

## Introduction and Executive Summary

- 1.1. Brighton Resisters is a community group which brings together women living in the Brighton & Hove area who are concerned about the impact of gender identity ideology on local services for women and girls. We are particularly concerned about services for women who have experienced domestic violence and sexual assault, and about guidance issued to local schools and the impact of this on the experience of girls in the education system.
- 1.2. This written evidence addresses three of the questions in the Committee's Call for Evidence:
  - 1.2.1. Should the age limit at which people can apply for a Gender Recognition Certificate (GRC) be lowered?
  - 1.2.2. Are there challenges in the way the Gender Recognition Act 2004 and the Equality Act 2010 interact? For example, in terms of the different language and terminology used across both pieces of legislation.
  - 1.2.3. Are the provisions in the Equality Act for the provision of single-sex and separate-sex spaces and facilities in some circumstances clear and useable for service providers and service users? If not, is reform or further guidance needed?
- 1.3. Drawing on the experiences of our members as parents, educators and safeguarding professionals, we argue that the age limit at which people can apply for a Gender Recognition Certificate should not be lowered.
- 1.4. Using Brighton & Hove Council's schools guidance as a case study, we note that the concept of gender identity has the potential to destabilise the existing tension between the Equality Act and the Gender Recognition Act, and warn that this would be to the detriment of women and girls.
- 1.5. With reference to voluntary sector providers of services for women in Brighton & Hove, we explain the hugely damaging impact of gender self-identification policies on women who need single-sex services.

## 2. Should the age limit for a GRC be lowered?

- 2.1. We were very pleased to see that the government does not intend to make any change to the age limit for applying for a Gender Recognition Certificate.
- 2.2. Over the last ten years, there has been a very rapid rise in the number of children and young people identifying as trans. The number of referrals to the Tavistock & Portman Trust Gender Identity Development Service increased from 139 in 2010-11<sup>i</sup> to 2728 in 2019-20<sup>ii</sup>, an increase of over 1800%.
- 2.3. During this time, the proportion of male and female young people referred underwent a dramatic shift. In 2010-11, 47% of the referrals were for female people, but in 2019-20, this figure had risen to 69%. For those aged between 12 and 17, girls made up at least 72% of those referred; the proportions are much more balanced for younger children.
- 2.4. The government announced in 2018 a review of the reasons for this rapid rise in referrals, and said in July 2019<sup>iii</sup> that this investigation was moving into a new phase.
- 2.5. Following a series of resignations and serious concerns expressed by former clinicians at GIDS, the NHS is now also carrying out a review of the service.<sup>iv</sup>
- 2.6. Until these investigations are concluded, we think it would be unwise to make any change to the legal framework surrounding gender transition for people under 18.
- 2.7. In Brighton, we have seen a similar rapid rise in young people expressing transgender identities. In one local school, 76 pupils stated in a 2018 survey by the local council that they identified as trans or gender-fluid<sup>v</sup>. This is approximately 5% of the students in the school.
- 2.8. We feel that there is a strong possibility that this rise in cross-sex gender identification, particularly among teenage girls, is one facet of a more widespread increase in unhappiness and distress among young people, the underlying causes of which are not precisely known.
- 2.9. We think the high proportion of girls expressing distress with their female bodies is likely to be connected with the fact that girls are facing unprecedentedly high levels of sexual harassment, intense scrutiny of their appearance on social media and a culture in which expectations of sex and relationships are heavily influenced by pornography.

- 2.10. To note just a few examples of the extraordinary pressure girls are under:
- 2.10.1. The Children’s Society Good Childhood Report 2020<sup>vi</sup> notes that “between 2009-10 and 2017-18, ... there has been [a] significant decrease in happiness with life as a whole and with friends” and “Happiness with appearance was significantly lower than when the survey began.”
  - 2.10.2. There was a 94% increase in the number of young women committing suicide between 2012 and 2019<sup>vii</sup>.
  - 2.10.3. Research by the NEU and UK Feminista in 2017<sup>viii</sup> found that “Over a third (37%) of female students at mixed-sex schools have personally experienced some form of sexual harassment at school.” and “Almost a quarter (24%) of female students at mixed-sex schools have been subjected to unwanted physical touching of a sexual nature while at school.”
  - 2.10.4. In January 2020, the Guardian reported<sup>ix</sup> that during a study by the British Board of Film Classification “Several girls told the researchers that boys boasting about what they had seen in pornography led to anxiety about whether they could meet such expectations, as well as concerns about aggressive or violent sexual behaviour, such as choking”.
- 2.11. In particular, the testimony of detransitioned women should give pause for thought. At a book launch in 2019<sup>x</sup>, Charlie Evans, founder of the UK-based Detransition Advocacy Network, described the pressure girls can face when they don’t feel able to conform with society’s expectations:
- “Their personality and clothes and hobbies have been seen as a symptom they were *born in the wrong body*. Instead of being embraced for who they are, they've been told that if they feel their body is wrong then yes, their body is wrong. They have been failed by organizations like Stonewall, and Mermaids - failed even by our own NHS. These organizations sold us a lie. That gender identity - the feeling of being a girl or being a boy - is an innate feeling inside our heads. That sex doesn't make us a girl or a boy. That it's actually this *feeling*. They sold us the lie that if we don't conform to gender then we are not actually women, and that hormones and surgeries will help us be our authentic self.
- Many detransitioners and desisters now recognise this as a lie - that actually we had acted not on free will when we decided to transition but as a direct result of the oppression of women - a society that makes us hate our natural bodies from quite young, and one that doesn't tolerate deviations from the norm.”
- 2.12. We think a reduction in the age limit for applications for a Gender Recognition Certificate would add to the already unreasonable pressures on young people experiencing intense distress and discomfort with their bodies. Policy and regulation in this area should aim to provide young people with the freedom they need to explore their feelings and needs, while protecting them from making decisions that prematurely foreclose their options.

