

## Written evidence submitted by Marion Scott [GRA1673]

I am in my 60s living in London. I am a Samaritan and an unpaid carer. I also care about improving the lives of women and girls, including lesbians.

I have worked to promote equality, participation and learning in the public and voluntary sectors for forty years: as a teacher, a respite care organiser, a women's equality advisor and an independent consultant and interim manager across a number of domains such as local government, EU projects, Sure Start, women in STEM, women's health and equality policy, digital access, evaluation and research.

I am contributing so 1) women and girls can be protected and have their sex based rights strengthened 2) the good practice developed over three decades in the equalities field can be rescued.

Gender ideology both denies the significance of material, biological sex and says sex can be changed. It postulates a feeling of having a 'gender identity'. These misinformed ideas have been widely taken up often in contravention to safeguarding and equality law. Debate has been stifled, women have lost their livelihoods and been threatened with violence for holding science-based views. Women's sex based rights and children's safety and rights have been badly affected. The government and the leadership of all parties must act.

### 1. "Kinder and more straightforward"

- The law can't be based on the process being "kinder". What courses of action do we have to take to be kind? How to be kind varies, and interests clash: we must talk about competing interests.
- Sex is binary but even to say this is called unkind.
- Feeling warm and fuzzy *aka kindly* does not translate into concrete laws and policy. More [here](#).

### 2. Fees and finance

- If £140 is too expensive, should the cost of other official documentation come down? LPAs, duplicate birth certificates, passports etc?

### 3. Gender dysphoria diagnosis for a GRC

**"Gender dysphoria" as currently understood ought to be a minimum requirement for a certificate.**

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- There should be criteria to change your legal sex (troubling enough to me). You are not in truth changing your biological sex: this is impossible.
- Without a diagnosis to change your sex on your birth certificate, the government would be “coding” gender ideology into British law. The law would be saying a man is a woman if he says he is; permitting the (disputed) concept of “gender identity” to override biological sex. This is wrong.
- Living in your “acquired gender” is not enough to be granted a GRC. First, it depends on a backward looking ideology that the only way to be a boy or a girl, a man or a woman, is to live according to prescribed gender roles. Secondly, it is not so well known, but many trans identifying men retain functioning male bodies and yet want to pass as women. Transwomen are not women.
- It does not make sense to say you are changing gender either. Sex and gender are different. The law as it stands is poorly drafted with confusing connotations.
- To me it is problematic that regardless of a GRC it is possible to “self identify” and pass as a biological woman through the acquisition of various documents and changes (like name by deed poll). There are descriptions of the de facto existence of self ID in the earliest published responses to this consultation.
- Having men pass as biological women can fundamentally undermine the sex based rights of women and the rights of lesbians. Our rights need protecting.
- Gender ideology has already eroded girls’/women’s safety because boys/men now access female-only spaces without their consent. Lesbians are expected to treat trans identified men as women and accept them as sexual partners.
- “Living as a girl/woman” should not include access to areas separated on the basis of biological sex. The committee and the government must be informed by research on this and matters of safeguarding. See [Safe Schools Alliance](#), [Transgender Trend](#) and [Fair Play for Women](#) and [LGBAlliance](#).

### **4. Maintain these time requirements.**

Two years minimum.

### **5. Statutory declaration**

No comment.

## 6. Spousal consent and spousal rights

### Retain spousal consent.

- Spousal consent is relevant to [‘transwidows’](#). They argue that **the law as it stands offers them needed protection and should not be changed**. Note that if consent is not given, it is still possible for the trans identifying spouse to get an interim gender recognition certificate.
- Transwidows prefer the expression “spousal exit clause”. The clause assists wives who do not want to be in a marriage, which has altered to become a “same sex marriage” that they did not choose to enter into.
- Conversely the clause protects lesbians and gay men in same sex marriages from being forcibly made legally heterosexual.
- It also offers a legal pathway to annulment which assists women whose cultures or religions do not permit divorce.
- Transwidows report evidence of a pattern of coercive control and abuse from their trans identified husbands.

