

Women and Equalities Committee

Oral evidence: Reform of the Gender Recognition Act, HC 884

Wednesday 9 December 2020

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Members present: Caroline Nokes (Chair); Sara Britcliffe; Theo Clarke; Angela Crawley; Peter Gibson; Kim Johnson; Kate Osborne; Bell Ribeiro-Addy; Nicola Richards.

Questions 20 - 45

Witnesses

I: Professor Stephen Whittle OBE, Professor of Equalities Law, Manchester Metropolitan University, and Vice-President and Head of Legal Services, Press for Change; Professor Alex Sharpe, School of Law, University of Warwick; Dr Ruth Pearce, Research Co-ordinator, Trans Learning Partnership, and Visiting Researcher, School of Sociology and Social Policy, University of Leeds.

II: Professor Rosa Freedman, Professor of Law Conflict and Global Development, University of Reading; Professor Kathleen Stock, Professor of Philosophy, University of Sussex; Professor Alice Sullivan, Professor of Sociology, University College, London.

Written evidence from witnesses:

[Professor Stephen Whittle OBE written evidence](#)



Examination of witnesses

Witnesses: Professor Rosa Freedman, Dr Kathleen Stock and Professor Alice Sullivan.

Chair: Good afternoon. Can I welcome our panellists to this second half of the Committee's inquiry into the Gender Recognition Act? I would like to welcome Rosa Freedman, Kathleen Stock and Alice Sullivan. Thank you for coming along this afternoon and contributing. Hopefully you will have heard the evidence given by our first panellists.

Q20 **Sara Britcliffe:** Thank you and good afternoon, witnesses. Kathleen and Rosa, prior to the Government's response on the GRA consultation, what were some of the concerns you had about changes to the GRA legislation, especially regarding self-identification and access to single-sex spaces?

Dr Stock: The Gender Recognition Act was initially, if you look back at *Hansard*, thought to be a way of granting privacy to transsexual people who, it was assumed, would have had extensive medical intervention, so they would look very much like the opposite sex and, therefore, there would be a reasonable worry about their privacy should their sex be revealed. It was also about allowing same-sex marriage in certain contexts prior to later legislation. It was assumed that this legal fiction that you can change sex, which was introduced through that legislation, was therapeutic for people who had gender dysphoria and for whom it would be distressing to be confronted with the facts about their sex.

If we are moving to self-ID, it seems to me that we have fundamentally taken away that whole rationale, because there is no longer any real worry about privacy because if somebody has not had medical intervention. Sex is pretty obvious. If gender dysphoria is no longer a requirement on getting this certificate, there is no therapeutic aspect. That is one worry I have. Another set of worries I have are about the practical interactions with the Equality Act, but fundamentally it will have lost its rationale.

Professor Freedman: The key concerns that women raised around self-ID were the fact that the policy being proposed did not uphold the single-sex exemptions in the Equality Act. There was no proposal as to how these two would work together and this would then allow people to self-ID and access women's spaces.

As Professor Sharpe talked about, there are times when you cannot have single-sex spaces, but there are times when it is proportionate and legitimate to do so, particularly around women's refuges, around prisons, especially around male violence against women. We note from the stats that there is no difference in offending rates between trans women and men. Male violence against women remains the same across both populations.



That was a key concern, but the second concern for me was the lack of legal definitions. In other countries where there are self-ID regimes, there are usually very strong sets of laws and definitions that explain how self-ID, gender identity and trans-genderism, or whatever term you want to use, operate alongside sex. In Ireland, there is this self-declaration scheme. At the same time, institutions, whether they are schools, prisons or any other institutions, are able to decide whether they will remain sex segregated or whether they will be gender identity segregated. What we had in the proposals over here was saying, "Let us allow self-ID but not think through how this would operate in practice".

Professor Sullivan: I fully respect the right of trans people to live their lives and express themselves as they wish, so what really worried me was the sweeping nature of the proposed reform and what seemed to be a sort of absolutist demand for self-ID across the board without any gatekeeping, across a whole range of domains where it seems to me that sex does matter. One of the first things that worried me was women's sports categories, for example, and changing rooms.

I was also struck, in the context of what seem to me quite sweeping proposed legislative change, by the difficulty of having any conversation about it. One of the first things I heard about was the attack on Maria MacLachlan, a 60-year-old activist who was just trying to attend a meeting on this proposed legislative reform. She was assaulted by a young trans activist. That was the impetus for Woman's Place UK being formed. Since then, all the meetings that Woman's Place has tried to hold to discuss this legislative change and related issues have been attacked by people trying to shut them down. That seemed to me fundamentally really strange and not something I have ever been aware of in any other proposed legislative reform.

Q21 **Sara Britcliffe:** Some of the written evidence we have received argues that some women are scared to speak about concerns they have over single-sex spaces. Why do you think that is?

Professor Freedman: Outside of academia, where we do have protection in terms of academic freedom and speech, women have had their jobs threatened. They have been physically attacked and physically threatened. There have been violent threats on the internet but also in person. Women are scared to speak out because women have been raised throughout history with male violence against women. When that violence is being perpetrated towards women who speak out, often not by trans individuals but by their allies, who are often straight heterosexual men who contain the most privilege in our societies, there are those concerns.

The women I know and the women I have spoken to over the last three years have a great deal of compassion for the suffering and distress that comes with gender dysphoria, and for the intrusions into privacy that trans individuals have to go through in order to acquire a GRC. Women will voice their concerns around the sex-based rights but will also be



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compassionate towards trans individuals and recognise their legitimate needs and their political interests, whereas trans individuals or particularly their allies refuse to recognise the legitimate needs and political interests of women as a class. That has silenced women because, whenever women speak out, we are told we are transphobic rather than there being any recognition that we have our own needs and concerns.

Dr Stock: I would like to add to what Rosa has said, which I agree with. It has not helped that HR policies in many organisations have a very expansive definition of transphobia, which they would class as a kind of bullying and harassment. Because they are Stonewall diversity champions, which is a branding scheme that Stonewall runs for companies, they usually adopt Stonewall's definition of transphobia, which includes something like the words, "Fear or dislike of trans people, including denying their gender identity or refusing to accept it".