### 3. Interaction between the Gender Recognition Act and the Equality Act

- 3.1. The Equality Act defines a woman as “a female of any age”<sup>xi</sup> and the protected characteristic of sex as referring to “a man or a woman”<sup>xii</sup>.
- 3.2. “Gender” is not defined in the Equality Act. It is used outside of the phrase “gender reassignment” in three separate sections of the act:
  - 3.2.1. in relation to the ‘gender pay gap’<sup>xiii</sup>, where it is clearly being used as a synonym for ‘sex’
  - 3.2.2. in relation to sport<sup>xiv</sup>, where the phrase ‘gender-affected’ is used to describe sports where “the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex as competitors in events involving the activity”. This definition is taken directly from the Gender Recognition Act<sup>xv</sup>, but ‘sex’ has been substituted for ‘gender’.

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- 3.2.3. in relation to marriage<sup>xvi</sup>, where the phrase ‘acquired gender’ is used, to refer to the process of changing one’s legal sex by obtaining a Gender Recognition Certificate. In this case, ‘gender’ clearly does not mean ‘sex’, as the purpose of this part of the Act is to permit religious believers to refuse to solemnise the marriage of a person who (they reasonably believe) has a Gender Recognition Certificate.
- 3.3. “Gender reassignment” is given a very broad and imprecise definition in the Equality Act<sup>xvii</sup>. It suggests that sex may be reassigned and that a person’s sex may have attributes other than physiological ones.
- 3.4. In the Gender Recognition Act, the words ‘gender’ and ‘sex’ are not defined at all<sup>xviii</sup>.
- 3.5. Apart from in references to the Sex Discrimination Act and the wording of birth certificates, the word ‘sex’ is only used once in the Gender Recognition Act. This is in Section 9<sup>xix</sup>, where the words ‘sex’ and ‘gender’ are used confusingly in the same sentence: “if the acquired gender is the male gender, the person’s sex becomes that of a man and, if it is the female gender, the person’s sex becomes that of a woman”.
- 3.6. Despite some ambiguities, it is clear to us that both acts were drafted with a baseline understanding that sex is a stable and meaningful categorisation of humans.
  - 3.6.1. ‘Gender’, in the Equality Act, is always discussed *with reference to sex*.
  - 3.6.2. In the Gender Recognition Act, the only group of people whose legal sex is in any way questionable are those who have gender dysphoria and meet the other requirements for a Gender Recognition Certificate (understood at the time to be a very small number of people<sup>xx</sup>).
- 3.7. In the last few years, however, a growing number of organisations have been developing policies in this area which are based on a new and very different fundamental conception of sex and gender.
- 3.8. For example:
  - 3.8.1. Brighton & Hove Council’s schools Trans Inclusion Toolkit<sup>xxi</sup> describes itself as being “informed by ... an understanding of the Equality Act”.
  - 3.8.2. However, it is also based on an ‘underlying principle’ that “Trans and non-binary inclusive practice requires understanding and challenging long accepted ideas of sex and gender”.
  - 3.8.3. The toolkit asserts that “Gender identity, sex, sexual orientation and gender expression are all spectrums and are all different”, and advises school policy makers to refer to the Genderbread Person<sup>xxii</sup>, a graphic which suggests that people may plot their physical sex characteristics on continuums of ‘male-ness’ and ‘female-ness’.
  - 3.8.4. The Genderbread Person describes gender identity as “How you, in your head, define your gender, based on how much you align (or don’t align) with what you understand to be the options for gender” and invites people to plot their levels of ‘man-ness’ and ‘woman-ness’.
  - 3.8.5. The Toolkit repeatedly asserts that everyone has a gender identity: “Developing a positive sense of gender identity is an important part of growing up for all children and young people.” (page 6), “Gender is often an important part of our identity and developing a positive sense of gender identity is part of growing up” (page 7), “Cisgender (person) - someone whose gender identity is the same as the sex they were assigned at birth. Non-trans is also used by some people” (page 38), “Gender identity - a person’s internal sense of their own gender – whether male, female, or something else” (page 38).
  - 3.8.6. There is no room within the framework set out by the Toolkit for an understanding of gender as a social structure which produces unequal expectations and outcomes for boys and girls, men and women. Gender is instead always described in the Toolkit on an individual basis: “Gender concerns the internal sense of self and how this is expressed” (page 8).
  - 3.8.7. These statements place the Toolkit outside and at odds with the underlying framework of the Equality Act, which is a direct descendant of the Sex Discrimination Act, enacted in response to the women’s movement demanding action on the injustice of discrimination based on sex – something experienced by all girls and women, regardless of their own feelings about themselves.