## 7. Lower the age limit to 16?

### No change or raise higher than 18. We do not become fully developed till 25. Safeguard children and young adults.

- A lowering of the age would increase the numbers of people who regret transitioning, are left with lifelong consequences, and increase the difficulties faced by schools and colleges maintaining safe spaces for girls/women, and reinforce the “affirmation” approach which does not have a sound scientific evidence base.
- The GRC/GRA plays a key role in concretizing and normalising the mistaken notion that you can change sex, not just your legal sex, because you have been “born in the wrong body” (and have a “gender identity”).
- The government should not be encouraging young people to believe that biological sex has no significance, that changing sex is possible, medically unproblematic.
- Affirmation and validation appears to fast track impressionable young people to take the classic steps (social transitioning, medication, other mutilations, surgery).

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- There is also [evidence](#) of young people who might have come to realise they were gay or lesbian, now finding it more social acceptable or more likely that they are transgender.
- Irreversible, life changing interventions too young can trap them forever in “identities” formed in their teens.
- Research shows that negative emotional and psychological feelings which prompt this trans identification are often not alleviated by these interventions.

## 8. Impact of the proposed GRC application changes on all trans identifying people

- I worry a lot that more gender clinics are opening. We are as yet unclear about the adequacy of NHS services with respect to the hasty transitioning of trans identified people.
- This often leads to debilitating surgery, sterility, lifelong medication regimes and health complications, and irreversible change.
- Are we listening to the [detransitioners?](#)
  - the ethics and the efficacy of clinic practices with respect to lifelong irreversible medical interventions,
  - the relationship of trans identification to homophobia (in society, in parents and in young people themselves)
  - the basic principles of safeguarding.
- Without better protocols, young people, people with mental health conditions, people of all ages with autism, for example are in danger.
- We need to understand this social and medical phenomenon, through open discussion and the use of research.
- “Patient choice” is not facilitated by a failure to investigate all underlying issues relating to gender dysphoria or trans identification. **Watchful waiting should be the by-word** generally and in all clinics.

## 9. Other things to include

- All draft bills must be supported by a comprehensive, evidence-based **equality impact assessment** on all protected characteristics (where one of the 9

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characteristics is **sex**, not gender). All stakeholders must be engaged to get evidence of impact.

### 10. Scottish Bill

- The Scottish bill is in limbo until [after the 2021 election](#).
  - 17,000 responses were received to the second consultation; the government has/is contracting for an independent evaluation of the responses to be published before the election.
  - Scotland does not offer a model of any kind at the moment. Criticisms of the Scottish Bill are [here](#) and background from [MBM](#) and [here](#).
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## 1. Numbers of applicants for GRC and numbers of trans identifying people

**Just what are we counting? What will we be able to count?**

- The GRA and GRC was designed mainly for transsexuals (small number).
- Transgender groups have encouraged the very expansive "[trans umbrella](#)". (many versions): "*Anyone who challenges or crosses over their society's gender roles or expressions.*"
- It seems to include transsexuals, transvestites, cross dressers, drag, gender queers, agender, non binary and many, many others.
- The term [autogynephilia](#) has been used in relation to some of these groups.
- Some listed tend to reject being under the umbrella - some gender non conforming people and intersex people.
- The umbrella as described could perhaps include gender critical/feminists???? or lesbians???? as *they challenge gender roles in various ways...* The definitions are confusing.
- With very little constructive debate or leadership from key institutions and politicians, there is no consensus or clarity on definitions or their relevance
- [Research into the political erasure of sex](#). First topic - the census.

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- It might be easier and certainly a good idea to count and take action about all the [dead women](#) or calculate the rapid drop in female:male ratios in (parts of) certain countries because of [female foeticide](#). A truth of biological sex, the latter not “assigned at birth”.

