

Written evidence submitted by Helen Watts [GRA1499]

Reform of the Gender Recognition Act: written submission of evidence to the Women and Equalities Select Committee

Introduction

1. I am a former volunteer with Girlguiding (The Guide Association), a single sex charity for girls and young women. I held a unit leadership position and was responsible for around 20 girls aged between five and seven year during weekly meetings, day trips and overnight stays. I will refer to published Girlguiding policy in this submission, but I am not writing on its behalf and do not represent Girlguiding in any way.
2. The girls for which I was responsible came from varying backgrounds and religious faiths (or none). The wider organisation has 400,000 young members¹ including girls with a range of medical and care needs, and girls in local authority care.
3. In September 2018, Girlguiding revoked my membership on the basis that I had breached the volunteer code of conduct and social media policy. This was the culmination of an investigation triggered by my publicly discussing Girlguiding's trans inclusion policy and its impact on girls and other protected groups².

Summary

4. This submission concerns two of the wider issues identified in the call for evidence:
 - a) Are there challenges in the way the Gender Recognition Act 2004 (GRA) and Equality Act 2010 (EA) interact?
 - b) 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 users?
5. This submission uses Girlguiding's policy, and my experience of working within that policy framework, to provide real-world examples of how the GRA and EA interact. I also show that in the urgency to protect trans people, the rights of girls and women have been neglected with serious consequences for female privacy, dignity, safety and freedom of expression and belief.
6. This submission demonstrates that even without extensive GRA reform, the protected characteristic of gender reassignment is used as a proxy for the GRA, with individuals holding that characteristic but not in possession of a Gender Recognition Certificate (GRC) treated as a member of the opposite sex for all practical purposes, despite the individual retaining both their biological and legal sex.
7. The proxy effect has arisen due to the lack of clear guidance from the Equality & Human Rights Commission and lack of case law, combined with the dominance of trans advocacy groups such as Gendered Intelligence and Stonewall in developing and selling trans inclusion policies to third party organisations, without due regard for the rights of other protected groups.

¹ [About us | Girlguiding](#)

² [Girl Guide leaders expelled for questioning trans policy | News | The Sunday Times \(thetimes.co.uk\)](#)

Written evidence submitted by Helen Watts [GRA1499]

8. The evidence also shows that the needs and rights of trans adults are prioritised above the needs and rights of children. No adult should be subjected to transphobia, harassment or victimisation but in circumstances where sex matters, such as in the provision of personal care, the trans person's right (e.g. to be recognised and treated as the acquired gender) conflicts with the right of the child (e.g. to a same sex carer). Clearer guidance is urgently needed to help organisations manage this conflict in a way that recognises the rights of all parties and upholds good safeguarding practice.
9. Guidance is also needed to make it clear that single sex exemptions can apply to trans people and even transsexuals (to use the language of the legislation) who hold a GRC in some circumstances. The guidance should also prevent the EA being used as a workaround to the GRA, especially as Government has confirmed that the GRA will not be reformed to allow self-ID³.
10. The lack of clarity to date has left organisations nervous of invoking the single sex exemptions, concerned about the reputational and legal ramifications and, rightly, about the risk of discriminating against trans people.
11. It is striking that, in the application (or not) of the single sex exemptions, much less thought is given to the exclusion and detriment of women and girls than is to trans people.

Background information

1. Girlguiding adopted a policy of gender self-ID in 2017. Any child who identifies as a girl may join as a young member⁴. Girlguiding confers the protected characteristic of (the opposite) sex onto those children with the protected characteristic of gender reassignment.
2. Any adult who identifies as a woman may join (subject to the usual checks and references) as an adult volunteer⁵. There is no requirement for a Gender Recognition Certificate (GRC) and in any event, a trans woman who has a GRC would already be eligible for membership as an adult in their acquired gender, per the new birth certificate⁶.
3. Men can volunteer at Girlguiding but only women can take the Promise. Certain leadership positions (such as my own previous role as Unit Leader) can only be undertaken by women who have made the Promise⁷.
4. Female children who do not identify as girls, either before joining or during their membership, are allowed to remain: "we accept young members who are biologically female (under the protected characteristic of sex) and those whose gender identity is a girl or woman (under the protected characteristic of gender reassignment)"⁸.