- 3.9. It is this novel understanding which underlies proposals to amend the Gender Recognition Act to remove the requirement for a diagnosis of gender dysphoria.
- 3.10. Implementing such proposals would amplify the existing tensions between the two Acts by greatly expanding the number of people whose legal sex may be altered, and by undermining the basis on which women and girls are protected from sex discrimination.
- 3.11. We agree with the government that this would be a mistake, and are pleased that they have decided against reforming the Gender Recognition Act in this way.

## 4. Single-sex and separate-sex services

- 4.1. Many of the voluntary sector organisations in Brighton & Hove which were established to provide single-sex services for women now operate largely on the basis of self-identified gender identity, and are therefore open to people of both sexes.
  - 4.1.1. Survivors Network is the rape crisis service for Sussex. Its Trans Staff, Volunteers and Service Users Policy (last revised August 2020) states “Survivors’ Network offers a range of services for survivors of sexual violence and their supporters. Some of these services are open to people of any gender and some are only open for self-identifying women.” and “Survivors’ Network reserves the right to employ (as employees and volunteers) self-identifying women only for women-only spaces. This is in line with the Equality Act 2010, Schedule 9, Part 1, Paragraph 1.”<sup>xxiii</sup>
  - 4.1.2. Brighton Womens Centre’s Business Plan 2018-22<sup>xxiv</sup> states “We are an open access and free service providing a safe women-only environment for all self identifying women.” Womens Centre job adverts<sup>xxv</sup> state that they are open to female applicants only but also that “\*This post is open to self-identifying women.”
  - 4.1.3. Rise, the domestic violence support service for Brighton, states on its website<sup>xxvi</sup> that “We also provide one of the few dedicated LGBT+ refuge and housing support services, partnering with Manchester and London as part of a Government funded project. We also accept self-identifying women into our non-LGBT+ refuge.”
- 4.2. For women who find the presence of male people traumatising – especially in spaces where they need to feel safe and supported – these policies are devastating. We understand the need to provide services which are accessible for trans people who have experienced abuse, but we are saddened and angered that this has been achieved by means of the removal of services for women who need a female-only space in which to heal and recover.
- 4.3. Several of our members are former or current users of the services provided by Survivors Network and Rise. They report that the shift towards providing ‘inclusive’ services has taken place without acknowledgement of the impact on women who experience a trauma response in relation to male people, as a result of their experience of male violence.
- 4.4. As one of our members expressed it:

“The complete lack of provision for safe single sex spaces for women in Brighton and Hove is not only concerning but incredibly distressing. I find it very triggering physically and mentally to know that in a space where I am theoretically allowed to be vulnerable (given my prior experiences), that I can actually not guarantee, or be guaranteed a space where I am truly secure and or that any safeguarding risk has been extensively evaluated. I already suffer from post-traumatic stress disorder through prior and ongoing issues and this seriously exacerbates this issue for me.”<sup>xxvii</sup>
- 4.5. We believe there are many women in the city who are experiencing this distress. As Karen Ingala Smith explained in a blogpost in July 2020<sup>xxviii</sup>:

“Women experiencing trauma after violence and abuse will, like most of us – almost always instantly read someone who might be the most kind and gentle trans identified male in the world – as male; and they may experience a debilitating trauma response as a result. It’s not their fault, it’s not a choice and

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it's not something they can be educated out of. It's not hate. It's not bigotry. It's not transphobia. It is an impact of abuse and they need space, support and sometimes therapy – not increased confrontation with a trauma inducing trigger; not nowhere to go that offers a woman-only space”