That can be read in different ways, but one natural way to read it is that, if you think that sex is more important than gender identity across a range of domains and you want to say so, you run the risk of looking transphobic. That is not helped by media organisations like the BBC and the *Guardian*, which are also Stonewall diversity champions, as it happens, inevitably posing views like Rosa's, Alice's and mine as either transphobic or, now that they have moved back a step, anti-trans.

That is just completely not true and sets up this opposition that the only possible reason that people like us could be saying what we are saying is that we must have a problem with trans people or think that they are particularly predatory. It is not that at all. Most women I know are concerned about male patterns of violence and male patterns of sexism, and want to be able to retain the vocabulary to describe those patterns where they see them, but that does not mean we are anti-trans.

Professor Sullivan: What is really unique about this is that you have organisations that promote the gender identity point of view, like Stonewall, that explicitly have the slogan and hashtag #nodebate. They are calling explicitly for no debate and to shut the conversation down. That has been absolutely vicious. I have personal experience of this. I know that both Rosa and Kathleen have personal experience of it too. If you do not mind me telling you my experience, I was de-platformed from a research methods seminar, believe it or not, and the reason for that was that, as a quantitative social scientist, I believe that we should collect data on sex and it is an important demographic variable.

I organised a letter to the census authorities, raising some concerns about their proposed guidance allowing the people to answer the sex question according to identity instead of their sex. As a direct result of that, a seminar on data collection on sex and gender, which I had been due to speak at, at the National Centre for Social Research, was cancelled rather than having me to speak. I was told that my views would have literally made audience members unsafe. That was a seminar where



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some of the speakers would have been from the Office for National Statistics and some would have been from NatCen. One of those was Nancy Kelley, who was at NatCen at that time and is now CEO of Stonewall.

My view that sex is a fundamental demographic variable and we should collect data on it is so mainstream within social science that it is hard to believe it could literally make people feel unsafe. It was deeply shocking to be vilified in that way and to be denied the opportunity to engage in a normal, respectful discussion. Of course, other people have been through far worse on this. There are so many examples; I will not try to cover them all. I am very happy to send more information in writing.

One case, for example, is the historian Selina Todd at Oxford, who has to be accompanied to her lectures by security guards because the university has received credible threats. She has said nothing offensive unless you think discussing women's right is offensive. Even more disturbing, perhaps, are the attempts to shut down research and stop research from being published, for example Lisa Littman's research on the surge in girls presenting with gender dysphoria in the current generation. Michelle Moore, as another example, is a disability scholar who has raised questions about the prevalence of gender transitioning among autistic girls and has faced a campaign of harassment.

The results of this go way beyond academia. Obviously, this is painful for the academics involved but there are serious human consequences to the wider chilling effect. You will, I am sure, be aware of this case of Keira Bell, a young woman who has just brought a successful case against the Tavistock because she regrets the medical treatment she received and feels she was poorly advised. The judges in that case highlighted the lack of data and evidence on youth transition and the fact that the Tavistock failed to collect some really obvious data, including the number of autistic girls they were seeing. This goes way beyond academia. I just want to name a few examples of people who have been targeted by gender activists. Maya Forstater, Allison Bailey, Sonia Appleby and Raquel Rosario-Sánchez are all women of colour who have been targeted. I hope the Committee might have the opportunity to hear some of those diverse voices in future sessions.

Q22 Sara Britcliffe: It has been argued that reforms to the GRA would have no impact on women's spaces because section 7 of the Equality Act means trans women are legally able to access women-only spaces already. What is your view on how the GRA and Equality Act interact in that regard?

Professor Freedman: At the moment, we do not have any clarity on that, whether it is from judges or from policymakers. They have shied away from discussing, first and most importantly, within the Equality Act, when the sex-based exemptions are proportionate and legitimate. There has been an awful lot of policy capture whereby organisations have spoken to NHS trusts, schools or other organisations, including refuges,



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and said to them that they do not have a proportionate or legitimate aim even though they would do under the current law.

There needs to be much clearer guidance on the Equality Act itself. There needs to be much stronger definitions within the Equality Act of gender reassignment. Remember that the definitions in that piece of legislation are different to the definitions in terms of a gender recognition certificate.

It comes to the crucial point that there is a need to look at the GRA. It is a piece of legislation from 16 years ago that was there to uphold our European Convention on Human Rights obligations. One of the reasons so many European countries had enacted legislation before us is that it took us many years to create the Human Rights Act, to incorporate those laws into our domestic laws and to be bound by the European convention at a domestic level.

The Gender Recognition Act is no longer necessary in terms of same-sex marriage and pension equality. I am sympathetic to the view that we should be looking at this. We do not necessarily need primary legislation when we are looking at this. We should be looking at trans healthcare. We should be looking at birth certificates or identify affirmation to allow people to marry or be buried in line with the gender identity that they hold. When looking at that, that has to be separate to looking at the Equality Act. The Government, the lawmakers and the judges have really avoided this question. That is what has created this huge, toxic and polarised discussion among campaigners, activists and academics, because of the gap that has been left by the failure to take this on and address it head on.

Dr Stock: I heard Professor Sharpe talk about two streams. It may be that, when you drill down into the legal relationship between the two, according to some academic view of them, they do not relate. In the ordinary person's world, they seem to relate because you have a person who has a birth certificate, potentially, that they could produce and they certainly now say, "I am legally a woman" or "I am legally a man". The GRA concentrates an awful lot on privacy and goes out of its way to specify some circumstances in which acquired gender may not be the presumptive most important thing, for instance hereditary peerages, sport and some sexual offences.

It does not mention spaces, so it is normal that people will assume that, if somebody has a GRC, they will be entitled to access all of the spaces, resources and groups that someone of the opposite sex would. This situation that not has been helped by the Government following the last trans inquiry in saying that the very highest bar would have to be set before the single-sex exemptions could be operated. That came from the Government.

There is a persistent impression given by even the EHRC, which is also a Stonewall diversity champion, that it is really highly unusual that you would be allowed, as an organisation, to invoke these exemptions. In my



view, it should be commonplace because there are so many situations in which sex is going to make a difference, particularly where women are undressing, sleeping, in prison, in a hostel or in a refuge. There is absolutely a need for clarity here on what the relationship is.