## 2. Gender Recognition Act 2004 and the Equality Act 2010

- If we cannot define sex as biologically based, binary and immutable then it is difficult to ensure sex is a protected characteristic.
- Our society has become fractured by the “transgender trend”. The law cannot be sound without clarity and if confusions are enshrined in statutes.
- Sex is a protected characteristic in EA (2010): it protects women and girls’ rights as females (and men as males). Sex is not gender. Gender is not a protected characteristic. Gender Reassignment is. There is much misinformation and confusion about this, supported by a silencing of women’s and some men’s voices.
- Trans rights are protected by the characteristic of gender reassignment in the EA2010 and this is not under review.
- But the wording of the Gender Recognition Act is confusing as a Gender Recognition Certificate gives the right to change the sex on your birth certificate, not your “gender”.
- The EA 2010 says: "A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex”.
- It is sex rights which are threatened by the interplay of the badly worded GRA, and the Equality Act.
- We need much more clarity from government ministers, from equality regulation and development bodies and from the law and policies of the UK about the operation of sex based rights and the single-sex exceptions
- These threats to women’s rights need to be investigated and responded to by legal experts, academics and in consultation with interested those who will be affected by the law on [sex based rights](#). There is more discussion [here](#) and [here](#). Guidance from the EHRC should be consistent with the law.
- For example, “...[clear guidance](#) is needed from the EHRC so that schools feel confident in providing lawful separate sex facilities, protecting girls’ sports, teaching biological facts, resisting the corruption of language and protecting pupils’ rights to freedom of speech and belief. The Gender Recognition Act

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should not weaken the Equality Act protected characteristic 'sex' and it is up to the government to ensure that it doesn't.

- The same principles should apply to guidance to courts, other public authorities and in the media.
- Equality impact assessments should be undertaken to protect sex (based rights) along with other protected characteristics. [Further evidence](#) of inadequate equality impact assessment is emerging in the context of setting up services for trans identified people.
- But as one lawyer has put it: a proper understanding of the way the law works recognises that a [conflict between sex and gender reassignment is inevitable](#). The mere existence of the EA2010 does not avoid this. Adverse effects must be examined in pursuit of balancing competing needs.
- We cannot avoid debate.

### 3 Single-sex and separate-sex spaces

- It is important that the Equality Act 2010 “allows service providers to restrict access to single sex spaces on the basis of biological sex if there is a clear justification”. Liz Truss 22/09/20. Government Statement.
- She also said the operation of single-sex spaces and services do not need individual-by-individual assessment. Critically this takes some pressure off services for women and girls, especially in the voluntary sector.
- The law, the guidance and the supporting institutions must agree and properly understand the need for and the reasons behind single sex places and single sex exemptions.
- Furthermore, [“Birth sex should never be confidential when a male-born person is attempting to access a female-only space.”](#) Sex is a protected characteristic in the EA 2010 and sex is defined by biology.
- Asking questions about the law as it [protects women's sex based rights](#), or asserting the biological basis of sex cannot be defined as transphobia.
- Organisations like safe schools [Fairplay for Women](#), the [Women's Place UK](#), the [Lesbian, Gay and Bisexual Alliance](#), [FOVAS](#) (Female-Only, Violence and Abuse Survivors) and [Transgender Trend](#) have shown that many girls and women are being obstructed from accessing services and support they need by the “ignorance or intransigence of organisations which need to know the law better”.
- Misrepresentation of the law by [lobby groups](#), the media and by leading institutions and even the [EHRC](#), has already led to males in girls' schools, toilets, changing-rooms, women's refuges, rape counselling services, prisons and sport.

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This is having a damaging impact on the rights and freedoms of women and girls (rights to privacy, safety, dignity, equality and much more).