- 4.6. There is no reason why organisations cannot provide services that are for female people only. This is specifically permitted by the Equality Act in circumstances where it is a proportionate means to a legitimate aim.
- 4.7. On the other hand, it is arguable<sup>xxix</sup> that advertising jobs for ‘female applicants only’ but accepting applications from anyone who self-identifies as a woman (regardless of their legal sex) is not permitted by Schedule 9, Part 1, Paragraph 1 of the Equality Act<sup>xxx</sup>.
- 4.8. In the absence of clear and consistent guidance from the Equality and Human Rights Commission on these issues, organisations have been vulnerable to a process of ‘policy capture’ as described (in relation to Scotland) by Murray and Hunter Blackburn in their 2019 paper, ‘Losing sight of women’s rights’<sup>xxxi</sup>
- 4.9. We would like to see clear and unambiguous guidance issued, assuring service providers and commissioners in local government that the provision of single-sex and separate-sex services is not only legal, it is often the most effective way for public bodies to fulfil their Public Sector Equality Duty to advance equality of opportunity for women.

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i <https://tavistockandportman.nhs.uk/documents/408/gids-service-statistics.pdf>

ii <https://gids.nhs.uk/number-referrals>

iii <https://www.gov.uk/government/news/government-set-to-begin-next-phase-of-gender-transition-research>

iv <https://www.theguardian.com/society/2020/sep/22/nhs-to-hold-review-into-gender-identity-services-for-children-and-young-people>

v <https://www.thetimes.co.uk/article/trans-groups-under-fire-for-huge-rise-in-child-referrals-2ttm8c0fr>

vi <https://www.childrensociety.org.uk/sites/default/files/2020-11/Good-Childhood-Report-2020.pdf>

vii <https://www.independent.co.uk/news/uk/home-news/suicides-teenage-girls-young-women-rise-figures-a9698296.html>

viii <https://ukfeminista.org.uk/wp-content/uploads/2017/12/Report-Its-just-everywhere.pdf>

ix <https://www.theguardian.com/culture/2020/jan/31/porn-survey-uk-teenagers-viewing-habits-bbfc>

x <https://medium.com/@charlie.evans/charlie-evans-on-inventing-transgender-children-and-young-people-book-launch-27-10-19-11cc5c1343ce>

xi <https://www.legislation.gov.uk/ukpga/2010/15/section/212>

xii <https://www.legislation.gov.uk/ukpga/2010/15/section/11>

xiii <https://www.legislation.gov.uk/ukpga/2010/15/section/78>

xiv <https://www.legislation.gov.uk/ukpga/2010/15/section/195>

xv <https://www.legislation.gov.uk/ukpga/2004/7/section/19>

xvi <https://www.legislation.gov.uk/ukpga/2010/15/schedule/3/part/6>

xvii <https://www.legislation.gov.uk/ukpga/2010/15/section/7>

xviii <https://www.legislation.gov.uk/ukpga/2004/7/section/25>

xix <https://www.legislation.gov.uk/ukpga/2004/7/section/9>

xx [https://api.parliament.uk/historic-hansard/lords/2004/feb/11/gender-recognition#S5LV0656P0\\_20040211\\_HOL\\_12](https://api.parliament.uk/historic-hansard/lords/2004/feb/11/gender-recognition#S5LV0656P0_20040211_HOL_12)

xxi [https://uploads-ssl.webflow.com/5888a640d61795123f8192db/5bb6216a5253bf4eea4eb9\\_Trans\\_Inclusion\\_Schools\\_Toolkit\\_Version\\_3.2\\_2018.pdf](https://uploads-ssl.webflow.com/5888a640d61795123f8192db/5bb6216a5253bf4eea4eb9_Trans_Inclusion_Schools_Toolkit_Version_3.2_2018.pdf)

xxii <https://www.itspronouncedmetrosexual.com/2015/03/the-genderbread-person-v3/#sthash.8puQTLdz.dpbs>

xxiii <https://survivorsnetwork.org.uk/wp-content/uploads/2020/05/Trans-Staff-Volunteer-and-Service-Users-2019.pdf>

xxiv [https://womenscentre.org.uk/wp-content/uploads/2018/10/BWC\\_businessplan.pdf](https://womenscentre.org.uk/wp-content/uploads/2018/10/BWC_businessplan.pdf)

xxv <https://womenscentre.org.uk/#get-involved>

xxvi <https://www.riseuk.org.uk/get-help/about-domestic-abuse/lgbt-relationships>

xxvii Private correspondence, November 2020

xxviii <https://kareningalasmith.com/2020/07/08/trauma-informed-services-for-women-subjected-to-mens-violence-must-be-single-sex-services/>

xxix <https://twitter.com/rebelyarns/status/1211997586858614784?s=20>

xxx <https://www.legislation.gov.uk/ukpga/2010/15/schedule/9/paragraph/1>

xxxi <https://www.research.ed.ac.uk/portal/files/109539755/MurrayBlackburnSA2019LosingSightOfWomenRights.pdf>

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