Professor Sullivan: There was a really interesting potential contradiction between what Alex Sharpe said, that there would be no change because sex-based exemptions would still exist, and what one of the other panellists—I think it was Stephen Whittle—said, that it was important to replace the language of sex with gender identity. These are two distinct things and it makes a huge difference.

Let me give you a concrete example. Tomorrow, the Scottish Parliament will be voting on whether the law in Scotland should allow rape victims to specify the sex of the person who conducts a forensic examination or the gender, which the Scottish Government have admitted are not the same thing. There is a fundamental rights conflict there between the right of women to say that they only want that intimate examination in those particularly painful circumstances to be a female, and the desire of someone who may have been born male to be considered as a woman in that context. Whatever you think the answer to that rights conflict is, we have to acknowledge that there is a rights conflict and have a grown-up conversation about it.

Q23 **Sara Britcliffe:** That leads on nicely to my next question. What is your understanding of how confident those who operate single-sex spaces, like women-only support services, feel in applying the Equality Act exemptions?

Professor Freedman: It is very difficult. We are often talking about very underfunded organisations, particularly if we are talking about women's refuges. This is a very underfunded sector. If an organisation, a lobby group or campaigners come to you and say, "We will offer you free legal advice and help you to be compliant with the Equality Act or with any other piece of legislation", or come to you and say, "You are not going to be compliant and we are going to try to take you to court", you can understand why these cash-strapped and resource-strapped refuges might have had policy capture by those organisations.

There are very few who are clear that they are applying the Equality Act and single-sex exemptions in line with the law. There are many who are terrified to speak out, so, even though they know what the Equality Act and single-sex exemptions are, they are worried that they will not get the funding in, whether it is from Government, private donors or charitable trusts. Part of that is because, if they have accusations levelled at them that they are transphobic, given that there is so little funding in the sector, funders are more likely to give to someone else. It is very difficult to get a map of whether an organisation does know the law or whether it actually feels comfortable saying that it knows the law, because they are two key different issues.



Dr Stock: We do not yet have a true picture of service users' experiences. We really need one. We are often told via trans activist organisations, "There is no problem here". I believe it was a submission to the last trans inquiry from, I think, James Wharton who said something like, "We should just educate service users into feeling more comfortable with a trans person in a rape crisis centre or a domestic violence refuge". Rather than take that paternalistic line, we should find out whether this is making a difference to women. Is it in fact stopping them from self-referring to rape crisis centres? We could also take this conversation into the healthcare realm: are they avoiding going for breast examinations?

We need some proper, non-politicised data from academics about what service users feel in relation to this, particularly when they have been traumatised. If you are a rape victim, quite often you can be re-traumatised through inadvertent exposure to certain sights, sounds and smells. It is not a rational process. Traumatization and PTSD do not just respond to being told that you should educate yourself. We need to put those people, their experiences and what is best for them front and centre, listen to their experiences and get some sense of what they are.

Q24 **Sara Britcliffe:** Can I just ask that answers are kept a little shorter because there is quite a lot to get through? Written evidence to this inquiry suggests that many trans people feel that the current system of gender recognition infringes upon a trans person's human right to self-declare. How can the Government best support the human rights of trans people and the human rights of women?

Dr Stock: Here I have a difference with the previous witnesses, in that I am afraid I do not think it is a human right to have your identity recognised by the state on its own. You have rights to be protected against discrimination and harassment for being trans, and gender reassignment should continue to be a protected characteristic in the Equality Act. I feel that the idea of gender self-identification as a human right is based on the idea of gender identity being a permanent and innate thing, whereas by the witnesses' own evidence in the last session it is not. It is often fluid, temporary and there is no evidence to suggest it is innate. It is produced by environmental context. There is not a particular right there. We really need to protect the rights of trans people in relation to discrimination, violence and harassment, and also think about women.

Professor Freedman: What the previous panellists were referring to is what they call the right to self-determine. There is no human right to self-determine. There is a right of peoples to self-determine, which is enshrined in the Universal Declaration of Human Rights and was aimed at colonialism. It was the right of peoples to choose who would govern over them and to have permanency over their natural resources. I do not have an individual right to choose who governs over me and nor do you. We have the right as a people. It is a collective right. The change in this



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language may be just because people misunderstood it, or it might be disingenuous, but there is no human right to self-determine. There is only a right of peoples to self-determine.

Professor Sullivan: I just wanted to flag that there is a diversity of trans voices on this. The gender identity lobby does not represent all trans people and does not represent, for example, a lot of de-transitioned voices. I hope that you hear from some of those voices.

Q25 **Sara Britcliffe:** Rosa, in an article you wrote in 2018, "What would changes to the Gender Recognition Act mean?", you argue that "self-identification may conflict with the rights of other vulnerable groups, particularly women and members of religious groups". Can you expand on that, please?

Professor Freedman: If we think about the single-sex exemptions, that is recognising that there might be a conflict of rights. We also need to think about religious groups. There are religious groups and religion is a protected characteristic. Religious groups may have sex-segregated spaces because it is proportionate or legitimate to do so, or may even have sex-based roles, whether it is in terms of spiritual leaders or roles within a church, a synagogue or a mosque.

I was also particularly thinking about the rights of females and males who will not get changed in front of people of the opposite sex. I was thinking in particular about Hampstead ponds and the fact that the ladies' pond has typically been used by religious groups who will not swim in mixed sex spaces. Self-ID would turn those spaces into mixed-sex spaces because it would have allowed people to identify their gender and then come into those spaces.

Q26 **Angela Crawley:** We have touched on quite a lot of the sensitivities around this discussion. I appreciate the points that have been made by the panel about, in any sense or in any way, articulating a point that may then be construed as transphobic. This debate has, it is fair to say, become quite polarised, very emotional and perhaps quite emotive for people. There is a bit of a paradox to that. There is an implication that someone would obtain a gender recognition certificate or, for example, self-ID under the proposals, and that they would abuse that privilege or that legal recognition, to act in a predatory or violent manner. How would you reconcile this disparity? Someone could pick that up wrong and imply that all trans people are potentially violent, dangerous or predatory. We need to try to take some of the tension out of this debate and address those concerns.