³ [Written Ministerial Statement: Response to Gender Recognition Act \(2004\) consultation - GOV.UK \(www.gov.uk\)](#)

⁴ [Supporting trans members | Girlguiding](#)

⁵ [Supporting trans volunteers | Girlguiding](#)

⁶ [Gender Recognition Certificate: pensions and benefits note - GOV.UK \(www.gov.uk\)](#)

⁷ [Supporting trans volunteers | Girlguiding](#) see Women-only Volunteer Roles

⁸ [Supporting trans members | Girlguiding](#) see Why is Guiding Trans Inclusive?

Written evidence submitted by Helen Watts [GRA1499]

Communal accommodation

5. Girlguiding is well known for its residential. Young members share tents, or guide huts are used for overnight stays. Women volunteers are permitted to sleep in the same room (e.g. in a large hall) as the girls. Any men and boys present (e.g. young sons of leaders or male volunteers) must be provided with separate sleeping, washing and changing facilities⁹.
6. Communal sleeping, changing, and washing facilities are customarily single sex, to protect the privacy and dignity of both sexes and to provide an element of safety for women.
7. Under the self-ID policy, a woman or girl can be any person who is biologically and legally male who says that they have the identity of a woman or girl.
8. This creates an immediate conflict of rights for children. Using the example of Girlguiding policy, the child's right to single sex provision is set out in the requirement for men and boys to have separate sleeping and washing facilities. Yet the policy also states that a child who identifies as a girl but is biologically and legally male (as children under the age of 18 cannot change their legal sex¹⁰) should use the communal accommodation¹¹ intended for female children. This is presumably because the organisation believes that the comparator for discrimination against a trans girl is a female, when it should be another male without the protected characteristic of gender reassignment¹².
9. Girlguiding maintains that a person's trans status is confidential unless that person chooses otherwise. I agree that the privacy and dignity of the trans person must be respected, and organisations have duties under General Data Protection Regulations and the Data Protection Act. However, this policy means that female members will not know in advance if the facilities will be mixed or single sex and therefore cannot give proper consent.
10. Women and girls have many reasons for not wanting to use mixed sex facilities, including embarrassment (especially if they knew the trans girl as a boy before transition); it is against their, or their parent's, religious beliefs to share intimate spaces with the opposite sex; the girl has experienced sexual abuse or harassment from male children¹³; or a local authority care order requires that the child is not placed in mixed sex environments. Girls are often anxious about being away from home and having to deal with a period (perhaps their first) while using communal spaces and if she must share, would prefer to do so with her own sex.
11. A girl's need or preference for same sex accommodation is not a value judgement against an individual trans child. We do not assume or imply that all male children who identify as boys are a threat or personally objectionable, although we provide them with separate accommodation.
12. As policies such as Girlguiding's do not allow for any guaranteed single sex accommodation (save for an option to request a private room, if available), some girls may be no longer feel able to attend events. A girl might not feel able to ask for a private room for fear of being labelled transphobic. Other girls may self-exclude due to their previous experiences of abuse, or because their religious belief requires that they use only single sex spaces. I have

⁹ [Going on residentials | Girlguiding](#) See Accommodation

¹⁰ [Apply for a Gender Recognition Certificate - GOV.UK \(www.gov.uk\)](#)

¹¹ [Supporting trans young members | Girlguiding](#) See Going Away "Trans members must be supported to use the facilities that accord with their gender identity - trans girls may use girls' toilets and changing rooms wherever possible."

