

I'm submitting this response as an individual. My professional background is in further education, and subsequently social care, and I have concerns related to both these. Mainly though, its as a feminist that I'm writing.

Feminism is premised on the understanding that humans reproduce sexually, and that a consequence of this is the reproduction oppression of the female half of the species by the male, for the purpose of extracting reproductive, sexual and attendant domestic, emotional and other resources.

The cultural construction of "gender" i.e. "femininity/masculinity" is a *tool of this oppression*.

As such, the reification of "gender identity" in law, is in and of itself sexist and contrary to the aims of feminism.

It is not possible for human beings to change their sex and claims to a "gender identity" have no bearing on the reality of biological sex. Therefore, these phenomena should, at the very least be clearly separated and recognised as distinct in law.

All individuals should be free to dress and present themselves as they wish, without fear of discrimination let alone abuse and violence, and this should be covered under the PC "sex", e.g. if a woman would not be disadvantaged in employment or other contexts for a certain style of personal presentation, then neither should a man - however no one has the right to force others to comply with unfounded claims e.g. "transwomen *are* women". No one has the right to impose their unfounded beliefs on others, and the belief that the condition of being a man or woman is a matter of "identity", as opposed to reproductive sex, is indeed an unfounded and highly contested one.

I have replied here to points which are relevant to these concerns.

## Terms of reference

### The Government's response to the GRA consultation:

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

This piece of legislation needs radical reform if not complete abolishment. The legal categories "male/female" refer to reproductive categories and not "gender identities" and the establishment of the GRA, allowing people to change their "legal sex" was in itself a legislative misstep.

In the meantime, it is imperative that the existing gatekeeping stays in place, inadequate as it is. Removing the requirement for a diagnosis of “gender dysphoria” would effectively redefine “women” to mean “anyone who says they’re a woman”. This is not a coherent position, and in no way shape or form a fit basis for legislation.

- Should there be changes to the requirement for individuals to have lived in their acquired gender for at least two years?

This question highlights the absurdity of the legal position. The concept “living as (e.g. a) woman” must necessarily involve *either*

- the female biological function

OR

- adherence to sexist cultural stereotypes and expectations

The law therefore must either be complicit in entrenching and perpetuating these sexist stereotypes (in contravention of CEDAW articles 5 and 11) OR endorsing the incoherent position that “woman/man”=“anybody who claims to be a woman/man”.

- What is your view of the statutory declaration and should any changes have been made to it?
- Does the spousal consent provision in the Act need reforming? If so, how? If it needs reforming or removal, is anything else needed to protect any rights of the spouse or civil partner?
- Should the age limit at which people can apply for a Gender Recognition Certificate (GRC) be lowered?
- What impact will these proposed changes have on those people applying for a Gender Recognition Certificate, and on trans people more generally?
- What else should the Government have included in its proposals, if anything?
- Does the Scottish Government’s proposed Bill offer a more suitable alternative to reforming the Gender Recognition Act 2004?

#### **Wider issues concerning transgender equality and current legislation:**

- Why is the number of people applying for GRCs so low compared to the number of people identifying as transgender?

- 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.

Yes! This is an area of legislation where terminology is hopelessly and disastrously muddled.

The terms “sex” and “gender” are used interchangeably in some instances and yet are acknowledged to refer to different phenomena in others e.g. in respect of the single sex exemptions in the EA2010.

There is an urgent need for clarity with regard to definition of terms, which in turn will underpin clear intention in framing of legislation, and policy development.

For example, legislation provides the framework in which sporting bodies produce policy. The intention in segregating male and female sports is to allow one group of people – female people – to compete in an environment that does not place them a. at an insurmountable competitive disadvantage and b. expose them to physical danger, and this is based on the understanding that the *biological* condition of being male, confers *physical differences* entirely independently of people’s “gender identity”.

Therefore, consideration of “gender identity” is simply not a relevant to consideration when delineating the categories in many sports.

- 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?

No. As per the previous point, all legislation including the EA should distinguish clearly between the state of having a “male/female” “gender identity”, and actually being male or female. Ideally, the terms male and female should not be used at all in connection with gender identity, and should recognise that e.g. transwomen are male, and a subset of men, and that transmen are female, and a subset of women.

Service providers legitimately utilising the single sex provision should be made aware of this and feel confident to fully enforce the provisions with

regard to those claiming a “trans” identity, regardless of the presence or absence of a GRC/falsification of information on the birth certificate.

Does the Equality Act adequately protect trans people? If not, what reforms, if any, are needed

- What issues do trans people have in accessing support services, including health and social care services, domestic violence and sexual violence services?
- Are legal reforms needed to better support the rights of gender-fluid and non-binary people? If so, how?

How do you introduce legislation pertaining to “gender fluidity/nonbinary gender” if you’re not even clear on what “gender” is? Is it the same as “sex”, as suggested by e.g. the wording of the PC Gender Reassignment? – in which case it’s decided at conception and immutable throughout life; or is it the cultural stereotypes and expectations? – in which case, we’re all “gender fluid/non-binary!!

The law would be wading even further into a morass of sexism, sloppy thinking and “progressive” lip service. Don’t do it!

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