Dr Stock: The important thing that really needs to be got across in discussing this is that this is about male patterns. If we are talking about the worry about violence and sexual assault, women are much more likely than men to be sexually assaulted and, where they are sexually assaulted, in over 90% of cases it is males who do so. We are not just



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talking about rape. We are talking about other kinds of sexual assault such as voyeurism, flashing, up-skirting and revenge porn.

There is a range of things here that can happen where women undress and sleep in public spaces. Up until now, it has been uncontroversial that we exclude all males, including all the innocent ones and the majority of reasonable people, on the basis that we want to exclude a few malfeasant people. That has been perfectly well understood that it was never a character reference. It was never supposed to say that all males were bad because they clearly are not. Exactly the same logic applies with self-ID and the thought about spaces. In other words, it is excluding the many innocents in order to focus on a few.

There is no reason to think that, once you self-ID as a woman, you become less subject to the statistical generalisations that apply to the male sex. Having said that, you should look again at the evidence submitted in the last trans inquiry by the British Association of Gender Identity Specialists and the British Psychological Society, which are very trans-friendly organisations. I can check again and send it. They both say that, of course, there are circumstances where people will identify for malfeasant purposes. Of course there are; it is human nature. Of course that is not all trans people but equally it very strange to rule that out a priori. It is completely strange.

Q27 **Angela Crawley:** My point was more to address the change in narrative that implies that trans people are potentially all dangerous and predatory, to take some of the pain out of that discussion.

Professor Sullivan: The reason that women value single-sex spaces is not only about the fear of being assaulted. I want a single-sex changing room mainly for privacy and dignity, not because I think a mixed changing room would necessarily lead to a fear of violence. Similarly, when a woman asks for a female to do a cervical smear test it is not that she thinks a male doctor would attack her. It is about the dignity of that woman. We accept that women have a right to ask for those things.

Professor Freedman: It is really important that we recognise that many trans individuals are vulnerable, because we are all under patriarchal structures and it is patriarchal structures that make women vulnerable, make trans individuals vulnerable, make homosexuals vulnerable and so on.

What I heard in the last panel was Professor Sharpe completely dismissing out of hand women's fears and concerns around violence, and dismissing out of hand the cases, from many countries and not just the UK, where men have used the self-ID regimes of those countries to access women's spaces, particularly prisons, in order to rape them. One rape is too many and we should not ever dismiss out of hand those concerns. That is not to say that all men, as Kathleen said, are predatory and certainly not all trans individuals are, but we have to have laws in



place that protect the most vulnerable and we have to recognise women's vulnerability.

Q28 **Angela Crawley:** Rosa, you rightly identified that the GRA needs to be updated. I think you indicated earlier the disparities between language in the Gender Recognition Act, which we would all agree is outdated, and the Equality Act exemptions, and whether the language of those two provides sufficient legal protections for both trans people and for women. I wanted to ask specifically what exactly, if not that less medicalised approach and if not self-ID, is the consensus of women's views around what they feel would alleviate the fears and concerns, but would also redress some of the inequalities faced by the trans community?

Professor Freedman: The starting point is to go to the initial consultation that led to the self-ID proposal from the Government. If you look down it, the main concern is around healthcare. If I am taking a human rights lens, trans individuals are not having their healthcare needs met by this country. There are simply not enough. You have heard it from the last panel, from start to finish. Even someone like Professor Whittle, who has a GRC, is not having his healthcare needs met by the current system. We need more money and more funding into it. Currently, we are violating the right to health of trans individuals in this country.

The self-ID regime only works if we have proper definitions and proper legislation. There are other ways of doing this. We do not need primary legislation. We could have identity affirmation or birth certificates that allow people to marry, to be buried and to do the things that affect them individually. We should make these much more easily accessible. It was very clear from the previous panel that the lack of transparency of the gender recognition panel and all those issue areas need to be addressed.

We need to work out how that identity affirmation or birth certificate then works where it affects others. We need better service provision for trans individuals who want to have a mixed gender identity service, but we also need to find ways to protect sex segregation. We can only do that with a grown-up conversation. For three years, I have watched many of these academics and activists refuse to engage in that conversation, refuse to discuss with us and refuse to sit on panels with those who have opposite views. How are we going to come up with the way of resolving conflicts of rights if we cannot even talk?

Q29 **Kate Osborne:** Hello to everyone on the panel. What is your view on the Government's response to the GRA consultation and why do you think the Government decided against self-identification? You have touched on the issues that you see with it, but do you have any insight as to why you think the Government decided against it?

Professor Freedman: It is pretty clear that the Government thought that self-ID would be the same easy win that same-sex marriage was. Same-sex marriage was an easy win because love is love and anyone should marry whoever they want to, as long as that person consents.



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What the Government had not foreseen was the vast number of concerns from different groups—all sorts of groups: women's groups, religious groups, sports groups and statisticians—around self-ID. They had not thought it through properly.

Looking at the statistics of how many people responded to that consultation, it had about 20-odd questions with free-text boxes. I do not envy the person who had to sit down and go through that data. Many of the respondents were simply given the forms, filled out, and told how to fill them out, which skews the data. We saw it with the National Union of Students. We saw it with other activist and campaign groups telling their constituents how to fill it out and giving them a pre-filled out form. "Here is a copy and paste".

Whoever has to analyse that data at some point, if anyone does, will also have to work out how many of those responses were genuine responses from individuals writing their thoughts out and how many were using this system, gaming the system, to flood it in the hope that that would skew the data.

Dr Stock: I agree with Rosa that the Government did not understand what they were doing, mainly because they had been listening to only a very narrow section of opinion, telling them that it was all fine, this was what everybody wanted and there would be no consequences for anybody else. Then, through the dogged persistence of grassroots feminist groups like Women's Place, Fair Play For Women, Transgender Trend and the LGB Alliance, these issues were forced into the light with no particularly great funding either. It is a real testament to them. It was basically the exposure of a narrow ideological position into the light. The Government cannot ignore the very obvious concerns that there are around allowing people to self-ID from one sex to the next.