¹² Green, R (on the application of) v Secretary of State for Justice, Court of Appeal - Administrative Court, December 04, 2013, [2013] EWHC 3491 (Admin)

¹³ Around 1/3 of sexual abuse is carried out by other children (Hackett, 2014) ["Is this sexual abuse?" | NSPCC Learning](#)

Written evidence submitted by Helen Watts [GRA1499]

attended residential training events, sharing a bedroom and bathroom with five women. I did not want to share those spaces with a male, of any gender identity, that I did not know and trust. I would also not want to embarrass a trans woman or disclose private information to justify my choice. The only way to respect both me and the trans woman is to offer some exclusively single sex accommodation alongside mixed sex/gender-neutral options.

13. The EA contains a specific exception to the general prohibition of sex and gender reassignment discrimination¹⁴ and provides that the discrimination against transsexual people (to use the language of the Act) must be objectively justified and a proportionate means to a legitimate aim.
14. Girlguiding and many other organisations do not use this exception. There is insufficient guidance as to what could constitute an objective justification. I argue that the privacy and dignity of girls and preventing the exclusion of vulnerable or marginalised groups of women and girls from organisations designed to benefit them, is an objective justification. Such an approach does not mean that trans children would be forced to use the facilities of the sex with which they no longer identify; alternative gender-neutral arrangements could be made.
15. The proportionality test is often interpreted as needed to be met on a case by case basis by individual person rather than by service. Any organisation that varies their provision for each individual risks subjecting some trans individuals to lesser treatment than others. This approach also means that some girls will receive single sex accommodation while others will not.
16. Girlguiding developed its trans policy with Stonewall and Gendered Intelligence. The commitment to inclusion and diversity is laudable but advice from third parties with their own objectives (e.g. Stonewall previously gave evidence to this committee recommending the removal of single sex exemptions¹⁵) is partial and no substitute for advice from neutral policymakers, who should have considered the needs of other protected groups.

Medical and Personal Care

17. Girlguiding is clear that for first aid, a woman must be present if the first aider is a man and that a woman should deal with girls' personal hygiene queries and needs¹⁶. Given that a woman is anyone who identifies as a woman, this means that a biological and legal male may be able to provide personal care to female child. Parents and girls will have no advance warning that this care could be provided by a person of the opposite sex; they will reasonably assume care will be provided by an adult of the same sex and have not explicitly consented to mixed sex care.
18. This has similar implications to the mixed sex communal accommodation; there are valid reasons why a child or parent may object, which are not value judgements or assumptions about the intention or integrity of the trans woman. It also seems unfair to other men: why are legal and biological males who identify as men unable to provide care when biological and legal males who do not identify as men are able to provide care? Is gender identity, one's personal sense of self, a suitable measure for assessing risk?

¹⁴ Equality Act 2010, Schedule 22, para 3 (1) and (4)

¹⁵ [Women and Equalities Select Committee Inquiry on Transgender Equality | Stonewall](#)

¹⁶ [Going on residential | Girlguiding](#) See Event Leadership Team

Written evidence submitted by Helen Watts [GRA1499]

19. This scenario highlights how adult male volunteers with the protected characteristic of gender reassignment are treated for all practical purposes as though they are the opposite sex (i.e. female), without the safeguards contained in the GRA.
20. Girlguiding can and does provide barrier contraception on residential trips to young people over the age of 13. It gives frank advice to leaders about how to discuss sex and relationships with young people, including what to do if a girl has unprotected sex¹⁷. There is the possibility of sexual contact between a girl and a trans girl, which in turn could lead to pregnancy or STDs. There is no safeguard of separate bedrooms (as there is for boys and men that attend residential) and parents and girls will not be aware that they are sharing sleeping spaces with young people who are biologically and legally male.

