

Written evidence submitted by Hana Johannson [GRA1891]

As a gender-non-conforming person who recognises the rights of every citizen to have both rights afforded with respect to their sex as well as their right to an identity outside of that sex, I remain disappointed with the current approach of the government to establish those rights in harmony with one another.

When the original Act was developed it was assumed a tiny amount of people would ever need to use it, thus the decision to make it possible to change a person's sex in law was a sensible way to overcome certain legal challenges. One of the core reasons the act was needed was due to a lack of same-sex marriage rights. Since same-sex marriage rights now exist and approaches to gender identity today are more broad, fluid and understood as not connected to sex, the ability to change one's legal sex no longer fulfils the same purpose it did in 2004. Further, the GRA's purpose in granting the ability to change the facts of one's birth on what is expected to be an original document is the root cause of the conflicting rights and interests in this area of law. It would surely make more legal and practical sense to issue a 'change of gender' document that operates on the same basis as a change of name does. In the rare instances where a person's sex must be disclosed rather than their identity according to gender, these two documents could be supplied together. In all other instances the ability to supply ID in the form of a passport or drivers licence (that do not include birth sex) would be adequate. Otherwise the EA2010 and an updated GRA will forever remain in conflict. The ability to amend a person's sex including on their birth certificate prevents workable exemptions in the cases of single-sex services such as rape crisis centres, prisons, domestic violence shelters, intimate personal care provision, sports and many other areas. To further compound the issue, expanding fluidity in the understanding of gender means that many now feel that medicalisation is not only unnecessary, but against their fundamental right as a requirement to identify as they see themselves. Whilst this is an improvement in freedom of expression, it also means that there many more people who are visibly observable as their sex, whilst claiming the legal right to access spaces that fundamentally exist to exclude members of their sex in order to fulfil human rights obligations to others. Even if wording is strengthened in guidance on the Equality Act to set out exemptions, there will remain no way to prove that person is the sex they are visibly observable as. This is in conflict with the rights of all citizens to access single-sex provisions in matters where it is legally and personally appropriate. Further, in matters such as sport where a person's male sex may grant them the ability to set records that members of female sex can never achieve, discrimination on the basis of sex has occurred and can exist for many years even in the event that the other competitors are not aware of the person's sex. A female competitor who may have overcome the previous female record would not have that achievement recognised if a male person has set a record that is physically impossible for them to meet. Further, unjust exposure to injuries can occur to female competitors who might never have consented to such a risk had they been made aware. In all these instances, a person who believes they have a right to privacy of their sex can circumvent the human rights of others to safety, achievement, reward, and consent through the ability to produce an original document in a new sex. There are many more ways that the ability to re-issue a birth certificate in a new sex infringes the rights of others, and as with the situations outlined above, we have already seen such examples take place.

It is wonderful that we now have more acceptance of other people's experiences with sex, expectations and roles of sex, and personal experiences of gender identity. It is also important to note that there are people who do not see themselves as fitting not only with traditional ideas of gender, but also with some contemporary ideas of gender, including feminists,

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lesbian, gay and trans identified people as well as those who have a personal experience of having had a transgender status that they no longer identify with.

Given the impossibility of meeting the needs of all those people simultaneously as both the requirement to uphold a single-sex exemption and also allow members of the opposite sex into that definition are in conflict, we have seen providers attempt to avoid the problem altogether. This has brought a new array of issues and pressures. Many are now moving away from single sex spaces in the false view that they are no longer needed, 'old fashioned', and perhaps even discriminatory. In particular, this is a major setback for women's participation in all areas of society. I and many other female people I know, including other gender-non-conforming female people are now self-excluding from public spaces and discussions where this is likely to be an issue. Since even speaking out about a need for lawful single-sex provision is guaranteed to bring abuse as well as attempts at personal and professional annihilation, this has a chilling effect on women's participation in law, politics and even engagement within professional and local communities.

The only way to ensure that women's rights and progress are not set back for the foreseeable future is to first of all demonstrate a clear commitment to upholding a legal definition of sex and sex-based rights. In order for this to be clear and workable, gender and gender identity must also be clearly defined – and defined as being a separate legal and social definitions. It must be made clear that privacy of sex is not a legal right, since otherwise discrimination on the basis of sex cannot be proven, single-sex spaces cannot be physically workable, and individual's rights to speak the truth as they experienced it would be made illegal (such as in the case of a victim of male violence by a person with a different gender identity to their male sex).

I urge that time is taken to properly investigate the mechanism by which public institutions became misinformed about the right to single-sex spaces, including the lawful right to exclude those whose claim to the space is by gender identity rather than sex. This should be immediately rectified in places women's safety is at risk such as in prisons and domestic violence shelters. Once the human rights of those women to safety, privacy and consent have been re-instated, this needs to be clarified more widely. It will follow that public services and spaces must then make commitments to reimagine and restructure spaces currently designated by sex in a way that meets the requirements of all citizens. This would likely be by moving toward more individually structured spaces and services. Public money should be made available to businesses for this purpose also, with guidance on best practice issued in conjunction. This will avoid the problems mentioned above where services have simply made their spaces mixed-sex or converted spaces to single use in a way that does not meet the additional privacy and safety measures needed when these are set within a communal area.

In conclusion, if we are to work toward a truly open and just society, we must first re-establish the need and lawfulness of single-sex spaces and exclusions to their use. We must immediately rectify an unsafe, unjust and inhumane situation that has occurred as a result of a mishandling of guidance around these laws in spaces such as prisons and shelters. Lastly, we need to work toward making all experiences of gender safe and respected within society by moving away from a framework that seeks to circumvent these problems by amending records of sex on original documents. Instead, we should engage in practices that both recognise and help expand upon the social cohesion that is already present and growing for those who have different experiences of gender unrelated to their sex. To accommodate this, we need to support businesses with guidance and financial assistance to make spaces

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individual and secure. This way every citizen has their needs, rights and dignity under law met.

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