Written evidence submitted by Ms Sweeting [GRA1677]

I am responding as a female private citizen, who is also a solicitor of two decades' standing.

I am concerned about the growing encroachment on women's facilities and services, as well as the language that is used about and for women in the current political climate whereby women are being harassed and abused for wishing to maintain access to female-only spaces, services and sports.

The inclusion by lobby groups like Stonewall of a wider definition of the 'trans umbrella' to include not just transsexuals (those with gender dysphoria, often undertaking full medical transition) but also "transvestites, cross-dressers, non-binary, genderfluid, drag queens" and many other genders, has drastically changed the dynamic of the conversation around women's facilities and services, even to the extent of demands that the protected characteristic of Sex be replaced by Gender, which would remove the protection of the female sex against discrimination at a stroke. Whilst this has been set aside for now, any loosening of definitions or protections for women under EA2010 could easily have the same effect.

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

I do not consider that the diagnosis of gender dysphoria should be removed. Allowing a person to change a fundamental aspect of a document of record should be a safeguarded process.

Historically, provision was made for gender recognition to enable:

(A) privacy for those who undertook gender reassignment (then normally surgery and hormones) when asked to prove identity; and

(B) same-sex couples to marry through a legal fiction that one person was the opposite sex.

We now have same-sex marriage, as well as civil partnership, so this second limb (B) is no longer relevant.

Trans people are able to change their passports and driving licences, as well as other ID documents without having a GRC. Rarely are people required to present a birth certificate, so I do not consider (A) [privacy] is much of an issue nowadays.

However, having a GRC enables a trans person to be legally recognised as the opposite sex and this is where the safeguarding element really kicks in. Currently, a trans person without a GRC is legally their actual sex and the provisions under EA2010 for the protected category of Sex apply to them as their actual sex. A trans person with a GRC is legally recognised as the opposite sex (their reassigned gender) with exceptions as set out in the Act.

Without a diagnosis of gender dysphoria, any man could apply for a GRC and there would be no safeguards that he has a genuine need to do so. I see no legitimate reason to allow a man to self-identify into one half of a protected characteristic that he objectively is not qualified for.

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

Again, as a matter of safeguarding, I do not consider there is sound reasoning for making this process easier. Long-term commitment to the process should be evidenced. Sex is a protected characteristic, and is such because it is recognised that there is well-evidenced discrimination on the grounds of sex, mainly in favour of men and to the detriment of women. Processes are put in place to attempt to redress imbalances, such as single-sex spaces, services, sports and opportunities.

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 is a tendency to conflate sex and gender which leads to (sometimes deliberate) misreading of the provisions.

There is a marked tendency for lobby groups to claim that EA2010 gives gender recognition rights, which is not the case. EA2010 is the Act that gives protections from discrimination, as well as outlining the exemptions when discrimination is not unlawful. I consider this should be made clear that it is only GRA04 that changes a person sex for legal purposes.

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?

It has become increasingly obvious that the exemptions for the provision of single-sex spaces and facilities are not being used or correctly implemented by

businesses, government departments, charities, political parties, schools and higher education institutions and sports. This has arisen due to diversity training downplaying the importance of the exemptions and/or advising that the bar for implementation is extremely high, when, in fact, it was always intended to be straightforward.

Examples:

We have seen that patients expecting same-sex wards or disabled women asking for same-sex intimate care being told they are bigoted/transphobic or that this conflicts with the needs of trans employees. I suggest that trans employees' subjective identity should not be placed above patients' care requirements.

Convicted male sex offenders have been placed in the women's prison estate (which I consider a human rights abuse) and have sexually assaulted female prisoners.

Places on All-Women Shortlists, specifically permitted by EA2010, have been given to transwomen (with or without a GRC) thereby defeating the purpose of the redressing the imbalance of sexes in political representation. I am not saying transwomen should not be on shortlists; I am saying they should not be on AWSL as this defeats the exemption used for the purpose of increasing female representation.

There is a lot of coverage concerning the ongoing attempts for transwomen to be included in female-only sport. World Rugby's extensive consultation on this issue demonstrates that doing so is inimical to female safety and fairness. Single-sex sports are specifically provided for in EA2010 and yet this is constantly being pushed against.

Single-sex facilities such as shelters, hostels, wards, public toilets, changing rooms, prisons, rape counselling, etc., are all permitted by EA2010 in recognition that safety, dignity and privacy is important when women are vulnerable, but providers are being advised by Stonewall and Gendered Intelligence, etc., that transwomen (with or without a GRC, most of whom have not had GRS/hormones) cannot be excluded when this is simply untrue.

Guidance should be reviewed to ensure that providers understand that single-sex facilities are lawful in most instances and **that gender presentation/expression should not override Sex as a protected category**.

I do not believe it is outside our society's capabilities to ensure single-sex facilities are respected whilst introducing additional spaces/facilities, where required.

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