Freedom of expression and belief

21. The notion of gender identity is not settled science; there is no evidence that anyone is born in the wrong body, or that everyone has an “innate sense of their own gender, whether male, female or something else”¹⁸. Sex is not assigned at birth, it is observed and recorded, except in those few cases where sex is ambiguous. There are around 150 children diagnosed with a Difference of Sex Development per year in the UK¹⁹. For comparison, there were 640,000 live births in England and Wales in 2019²⁰.
22. Sex is material reality, and it matters. Women and girls around the world are subjected to lesser treatment and abuse – whether that takes the form of female genital mutilation, menstrual huts, child marriage, forced marriage, denial of education, so-called honour violence, sexual harassment and assault, unequal pay and workplace discrimination – on the basis of their sex. It is necessary and legitimate for women and girls of all ages to discuss how their sex affects their lives and the lives of their peers around the world. Single sex organisations and associations – from Girlguiding, the WSPU, Women’s Aid, Refuge, Plan International, the Women’s Institute – began in response to women’s subordination and oppression due to their sex.
23. No reasonable person would condone the victimisation, harassment, or maltreatment of trans people. Discussion of what it means to be a woman and using universally understood terms like woman or girl to describe the female condition is not inherently transphobic. Language must be clear so that service users know whether the provision is single or mixed sex, so they can give informed consent. Different views and beliefs on sex and gender should be open for discussion in much the same way that we might discuss religious beliefs. Debate, disagreement, and the ability to articulate one’s need for single sex spaces must be permitted without threats of expulsion or being labelled a bigot.
24. Service users are often told that management must open single sex services to anyone who identifies as a woman, regardless of whether the person has a GRC, to comply with the law (the EA). Women are asked leading questions or pressured into agreeing to policies that they do not want and are not in their best interests. An example of this is an often-quoted statistic from Girlguiding’s Girls’ Attitudes Survey, which is used to defend the mixed sex environment created by the trans policy on the basis that girls support it. The survey found

¹⁷ [Introduction \(girlguiding.org.uk\)](https://www.girlguiding.org.uk)

¹⁸ [Supporting trans members | Girlguiding](#) See Glossary of Useful Terms

¹⁹ [About :: DSD Families](#)

²⁰ [Births in England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk)

Written evidence submitted by Helen Watts [GRA1499]

that 86% of girls believe that a person should not be discriminated against because they are trans²¹. I wholeheartedly agree with those girls. But that statistic does not mean that girls have agreed to the removal of single sex accommodation or given up their right to receive personal care from a biological female.

25. We know that many women and girls are concerned about the loss of single sex spaces and the lack of clarity around the exemptions and the interaction of the GRA and EA. This is reflected in the number of grassroots groups established to respond to the GRA consultation in 2018. In my own case, I was contacted by hundreds of women, including parents and current volunteers, who shared my concerns but were worried that they would also be the subject of complaints and disciplined, losing not just a voluntary position but perhaps paid employment too. Any internal discussions within volunteer forums were actively suppressed, comments deleted, women called bigots and transphobes by other volunteers. Several other leaders were subjected to disciplinary proceedings at Girlguiding because they were in the same social media group as me. Fortunately, those women kept their positions but only after the stress of an investigation.
26. Outside of my former organisation, women and girls who want to retain single sex services are often attacked as bigots, TERFs (trans-exclusionary radical feminists), transphobes or criminals. I have received messages from strangers telling me to kill myself, that I intend or am willing to commit criminal acts, that I am a terrorist, a danger to children, a bitch, a fat ugly cunt. Complaints are made to women's employers, there is culture of no-platforming, women's meetings are protested²² and bomb threats sent to the venues²³.
27. In this hostile environment, which is intimidating enough for an adult, a child may simply self-exclude. I am concerned that there is no data on how many women and girls are self-excluding from all sorts of services (from youth groups and sport, to domestic violence refuges and sexual abuse support groups) because they are too intimidated to speak up.
28. The absence of evidence to the contrary – or support for general statements that do not take into account specific situations such as changing or washing – is giving the false impression that women do not object to the loss of single sex services.
29. We need clarity around the single sex exemptions to ensure that organisations are empowered to use them – to lawfully discriminate where necessary and proportionate – but primarily to promote greater inclusion of women from all backgrounds in public life.

November 2020

²¹ [Supporting trans members | Girlguiding](#) See Why Is Girlguiding Trans Inclusive?

²² [Smoke bomb protest outside #ExpelMe rally near Grenfell Tower sparks sensitivity row | Morning Star \(morningstaronline.co.uk\)](#)

²³ [Why are women who discuss gender getting bomb threats? | The Spectator](#)