- **Sex matters:**
  - Sex matters, for instance in [sport](#) where trans identified males have a competitive advantage, regardless of interventions/medication/surgery.
  - Sex matters in [prison where](#) male bodied transgender prisoners have been or could be a risk to women.
  - Sex matters when women have [experienced male](#) violence. [Survivors of abuse are very angry](#) about the misrepresentation of their experience. Those two links provided detailed and powerful evidence. They say:
    - “For some of us our lives depend on having access to these female-only spaces. We feel ignored and silenced as survivors and that no account is being taken of this extra burden of speaking out as survivors of such sexual violence and abuse in addition to the burden on us as survivors when we can no longer rely on a fundamental principle of female-only rape crisis services for women & girls (female). This is supported by a recent development in Scotland where 71% of women said they did not want trans identified males in their spaces.”
- To uphold international best practice standards, **‘safe spaces’ for women and girls are to be understood “not just as spaces that are safe from male violence, but which are also spaces where women are safe from distress, trauma and re-traumatisation, as well as from the fear of male violence – i.e. where women and girls are also psychologically and emotionally safe”**. DfiD, the World Health Organisation (WHO), and UN agencies such as the United Nations Population Fund (UNFPA)

## 4. Equality Act and the protection of trans identifying people

The Equality Act includes protection.

## 5. Trans identifying people and support services

- Trans identifying people as anyone else should be able to access services like health and care, which meet their reasonable needs.
- The adaptation and delivery of services needs a sound basis. The definition of who is trans and what support services might mean for them and others needs

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discussion and resolution, especially where there are conflicts of interest with other groups, using the law if necessary.

- [Further evidence](#) of poor equality impact assessments affecting other groups is emerging in relation to services for trans identified people.
- The rights of others, for example, women, girls, lesbians, or gay men should not be overridden by lobby groups and their ideologically biased materials.
- For example, a very troubling turn in education has finally been addressed by the [publication](#) of the government's sex and relationship guidance for use in schools.
- Examples of ideologically inappropriate teaching in and promotions to schools: [LBG Alliance](#) and exploration and information about young people and their experiences provided by [Transgender Trend](#) or [on this Filia podcast](#).
- Support services in relation to dysphoria and transitioning need to be based on [science](#) and not influenced by ideology or politics.
- "Transing" away lesbians is a very real phenomenon which has to stop. The linked report includes this [statement](#): *Same-sex attraction was particularly common among natal females, with only 8.5% of those referred to the GIDS describing themselves as primarily attracted to boys. This raises important questions about current societal acceptance of young lesbians even within youth LGBTQ+ culture. It is possible that at least some gender-non-conforming girls come to believe themselves boys or 'trans masculine non-binary' as more acceptable or comfortable explanations for same-sex sexual attraction,<sup>35</sup> a kind of 'internalised homophobia'.*

## 6. Are legal reforms needed for "gender-fluid" and "non-binary" people?

- Retain clear protection for **Sex** in the law and in the relevant [public policy](#).
- Collect data on sex, for example, in the census
- I agree with [Women's Place UK](#):

"The primary marker should be sex. Sex data must continue to be collected to enable the proper provision of adequately funded services to meet the material needs of the population; to monitor sex discrimination and to enable the development of policy to address inequality.

Any question on identifying as non binary must exist as an additional question to the one about sex. To do otherwise would seriously inhibit the government in its executive obligations and duties."

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- “Gender Identity” is not a protected characteristic under the Equality Act, nor a concept that has ever been defined in law. I do not think there is a good case for it to become a protected characteristic.
- To make changes we would need to know what “being” non binary or gender fluid mean in practical and real terms. I would want to know how any reforms impacted on the sex based rights of women. Legal reforms cannot depend on ill defined terms and the law cannot be built where key questions are excluded from scrutiny.
- It is very hard to see how the law should incorporate the extremely wide ever changing range of individual conceptualisations of genders - perhaps they could be more relevantly incorporated under the characteristic **religion or belief**?

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