Professor Sullivan: We live in a democracy and the Government were probably mindful of public opinion, which is quite appropriate. Recent YouGov polling shows, for example, that people are very supportive of trans people and their right to live as they wish, but only 16% of people think that changing legal gender should be possible without a doctor's approval. People's responses to questions about trans people and what services they should access and so on change quite a bit once it is explained to them that a trans woman, for example, might have had no genital surgery and no medical intervention. Once that is explained, most people do not think that trans women should be allowed into women's sports and women's changing rooms.

There is a question about the definition of terms and actually getting everybody to have a conversation where we know what we are talking about. People have huge sympathy with the very small number of fully transitioned transsexuals that the original GRA legislation would have been about, and absolutely respect everybody's right to live their lives as they wish, but do not necessarily see why there should be a legal status



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for a personal identity that does not change your body, given that that conflicts with women's right to privacy.

Q30 **Kate Osborne:** Bearing in mind your responses there, in written evidence, some trans people have said that they felt that the Government Equalities Office were more prepared to listen to the views of women's groups during the consultation. Can I ask you for your response to that? Would you agree or not, and why?

Professor Freedman: For many years, the trans lobby groups and trans activists have captured the ears, whether it was of policymakers, smaller institutions or parts of the media. Women's groups, particularly, as Kathleen said, Women's Place UK, which sprang up to help women organise at the grassroots level and to voice their concerns, found it very difficult to talk to these policymakers. It is only through their sheer hard work and determination, and the fact that these are left-wing trade union women who know how to organise, that they were able to speak to the Government.

I take on board what some trans individuals and some trans allies say, which is that parts of the media will only listen to women's concerns, and parts of the media will only listen to trans concerns. There needs to be far better coverage, certainly by the BBC, of both sides. Currently the BBC is very much captured by the trans voices. That is not to say that the Murdoch press has ever given any time to trans voices. We need to be open, honest and up front about this: that the media plays a strong role in how they are portraying this type of capture. If you look at the number of organisations that have gone in to speak to the Government, it is by far skewed towards the trans organisations or organisations supporting trans, rather than the women's grassroots organisations.

Dr Stock: If you look back to 2015, Stonewall published *A Vision For Change*, this document that pretty much set out its agenda, including self-ID and various other things that have been on the agenda of the Government up until recently. It may seem to some people as if the Government are listening disproportionately to women's voices, but it really is the first time in recent years that they have been heard at all. There has maybe been an overcorrection in some areas but, as Rosa said, in other areas we still cannot get through. We cannot get a fair hearing in places where we would naturally feel at home, like the *Guardian* or the BBC. It is patchy and Rosa's point is well taken. You cannot tell a single story, but I do not recognise the phenomenon that you have described, no.

Professor Sullivan: I really want to thank this Committee for listening to women's voices, because this is something that has not happened up until now. In fact, those lobbying for self-ID have had far more access to GEO Ministers than organisations lobbying for women's rights. Records requested via freedom of information show that Liz Truss had three meetings with pro-self-ID organisations and individuals between taking up her role and announcing her decision on GRA reform, whereas she did



not meet with any of those urging caution, including women's organisations such as WP UK and Fair Play For Women.

Q31 **Kate Osborne:** That is a good point leading into my next question. What else, if anything, should the Government have included in their proposals?

Professor Sullivan: Coming at this from a data collection point of view, I would really have liked to see clear guidance on data collection and equalities monitoring. This is an area where there has been a muddle, because people are confused between sex and gender identity. We need to make a clear distinction between the two and say they are both important and we need data on both. I would have liked to see the Government recognise the legitimacy and importance of collecting and analysing data based on sex. In particular, I would have liked them to say that publicly funded or mandated data, such as the census or equal pay monitoring, should always include a natal sex variable. Of course, we can also collect data on gender identity alongside that.

Dr Stock: I would like some explicit consideration of spouses. I hope this Committee will hear from spouses or ex-spouses of transitioned people from a range of perspectives. The emphasis of the Government on kindness is fine and good, but kindness needs to be applied across the board and not just towards one group. We do not hear enough from spouses and it would be good to keep them in focus as well.

Professor Freedman: Picking up on Kathleen's point, we have to recognise that marriage is a contract and, if someone unilaterally changes the terms of that contract, the contract would normally be void. It is really important that we hear spousal voices.

The key thing for me is around gender dysphoria. I take on board the point that the World Health Organization has said that transgenderism should not be medicalised or seen as a medical condition any more. But, if people do not have gender dysphoria, we need some very explicit guidance as to the basis on which they access free NHS healthcare if it is not a medical condition. This really needs to be worked out, because it is all well and good to say that we do not want to call it a medical condition, but then how does that impact trans healthcare, which is a key issue that I keep coming back to?

Q32 **Kate Osborne:** In the written evidence received by this Committee, many people have argued that the nearly two-year gap between the Government opening the consultation and responding to the consultation has resulted in misinformation and harm. Would you agree with that and, if so, could you tell us why?

Professor Freedman: That two-year gap, the lead-up to the consultation and the consultation itself, opened out these discussions within the general public. As Alice says, this is a democratic society and those discussions had to be had. I accept that that gap is partly to do



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with Brexit and partly to do with the sheer volume of submissions that were received. Within that time, this opened out more and more discussions for more and more people, including women's groups but certainly not just limited to women's groups.

There has been a particular toxicity in online spaces. That has not been helped by the leadership from academics who are either trans themselves or are allies of trans individuals, advancing trans activist positions, to refuse to have grown-up conversations with their counterparts. I was on "Woman's Hour" being interviewed alongside Alex Sharpe. Alex Sharpe is a professor of law and a barrister. Part of our jobs as lawyers is to discuss, debate and argue things in courtrooms or elsewhere. I was very disappointed that Professor Sharpe refused to have a conversation with me and wanted to be interviewed separately. That feeds into the toxicity of the debate and the demonisation of people who are trying to express different opinions based on robust evidence.

Dr Stock: We heard a lot in the last session about Ireland, but it is also notable, as has come to light in the course of our public discussion in the UK, that there is evidence that trans activist organisations have deliberately tried to keep the discussion of gender recognition reform under the radar, talking directly to politicians but keeping it out of the public eye. I am thinking of an article in *The Spectator* by James Kirkup that talks about this document published by Dentons, a legal organisation, advising trans activist organisations about how best to get what they want.

