of the group's priorities, which included *"to lobby against legislation introducing gender self-ID"* and *"to lobby against the medicalisation of children with gender dysphoria"* [JN1/118-120].
- iv. On or around 11 March 2021, Kate Harris emailed Kemi Badenoch saying that *"18 groups who share a niche belief in gender identity theory have set out to confuse the public and present you as being unsupportive of "LGBT" people. We will expose this as the nonsense it is"* and assuring her that LGB Alliance *"have your back"*. They explained that they would be sending a letter to the Times in support of the Minister, and trying to get media coverage for their argument that conversion therapy *"simply does not exist as a problem in the UK"* other than *"the conversion therapy of young LGB people to turn them into trans when they would be perfectly happy as*

LGB" [JN1/115]. On 12 March 2021 they forwarded the Minister a copy of their letter to the Times, saying that "*we really hope this will put the cat amongst the pigeons and be helpful for the Government*" [JN1/121-122].

- v. On 30 March 2021 they wrote to all MPs about "*stop transing the gay away*", their campaign to have gender-affirming healthcare classified as "*conversion therapy*". The letter claimed the campaign was focused on the interests of "*children and young people, particularly LGB young people*" (though two paragraphs later they said it concerned "*young people who would grow up lesbian or gay*", rather than bisexual) [JN1/144-145].
- vi. On 27 March 2021 they emailed Baroness Barran requesting a meeting to discuss online abuse, saying that they "*are pleased to be working with GEO [Government Equalities Office], EHRC, the office of the Minister for Equalities and others to put forward our views on the importance of recognising biological sex*" [JN1/128-129].

20. In summary, therefore, LGB Alliance have engaged in extensive lobbying to freeze or roll back legal protections for trans people across the UK in order to advance their "gender critical" ideology. Such political engagement has always been at the core of their activities. Based on my interactions with them, I believe their foundational principle to be that - contrary to current law across the UK - trans women should be treated in law as being men, and trans men as being women. To this end, they seek to influence legislation and government policy by spreading fear and misinformation, and do little or nothing to advance the rights of LGB people (who, aside from anything else, are barely mentioned in most of their advocacy).

LGB Alliance's denigration of individuals and organisations who support trans rights

21. LGB Alliance has a record of denigrating people and organisations who support trans rights, including me and many others.

22. I would defend anyone's right to put forward strong views on controversial issues and to robustly criticise individuals or organisations with whom they disagree. I have done so myself with regard to LGB Alliance. However, based on my experience of interactions with LGB Alliance, I consider they have crossed a line beyond civilised debate, seeking to push the tone of public discourse around trans rights in a more hostile, divided direction.
23. My personal interactions with LGB Alliance are a pertinent example - in particular an incident in April 2020, which I believe was my first encounter with them. On 15 April 2020, in the midst of debate about reforming the Gender Recognition Act, I shared a link to a BBC Scotland programme featuring a young trans constituent of mine [JN1/147]. I was appalled by the hostility of some of the responses. On 21 April 2020 I tweeted a screenshot of a message I had received which read: *"Hi there, absolutely no need to respond, but I thought I'd let you know that there are loads of women in the party who fully support your position on trans right. Please keep fighting the good fight so we don't descend into populism"*. I accompanied it with the words: *"Women who support #LGBTQ rights can often feel bullied by all the transphobic pile ons from the sinister @AllianceLGB (whoever they are). Here's one of many messages I've had tonight. Name withheld out of fear of intimidation"* [JN1/148].
24. LGB Alliance responded (also on 21 April 2020) by tweeting: *"To everyone who is annoyed by the defamatory remarks made about us by the MP (really!) @MrJohnNicolson, who clearly doesn't have a clue who we are or what we do: please make a donation to us IN HIS NAME and we will tweet out your message"* [JN1/149].
25. They then shared a stream of tweets, over several days, thanking individual donors for their contributions and sharing the comments they had posted with their donations on the JustGiving fundraising platform, which were often abusive about me and/or transgender people. The following are just a few examples of LGB Alliance's tweets:
- a. *"Thanks to the anonymous donor who says: "John Nicolson MP may not remember which constituency he is supposed to be standing for *cringe* and may not have tried "manovagina" but blocks women, and doesn't listen to their concerns. Misogynist.""*
[JN1/149]

- b. *"Thanks to Georgia for her donation. She writes: "For the male chauvinist John Nicolson who doesn't care that awful men can and do take advantage of "Self-ID" policies in order to victimise women & girls. Women's rights are not yours to give away.""* [JN1/149]
- c. *"Thanks to Jessica Evans for her donation. Jessica writes: "Misogynist homophobe John Nicolson MP has inspired me to donate to an organisation that listens to women.""* [JN1/150]
- d. *"Thanks to the anonymous donor who writes: "Donating in the name of that oily spiv, John Nicolson, and all the straight male 'lesbians', whose lack of empathy for women rather gives the lie to their 'womanhood'.""* [JN1/150]
- e. *"And thanks once again to Mr John Nicolson for donating. He writes: "I'm sorry I accused you of being a hate Group. I now realise that sexuality is different to identity and are not compatible when men dressed as women expect lesbians to fancy their Male genitals. JN x"* [JN1/150]

26. As a result of these and other comments posted by LGB Alliance supporters, JustGiving took down LGB Alliance's fundraising page, reportedly saying that *"Violent and abusive language on the site will not be tolerated and pages which contravene our guidelines are removed"* [JN1/153]. I do not see how LGB Alliance could argue that this is an acceptable way for a registered charity to seek to advance its cause.

27. The experience was not pleasant for me. LGB Alliance's campaign of abuse left me concerned for my personal safety and that of my staff, and indeed I felt the need to report the matter to the Speaker of the House of Commons for referral to parliamentary security authorities. More broadly, however, I am concerned about the atmosphere of fear and hostility that this approach to public communications is designed to create. As I explained in a letter to the Charity Commission on 21 April 2021: *"Being on the receiving end of LGB Alliance's venom is unpleasant for me as a politician, but I'm infinitely more concerned about the traumatic effect its activities have on one of the most vulnerable group in society: trans people"* [JN1/160].

28. Malcolm Clark, one of LGB Alliance's co-founders, also tweets about me quite often - always in the context of my support for trans rights - and has (for example) called me "*frothing at the mouth*", *self-obsessed*," a "*bloated ego*," a "*serial fantasist*", and an "*elephantine ego*"; he has accused me of "*idiocy and ignorance*", has said that "*brave feminists are...constantly trolled, bullied and misrepresented by elected mediocrities and narcissists*" like me, and so on [JN1/161-165]. I have not responded to those tweets and I do not tweet about Mr Clark.

29. I am just one of LGB Alliance's many targets. They have a right, of course, to disagree with me and others about this issue. As a politician I am well used to robust debate and criticism. However, I consider that they have crossed the line beyond this into posting abusive and hateful comments that neither advance nor inform the political debate.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:

A handwritten signature in black ink that reads "John Nicolson". The signature is written in a cursive, slightly slanted style.

Date: 31 January 2022