

Executive Summary

- It is important that we can, as a society, still refer to the female body in law and this is most vital when discussing issues of pregnancy and maternity.
- Government must assert the linguistic link between 'pregnancy', 'women', 'girls' and 'female'/the female body in all relevant legislation including the Equality Act.
- Full definitions must be provided for all terms used to ensure that these are correctly and completely understood in law.
- Denying this reality linguistically risks removal of protections. A clear example would be the use of the Committee on the Elimination of Discrimination against Women (CEDAW) Treaty in the removal of obstacles to women's fair access to abortion in Northern Ireland.
- Government bodies must address these issues with transparency, ensuring that any advice they publish complies with the law and reasserts sex-specific protections within those laws.

Introduction

I am writing to the inquiry to outline my specific concerns regarding the change of language used to describe women in discussions around abortion rights and legislation. Within the context of GRA reform, the implications of the reforms outlined will have real life impacts on the rising use of terms such as 'pregnant people' and 'pregnant men' and the increase in objections to phraseology which emphasises that only female bodies - those of women and girls - can get pregnant. I will offer examples of such instances as evidence throughout my text.

Within the framework of the enquiry this submission addresses a number of questions under both sections of the Terms of Reference and I will refer to each briefly under the relevant headings.

I would like to note that I am the secretary of Abortion Rights Cardiff, a grassroots activist organisation established in 2013 and recognised nationally for our work supporting abortion rights for the women of Cardiff and across Wales. I am also on the Executive Committee of Abortion Rights. I share this information to demonstrate my longstanding involvement in and understanding of wider abortion rights issues. I am writing in a personal capacity as both these organisations campaign on a single issue basis and it would be inappropriate for me to claim that my words represent the views of the full memberships.

I am also aware that my submission will be subject to adverse criticism. Groups campaigning on abortion rights issues are under increasing pressure to amend their language to reduce the use of the words 'woman', 'women', 'girls' and 'female' from their materials. I will refer to some examples within this submission to evidence this phenomenon. Many women are afraid to speak out as there is a genuine risk that they might lose their jobs.

This pressure has seen women abused online and in real life. I fully expect that this might also be my experience after my evidence is published.

Response (headings as outlined in the Terms of Reference)

Section 1: The Government's response to the GRA consultation:

1. Should the requirement for a diagnosis of gender dysphoria be removed?

Removal of the requirement of dysphoria effectively introduces the radical de-medicalisation of the process for reassignment of legal gender. In doing so, it acknowledges that individuals seeking a Gender Recognition Certificate (GRC) may wish to retain the reproductive role of their sexed body. In doing so the legal fiction of reassigned sex-markers creates a new legal fiction that men can

become pregnant.

Evidence: The case of Freddy McConnell, whose case to be named as father, rather than mother, on a babies birth certificate was rejected by the Lords. In this link the BBC refers to McConnell throughout as a man who was pregnant. "Seahorse: The Dad Who Gave Birth"
[\[https://www.bbc.co.uk/programmes/m0008bxb\]](https://www.bbc.co.uk/programmes/m0008bxb)

The realities of pregnancy are intimately and inextricably related wholly and completely to female biology. It is important that we can, as a society, still refer to the female body in general and this is most vital when discussing issues of pregnancy and maternity.

2. What impact will these proposed changes have on those people applying for a Gender Recognition Certificate, and on trans people more generally?

The implications of these changes are that a far greater number of people will apply for and gain a GRC. If a woman applies for a GRC to achieve a male sex marker on official documentation, services are in the invidious position of requiring to refer to any procedures they undertake as being services offered to a man.

While organisations are of course free to make their own decisions on which terms they prefer, this view is being promoted toward amendments of existing legislation. There are now suggestions that such language should be incorporated into legislation, including the Equality Act, and official guidance, for example from the EHRC & NHS.

An **example** of how this operates can be seen here in the campaign material of Ireland's Abortion Rights Campaign where they actively demand in "*Problem 5: The Act uses exclusively gendered language*" that "*This problem can be easily fixed by replacing the word "woman" with "person" or "person who is pregnant" throughout the Act.*" with reference to Ireland's own Gender Recognition Act 2015 which itself already allows applicants to simply fill in a form to apply for a GRC in a different name and a new birth certificate.. [\[https://www.abortionrightscampaign.ie/abortion-law-in-ireland/\]](https://www.abortionrightscampaign.ie/abortion-law-in-ireland/)