That is profoundly anti-democratic and there is not a massively stunning history of women's rights in Ireland. When we are confronted now with Ireland as the place where everything is fine, I would really like to know, firstly, how many ordinary citizens in Ireland knew what was happening when the law was changed and, secondly, what effect that has all had on ordinary women, if indeed their daily lives have changed, in relation to exposure to trans people in changing rooms and so on. We need more information there too and we cannot just assume, because we are being told by trans activist organisations that everything is fine in these other countries, that it is.

Professor Freedman: We are always told about the example of Malta. In Malta, abortion is illegal. It is criminalised in Malta. When these countries are cited in saying, "Look at these great self-ID regimes", first of all, the citation does not drill down into the detail about retaining sex-based exemptions but, as Kathleen says, it certainly does not drill down into the detail around very shocking and very recent histories of women's rights.

Professor Sullivan: I fully endorse what has been said about the two-year gap being important in opening up debate and discussion. It is true that there has been toxicity, but we have to think about why that is. It has been driven by gender identity activists concertedly trying to shut up



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people who disagree with them. If I can give you one example, in the recent Labour party leadership and deputy leadership elections, several candidates pledged to expel advocates for women's rights from the party.

I attended a solidarity rally to defend Woman's Place UK and LGB Alliance in the wake of that in March this year. The meeting was held near Grenfell Tower. Gender identity extremists attempted to intimidate and frighten women attending that meeting by letting off smoke bombs to give the impression of a fire. Bearing in mind the location, that was horrifying. I can testify to how frightening and intimidating the behaviour of those activists was. In contrast, I am not aware of a single attempt to stop gender identity activists from meeting or to disrupt their events or activities. There is toxicity, but it is very much driven in one direction by an attempt to shut down a normal conversation.

Q33 **Kate Osborne:** What steps do you think the Government should have taken to mitigate the harm that is clearly being caused as a result of opening this consultation?

Professor Sullivan: Can I just question the premise of that? We live in a democracy, and debate and consultation are not harmful. We hear a lot of hyperbolic language about this, calling debate literal violence and so on. Conversation is really important in a democracy. We need conversation. It is not harmful. In terms of what the Government could do, we need politicians across the political spectrum to stand up for women's civil liberties. For example, when a woman MP like Rosie Duffield is monstered simply for suggesting we should be able to use the word "woman" rather than "cervix-haver", I think most people would find that absurd. There is still time for parliamentarians to speak out and to try to help create a more normal environment in which women would feel less at risk in speaking up.

Q34 **Kate Osborne:** By "harm", there seems to be harm between trans groups and women's groups, so, within that context, I put that question now to Rosa.

Professor Freedman: For many years, trans groups, LGB or homosexual groups, and women's groups have found intersections in fighting against patriarchal structures. There are times when those groups have their own interests and there are other times when those interests might conflict. That is really important to flag here.

The Government are allowing Stonewall to monopolise these discussions without recognising that there are constituents of Stonewall who are opposed to Stonewall's current position on sex and gender identity. The Government allowing that monopoly to go ahead, not just within Government structures but within academic institutions, schools, the NHS and so on, has been key to driving these toxic, harmful divisions between these interest groups. It is crucial that the Government open up space for other grassroots activist organisations to come in and advise them, be consulted with and have access to funding.



Dr Stock: I could not agree more with that. It has to be recognised that Stonewall and Gendered Intelligence do not speak for all trans people. I get emails all the time from transsexuals and trans people who say, "This is nothing to do with me. I do not recognise this conception of rights or gender identity or what we want in relation to women's spaces. I feel now that this whole toxicity is putting me newly at risk in a way that I was not before". There is this assumption that Stonewall must have its ear mainlined into, somehow, the hive mind of trans people. Of course, trans people are not a hive mind. They have a range of political views. They have a range of all sorts of different things.

Better consultation starts from a neutral standpoint, does not come in with a heavily rhetorical manipulative language, but seeks to fact find from a range of voices about what is going on without taking any one person as standing for a group. Of course, we are not speaking for all women. I would never pretend to speak for all women. I cannot tell you about the women's community or the gay women's community, as I am a gay woman, because there is a range of voices there and you need to hear from all of them. That is what the democratic process requires.

- Q35 **Bell Ribeiro-Addy:** Rosa and Kathleen, in light of the Government's response to the consultation on the GRA, what do you think the solution is to making the GRA work better for trans people while addressing some of the concerns that have been raised by women and about single-sex spaces? Do you know any examples of gender recognition legislation in other countries, perhaps, that are widely supported by trans people while also mitigating those concerns?

Professor Freedman: We have to listen to trans voices as to how the gender recognition process would work better for them. I listened to the voices on the panel earlier, but I have listened to voices over the last three years. It needs to be cheaper and more accessible; it needs more transparency; and it needs to work. It is not just about getting a gender recognition certificate. It is distressing to hear about Professor Whittle struggling to access a healthcare that a natal born man would access easily. It is disturbing to hear about people having to go through such undignified processes in order to avoid the embarrassment of their wedding day being married in the sex that they do not present as.

I can talk to how that legislation works for women's rights. Most of the countries where there is some sort of identity affirmation or self-declaration also have robust laws in place around sex-based exemptions. We have the laws in the Equality Act. We need to define those laws and the circumstances in which those laws do or do not apply for those with or without a gender recognition certificate. There is no avoiding this. We need to define what gender identity is. We need to define it legally and from a policy point of view. We need to explain how the law works for different sets of situations. They need to be written down, agreed upon and enshrined. Then organisations will be able to



apply them. That is what happens in some of the other countries that panellists have referenced.

It is really important, though, to note that countries like Denmark have had similar problems to Ireland in terms of self-ID, predatory males—not the general trans population but the predatory males using those systems to access women’s spaces—and particularly rapes in prisons. There is no way for the Government, the judiciary and the lawmakers to avoid the fact that the ball is in your court to actually define how the law works before putting in an identity affirmation regime.

Dr Stock: I am told that 41% of applicants for gender recognition certificates are now under the age of 29. That is a big change. It is very important that they get the right healthcare. You should also consider this in light of the fact that children and adolescent mental health services are chronically underfunded. There needs to be full mental health provision for younger people contemplating a life-changing change, and it is a life-changing change for many of them because, for many of them, it will involve taking medication or having surgery that they might later come to regret. There should be full attention on the healthcare of trans people. That seems perfectly reasonable.

