

The Biological Baseline: Sporting ramifications of the UK Supreme Court 's decision in *For Women Scotland Ltd v The Scottish Ministers*

[Michael Harwood](#)



As readers may be aware, on 16 April 2025 the UK Supreme Court in *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16, ruled that the legal definition of “woman” under the Equality Act 2010 is based on biological sex assigned at birth. This judgment, arising from a dispute over gender balance quotas on public sector boards, determined that “sex” within the Act is a binary concept rooted in biology, and that a Gender Recognition Certificate (GRC) does not alter this biological sex for the purposes of sex-based legal protections. This decision, while not directly legislating for the sporting world, may carry weight for how sporting bodies in the UK may interpret their own regulations concerning single-sex competition, particularly when considering the core tenets of inclusion and the maintenance of a level and competitive playing field – both central to sporting integrity.

The Supreme Court was tasked with interpreting the meaning of “sex” and “woman” within the framework of the Equality Act 2010. Their ruling established that these terms, when used to afford sex-based protections, refer to biological sex. The court stated that an individual not born biologically female cannot acquire the legal protections intended for women under the Act solely through obtaining a GRC. This articulation of biological sex as the determining factor for these specific legal protections sets a precedent that sporting bodies will need to consider in the context of long-standing debates around gender verification and gender reassignment in sport. Consequently, while the Equality

Act 2010 continues to protect transgender individuals from discrimination, the Supreme Court's emphasis on biological sex as the basis for sex-based protections has direct relevance for single-sex environments, such as many sports. The decision may cast a new light on debates surrounding the inclusion of transgender women in female sporting categories and the fairness of competition.

Firstly, the ruling arguably strengthens the legal basis for sporting organisations to define female categories based on biological sex assigned at birth. From a 'level-playing field' perspective, this aligns with a widely held view in sports that biological males often retain physiological advantages even after transitioning. It was this principle that informed decisions by sporting bodies like the world governing body for swimming, FINA, (promptly followed by World Rugby) in 2022 to ban transgender women from participation in elite female competition, following the high-profile case of transgender swimmer Lia Thomas. The Supreme Court's decision could be seen as legally underpinning and/or hastening this type of approach within the UK. Conversely, other bodies may respond by establishing open categories in which transgender people may compete, as British Triathlon did, also in 2022.

Secondly, sporting policies that presently permit transgender women to compete in female categories solely based on possession of a GRC may now face greater legal scrutiny. Consider a local amateur sports league with such a policy: following the Supreme Court ruling, this policy could now be challenged as legally unsustainable and potentially undermining fair competition for biological women.

UK sporting bodies may also face complexities when their national legal framework, informed by the Supreme Court ruling, differs from the inclusion policies of international federations. A UK athlete might be eligible to compete under national guidelines but face exclusion from international events with different eligibility criteria, or vice versa. This highlights the ongoing tension in the sporting world between domestic legal decisions and the often reactive nature of sports regulations, as well as the challenges posed by the pyramidal governance structures of most global sports.

It is important to remember that the Equality Act still offers significant protection against discrimination for transgender individuals, in sport and society. A blanket ban on all transgender athletes, for example, without considering individual circumstances or offering alternative avenues for participation (like open categories), could still be

challenged as discriminatory under the Act. The International Olympic Committee's current guidelines, which defer to individual sporting bodies, espouses principles of inclusion and non-discrimination, recognising that trans inclusion is a multifaceted issue beyond just the 'level playing field'.

The Supreme Court's decision may require a careful approach for sporting organisations in the UK. Governing bodies may now prioritise a legal review of their existing eligibility criteria to assess alignment with the Supreme Court's interpretation of "sex" in the Equality Act. The ongoing challenge however lies in finding a legally defensible balance between ensuring fair competition for biological women and promoting inclusivity for transgender individuals, potentially through innovative competitive structures, while also safeguarding the privacy and welfare of all athletes concerned. The sporting world generally has a poor record on the latter to date, with far too many controversies in this field played out openly in public and through the media.

In short, the Supreme Court's clear articulation of "woman" in the Equality Act 2010 as rooted in biological sex marks an important moment for sex-based protections in the UK. For the sporting world, the judgment provides a solid legal basis for prioritising biological sex when defining female categories, but simultaneously underscores the continued importance of non-discrimination against transgender individuals. The sporting world's ongoing battles to preserve sporting integrity through balancing inclusion and fair competition are by no means extinguished by this ruling. Indeed, the society-wide interest generated by the case may heighten pressure and scrutiny on sporting bodies to clarify their policies in the near future. This will likely be true of both elite level and grassroots sports.