Evidence: We can see similar terminology being used in material from the Family Planning Association [\[https://www.fpa.org.uk/sites/default/files/abortion-policy-statement.pdf\]](https://www.fpa.org.uk/sites/default/files/abortion-policy-statement.pdf) and the Brook Advisory Service who in this 'Am I Pregnant?' advice page do not use the word woman once [\[https://www.brook.org.uk/your-life/am-i-pregnant/\]](https://www.brook.org.uk/your-life/am-i-pregnant/); And in dual format ('women and pregnant people') from Marie Stopes [\[https://www.mschoices.org.uk/news/blog-how-to-get-abortion-pills-during-covid19-pandemic/\]](https://www.mschoices.org.uk/news/blog-how-to-get-abortion-pills-during-covid19-pandemic/) and Abortion Support Network [\[https://www.asn.org.uk/news-and-events/asnresponsetoroi2019abortionstats/\]](https://www.asn.org.uk/news-and-events/asnresponsetoroi2019abortionstats/)

A key objection to this shift is its serious implications for the use of legislation and international treaties to protect women's rights. A clear example within abortion rights would be the use of the Committee on the Elimination of Discrimination against Women (CEDAW) Treaty in the removal of obstacles to women's fair access to abortion in Northern Ireland. CEDAW was adopted in 1979 by the United Nations General Assembly as an international bill of rights for women and has been ratified by 189 states including the UK.

In 2018, CEDAW Vice-Chair Ruth Halperin-Kaddari stated that ""The situation in Northern Ireland constitutes violence against women that may amount to torture or cruel, inhuman or degrading treatment," In 2016 CEDAW conducted a confidential inquiry into allegations by civil society organisations that women in Northern Ireland faced grave and systematic violations of their rights. At all stages of the proceedings the Committee received the full co-operation of the UK Government. **Evidence:** UNHCR News [\[https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22693&LangID=E\]](https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22693&LangID=E)

As a consequence of this application to CEDAW, a new legal framework for abortion services in Northern Ireland was introduced by the UK Government in March 2020. The Abortion (Northern Ireland) (No. 2) Regulations 2020 allow access to abortions at up to 12 weeks gestation without

conditionality and abortions beyond 12 weeks in specified instances. The Lords approved the Regulations in June 2020, with the Commons subsequently approving the Regulations.

By creating a situation in which abortion must be seen as an issue affecting both men and women's access to reproductive health care the valued link to legal protections under international agreements protecting women is at danger of being lost. In its report, CEDAW concluded it was a restriction affecting only women from exercising reproductive choice. Denying this reality linguistically risks denying the reality of the situation and removing protections.

Government must assert the linguistic link between 'pregnancy', 'women', 'girls' and 'female'/the female body in all relevant legislation including the Equality Act. Full definitions must be provided to ensure that these are correctly and completely understood in law.

Section 2: Wider issues concerning transgender equality and current legislation:

1. 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.

There are several specific areas of the Equality Act (EA) that offer opportunities for conflicting interpretation when held against the terms of a reformed GRA.

Most importantly sex-specific exemptions allow for services to employ female-only staff to support users where this is a proportionate means to a legitimate aim. It is essential that services retain the right to avail themselves of such exemptions where they wish to do so and where users could reasonably expect this to be the case when a service is labelled 'women-only'. GRA reform may jeopardise this situation if legislators do not address the issues around appropriate official identification and access to such that identifies the actual sex of person so identified.

This confusion can be **evidenced** by reference to a parliamentary publication, 'Enforcing the Equality Act: the law and the role of the Equality and Human Rights Commission', published 30 July 2019, Section 7: Balancing rights in single-sex services - paragraph 163
[<https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/1470/147010.htm>]

2. 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?

Services rely on clarity from public bodies, outsourced government advisors, and policy makers, who provide guidance on how they can lawfully provide their services. Many such bodies, national and local, currently fail to provide the correct advice with many failing to recognise and openly acknowledge that conflicts of rights do exist and women's single sex protections are threatened by inadequately drafted guidelines and guidance documents.

Evidence: the withdrawn guidance from the CPS after threats of a judicial review

[<https://www.telegraph.co.uk/news/2020/04/30/cpspulls-hate-crime-guidance-schools-14-year-old-girl-mounted/>]

Government bodies must address these conflicts boldly and with transparency to give services confidence in their decision making processes. Where guidance has been misleading, services have understandably tended towards caution which has led to the withdrawal of a great many women-only services that could have benefited from use of the sex-specific exemption. **Evidence:** Scottish Womens Aid [<https://womensaid.scot/wp-content/uploads/2017/11/SWA-position-on-trans-women.pdf>]

3. Are legal reforms needed to better support the rights of gender-fluid and non-binary people? If so, how?

Written evidence submitted by Ms Eleanor Hill (GRA1654)

Current abortion services are at pains to support the right for everyone to access abortion services they need. There is no difficulty in sign-posting for these services using the terms 'abortion' and 'pregnancy'. One struggles to believe that anyone experiencing an unwanted pregnancy would not identify their need in those terms. However the use of supposedly 'inclusive' language such as 'pregnant people' puts up far greater barriers than it could ever break down, particularly to women for whom English is not their first language.

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