With respect to single-sex spaces, I have never understood why trans activist organisations could not go for third spaces. Why could they not put their considerable power behind the case for third spaces in addition to single-sex spaces? I think that should be properly explored rather than this constant either-or. We either have trans women in men’s spaces or we have them in women’s spaces. There are other ways to do this.

Q36 **Bell Ribeiro-Addy:** Kathleen, in your article, “Can You Change Your Gender”, you stated that, over history, the word “gender” has come to be used in relatively many senses, each referring to different things. This is part of the reason arguments are often so toxic. Could you expand on what you meant by this?

Dr Stock: “Gender” is one of the most ambiguous words I can possibly think of. Sometimes, it is just used as a polite euphemism for biological sex as when, traditionally, a passport application would ask you what your gender was, male or female. Sometimes, it is used to cover masculinity and femininity, so the social meanings or stereotypes around biological sex. Sometimes, by some academics, it is used to mean something like womanhood or manhood that is assumed to be different from male or female, but that is not a widely understood meaning.

Now we have gender identity, which is a purely psychological identification with an ideal of the opposite sex or with androgyny. In the Gender Recognition Act, we have acquired gender, where it is really not clear to me what an acquired gender is and whether it is an acquired sex. The best way to understand it is a kind of fiction that somebody has changed sex because, in my considered view, it is impossible to actually change sex, so it could only be a fiction.



It is multiply ambiguous and, sometimes, you find people arguing about things. You think, "Well, if you could only explain or define your terms, you would find that you agree with each other, but you are arguing about two different things".

Q37 Bell Ribeiro-Addy: Kathleen and Rosa, do you think there needs to be a legal definition for gender in our legislation? Last year, the ONS and the UK Government defined gender in a particular way. You may be aware of it, but do you think there needs to be a legal definition for gender? If so, why?

Professor Freedman: I am going to change the question slightly. We need legal definitions for gender identity, transgender and gender reassignment. That might involve having a legal definition for gender, but I want to make it clear that no one has these legal definitions. Even at the UN level, the legal definition involves the same umbrella of various groups. As we heard from the last panel, when we listen to trans voices, those groups are very different from one another. Trans women and trans men have very different needs and interests, as do non-binary and gender-fluid individuals, and everyone else who comes within this Stonewall definition that has been adopted at the UN level and at other levels.

If we look at other countries, we often get circular definitions, so your gender identity is the gender that you identify as. That does not help us. We need these definitions. We need to consult with trans groups to understand what these legal definitions are and how they will be most useful for trans groups. We also need to consult with women's groups around how those definitions work in terms of the definition that we have in law currently for sex, which does date back to 1970 or so. The definition that we have in law is around biology. If that definition is to be changed, it should be changed through legal and democratic processes, not through stealth or trying to replace the word "sex" with "gender" or "gender identity" in lots of policies.

Chair: Can I interrupt for a moment, please? I am really sorry to do this, but I have to leave. I said we had to have a hard stop at 4.30, but I am going to put the Vice-Chair, Angela, in the Chair, who will conclude the formal bits of the meeting. There are a number of members who wanted to ask supplementary questions. That will allow them to do so and the meeting to run over for a few minutes. I hope the witnesses are happy with that.

[Angela Crawley took the Chair]

Dr Stock: If you are making legislation, you need to define your terms. I will give you a quick example of the confusion that can arise. The Gender Recognition Act talks about acquired gender, but, in the notes that I was looking at yesterday, it says that, if you have a GRC, you will be protected under the protected characteristic of sex. The Equality Act talks about gender reassignment, but it also talks about changing sex. There is



huge confusion around this area already and they need to be redrafted to make it clearer.

Q38 **Nicola Richards:** I just wanted to go back to something you said, Rosa, about predatory males and how the same statistics of abuse on women carry over from males to trans women. Do you have any statistics that you can give us to prove that?

Professor Freedman: There are statistics from a Swedish study that I can send to you after the session if that is helpful. They were written up in academic journals and things like that, so they are robust data as Alice would say.

Q39 **Nicola Richards:** You have mentioned this a couple of times and that there are hard facts that prove that this is the case. So far, throughout the session, you have not given us any stats to prove that.

Professor Freedman: That is because I am citing a Swedish study, but I try to avoid being too academic when I am in these kinds of sessions. I am very happy to provide you with the citations afterwards. It is a well-known Swedish study on offending rates and male-born people, whether they are men or trans women. I am happy to send that over to you. If there is a Zoom chat in here, I can happily ping it into the chat if that is helpful.

Dr Stock: I am aware of that study too. It is certainly good evidence, but it only refers to people who have had, as I recall, medical and hormonal intervention. We lack evidence about self-ID. No one has ever looked for that evidence as far as I can see. I certainly do not accept that the lack of that evidence should mean that we go ahead with this, because we have to be cautious. If we are right, there is going to be a big impact on women's lives, so academics need to go and look for that evidence. At the moment, we are not in a situation where that kind of investigation can happen neutrally because of the politicisation of the academic sphere. It would be a very good idea if we could have access to that evidence. We should not assume, because we do not have it, that everything must be fine. That would be crazy.

Professor Freedman: It is the opposite way round to how we would normally act. Normally, if you want to make changes, you have to provide the evidence to show that those changes are safe or why those changes are needed. You have to provide the data, the robust evidence and so on. It almost seems a little Kafkaesque that women are being asked to provide the data, and there are studies out there, to show why things must stay the same.

We have a long history, in society, of why we have sex-segregated spaces, whether that is women's access to political participation, public life, swimming or sport. That is why the Hampstead ladies' pond was built. Women were not allowed to swim in mixed-sex spaces or in the seaside. There is a long history for all of these and there is all sorts of



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evidence as to why we need sex-segregated spaces. If there is to be gender identity segregated spaces, those who are advocating for it need to bring the robust data to show why it will not impact on women.

Q40 Nicola Richards: Would you accept, however, that to make the assumption that these are predatory males and predatory trans women has quite a damaging effect without robust data, as you have pointed to without the stats?

Professor Freedman: You have misunderstood. I said most trans individuals are not predatory, but there will be predatory males. We have the data. We have the rapes in prisons, not just in this country but in Ireland, Denmark and elsewhere. We know that there are predatory males. You are pushing me on this and I have told you that there is data under Swedish studies, so now it feels like you are accusing me of lying.

Q41 Nicola Richards: No, it is just this is a Select Committee. It would be helpful to have had those statistics, but we will look out for them.

Professor Freedman: I can send them.

Chair: Perhaps I can come in at this point and suggest, Rosa, that, if you have any articles that you think would be helpful to the Committee, you could submit them after the Committee.

Q42 Peter Gibson: Could I return to Alice, in respect of part of her earlier evidence in regards to the consultations that Liz Truss, the Equalities Minister, took into account in advance of the announcement? The implication from your comment was that women's groups were disadvantaged or ignored as opposed to the trans lobby, for want of a better expression. Is it your view that the trans lobby was advantaged in Liz Truss's announcement as a result of that?

Professor Sullivan: I would not talk about the trans lobby. I would talk about the gender identity lobby because trans people have a range of views. The freedom of information request shows very clearly that gender identity groups like Stonewall have very good access to Government, so they have been listened to. That does not imply that they got what they wanted because being listened to and getting what you want are two different things. No, I think they probably were disappointed by the result.

Q43 Peter Gibson: No advantage was given to them, despite your protest that they were listened to a number of times more than others.

Professor Sullivan: They have an advantage in terms of access to Government, but, despite that, I do not think they got what they wanted on this occasion. However, with GRA reform, it is quite interesting that organisations have acted in advance of what they thought the legal change was going to be. There is a lot that has changed ahead of the law. If we look at data collection, for example, we are losing data collection on sex because organisations think they have to collect data based on self-ID.



Police forces are recording crimes by men as though they were committed by women at the request of the perpetrator. Acas organisational pay gap data is being collected according to gender identity rather than sex, with the option to exclude non-binary employees from the data entirely. The replacement of actual sex with desired sex on medical records at patient request is harmful for research, but often also harmful for those individual trans patients in terms of their care.

Government have issued guidance to Government Departments saying they must not use sex as a data category unless they genuinely cannot provide the service in question without this information. You have an ideology that says we cannot talk about sex and we cannot collect data on sex. That is running through not just Government but a range of organisations and that is what we have to sort out.

Q44 **Peter Gibson:** Thank you for clarifying that no advantage was given to them. Could you each confirm for me your view as to whether a trans woman is a woman and whether a trans man is a man, please?

Professor Freedman: I will go down the law route because that is my expertise, and I think you would rather have my expertise than my personal opinion. In law, it says that a man is someone who is born male with biology in terms of chromosomes, gonads and genitalia, and a woman is someone who is born female with the same biological factors. Now, there is the legal fiction where a trans woman or a trans man may gain a gender recognition certificate that changes their legal sex but does not change their actual sex. Currently, in law, a trans woman is a trans woman unless she holds a GRC, in which case she is male, she is a trans woman, but, legally, she would be recognised as a woman for many but not all purposes.

That sounds complicated because the law is currently in a bit of a mess and that is why we need to change and streamline it. My opinion, therefore, changes depending on whether someone holds a GRC, but I stick in line with what the law currently says, which is that your sex is determined by biology.

Dr Stock: I think that we have two sexes, males and females. We have the human versions, the human males and females, and we have the adult and younger versions, adult and younger human males and females. We need a category to describe the adult human male and the adult human female because it aids communication about a vast range of things, given that we are a sexually dimorphic species that reproduces via heterosexuality. In other words, woman is adult human female and man is adult human male. That is the best understanding of those categories.

Professor Sullivan: I have been very clear. There is a distinction between sex and gender identity. Both of them are quite properly protected characteristics and we need to see them as distinct. The slogan “trans women are women” has been really unhelpful. Grown-up, mature



adults do not talk in slogans. We need to think about the fact that there might be contexts where we want to treat trans women as though they were women and trans men as though they were men. In other contexts, that may not be appropriate. For example, if we think about sporting categories, changing rooms or data collection, all sorts of different issues may come up and we need to have a sensible conversation about those different contexts.

Q45 Sara Britcliffe: Alice, we have spoken about the data quite a lot and you argue that data providers should be encouraged to collect data on respondents' sex as distinct from gender identity. Is it possible for that to be done in a way that does not undermine both the GRA and those who have obtained a gender recognition certificate?

Professor Sullivan: I am glad you asked that because, earlier this year, the ONS raised this with me as a possible objection to asking for sex in the census. When we collect data, privacy considerations are always paramount. It is always anonymised. It is not about outing people. I was very pleased that a recent legal opinion that has just come out in the last couple of days challenges what I was told by ONS.

Apparently, the EHRC has misrepresented the law, according to a legal opinion by Aidan O'Neill QC. If I may quote from that, he concluded that "a mandatory question relative to 'what was your sex at birth' will not constitute an unlawful intrusion into an individual's right to respect for their private life [...] if the information is required by a public authority or a private body exercising public law functions in accordance with law, and the information is properly necessary for the achievement of a legitimate aim". In response, Woman's Place has challenged EHRC to change its guidance in line with that.

Professor Freedman: There is one issue that has not arisen on either panel and relates to privacy. I find it deeply concerning, and I hear some trans voices who have helped me to understand how deeply concerning it is, that we have lists of trans people and those who have a gender recognition certificate through the Gender Recognition Act. The idea of Governments having lists of vulnerable groups does not sit particularly well with me in terms of my personal and religious Jewish history. I do not think it sits very well with many individuals who are trans, who have had to live in shadow throughout their lives. That ought to be raised, where those lists violate the right to private and family life and rights to privacy. I do not have an answer, but it is an important question and concern that I have heard from parts of the trans community and it needs to be addressed by the Government.

Chair: Thank you to all the panellists for your contributions in this afternoon's discussion. I hope you feel that your views have been heard in this forum and, of course, this inquiry will contribute to the discussion. We hope that we will all be able to improve transgender equality while also hearing the voices of the many different people involved. Thank you to each of the panellists.