

Reform of the Gender Recognition Act: Corrections to Oral Evidence

Dr Ruth Pearce

I am writing to highlight some inaccuracies in oral evidence presented to the Women and Equality Committee's hearings of 9 December 2020. It is crucial that Committee members understand that some of what was said was demonstrably untrue.

With regards to the first hearing, I agreed with Professor Stephen Whittle's substantive point regarding the long time for initial appointments at Gender Dysphoria Clinics, far in excess of the NHS's 18 week target. However, the waiting lists haven't been that short for at least 3 years. I attach the latest published information in Appendix A. You can see from the table that the shortest waiting list is 23 months, and the longest is 60 months – substantially worse than the 10-18 month range quoted by Prof Whittle.

However, this detail is dwarfed by the sheer number of distortions and untruths aired in the second session, many of which were based on unevidenced assertions. It is crucial to the credibility of the Committee's report that members know the deceptions to which they have been subjected. In this document I explain some of the most egregious examples.

Criminality

In response to questions 38 and 39 Prof Freedman referenced "*a well-known Swedish study*" to imply that patterns of criminality are the same amongst trans women as they are amongst cis (non-trans) men. In her response to Q40 she alleged there were "*Swedish studies*" (plural). Additionally, Prof Stock referred to "*male patterns*" when talking about criminal behaviour in her answer to Q26.

I understand the "*Swedish study*" to be a single 2011 article published by Cecilia Dhejne and colleagues¹, in which the authors reported on mortality, suicidality, psychiatric care and conviction rates among individuals who transitioned in Sweden between 1973 and 2003. This study is widely but inaccurately cited by anti-trans groups on social media as evidence that trans women retain "*male patterns*" of criminality, an error repeated by Profs Freedman and Stock.

Dhejne herself rejected this interpretation explicitly in an interview with Cristan Williams of TransAdvocate in November 2015². I attach the full relevant extract in Appendix B. A key point she makes is the study is "*certainly not saying that we found that trans women were a rape risk*" to cis women. Additionally, the study was not focused on investigating criminal behaviour, was drawn from a small cohort in one country, and only indicated a statistically significant increased risk of conviction for trans people who '*underwent sex reassignment before 1989*':³ a time when fewer opportunities and resources were available to trans people in Sweden, which may have resulted in increased criminalisation in a similar manner to other stigmatised groups. The authors therefore conclude that the best outcomes occur when individuals also receive long-term health and social care support in addition to any hormone therapy or surgery that they might require.

¹ Dhejne C, Lichtenstein P, Boman M, Johansson ALV, Långström N, Landén M (2011) Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden. *PLoS ONE* 6(2): e16885. <https://doi.org/10.1371/journal.pone.0016885>.

² https://www.transadvocate.com/fact-check-study-shows-transition-makes-trans-people-suicidal_n_15483.htm

³ Dhejne et al. (2011) p.6.

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In response to Q20 Prof Sullivan referenced the Maria Maclachlan case⁴, in which a trans person, Tara Wolf, was convicted of assault and ordered to pay a fine. The judge in that case noted that Wolf had been provoked but argued her reaction was disproportionate.⁵ Wolf declined the option to launch a counter-case as offered by the police.

Importantly, the conviction of an individual trans person does not constitute evidence for a wider social trend. What quantitative research has shown is that trans people and especially trans women experience a disproportionate risk of *experiencing* violence when compared to the wider population, including sexual violence and domestic abuse.⁶

Media Coverage

In her response to Q30 Prof Freedman alleged that “*the BBC is very much captured by the trans voices.*” In the DCMS Select Committee John Nicolson MP has been asking questions of both the BBC⁷ and Ofcom⁸ regarding the BBC’s recent coverage of trans issues. I attach the relevant extracts from the transcripts as Appendix C.

In correspondence with Trans Media Watch, I have been informed that the organisation has noted that the BBC tends to include comments from people opposed to trans inclusion in articles where trans people are supported, but does not tend to include trans people voices at all in stories where the focus is on challenges to trans equality; this reflects my own informal observation. In respect to the DCMS Select Committee hearings, I note that the BBC Director General preferred to talk about Black Lives Matter in a question relating to trans issues, and the Chief Executive of Ofcom understood the BBC’s approach in this area was “extremely inappropriate” but had done little about it.

More recent examples can also be seen in the wake of the oral evidence session. On 21 December 2020 JK Rowling was shortlisted for a “Russell Prize” in an article by Amol Rajan, media editor of BBC News, for her June 2020 essay on why she opposed reform to Gender Recognition Act.⁹ Rowling’s essay relies on extensive transphobic rhetoric, plus numerous unevicenced and/or inaccurate assertions, and has therefore been extensively rebutted, refuted, and corrected by scholars, journalists, and human rights advocates.¹⁰ However, these responses were ignored in Rajan’s article.

On 22 December 2020 the BBC published a piece on the impact that a recent High Court ruling on puberty blockers has had on trans children and their families,¹¹ including a statement from a clinician at the GIDS clinic who referenced suicides amongst the service users. This is the first BBC piece for many months that does not seek to “balance” statements from trans people and/or medical practitioners with anti-trans voices. However, following complaints about the piece from anti-trans campaigners, the BBC removed the piece from the

⁴ <https://committees.parliament.uk/oralevidence/1393/html/> - Q20

⁵ <https://www.standard.co.uk/news/crime/transgender-activist-tara-wolf-fined-ps150-for-assaulting-exclusionary-radical-feminist-in-hyde-park-a3813856.html>

⁶ Bachmann CL and Gooch B (2018) *LGBT In Britain: Trans Report*. London: Stonewall. Available at: https://www.stonewall.org.uk/system/files/lgbt_in_britain_-_trans_report_final.pdf; Bradley C (2020) *Transphobic Hate Crime Report 2020: The scale and impact of transphobic violence, abuse and prejudice*. London: GALOP. Available at: <http://www.galop.org.uk/transphobic-hate-crime-report-2020/>; nfpSynergy (2018) *Supporting trans women in domestic and sexual violence services: Interviews with professionals in the sector*. London: Stonewall. Available at: https://www.stonewall.org.uk/system/files/stonewall_and_nfpsynergy_report.pdf.

⁷ <https://committees.parliament.uk/oralevidence/955/html/> - Q245

⁸ <https://committees.parliament.uk/oralevidence/1419/html/> - Q666, then Q671 onwards

⁹ <https://www.bbc.co.uk/news/entertainment-arts-55350905>

¹⁰ Several such responses are summarised in an article for *Forbes* by Dawn Ennis: <https://www.forbes.com/sites/dawnstaceyennis/2020/06/11/this-is-the-sequel-jk-rowling-doesnt-want-you-to-read/?sh=634e9ac95165>.

¹¹ <https://www.bbc.co.uk/news/education-55369784>

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website indexes after a mere two hours. Whilst the piece is still on the BBC's website, it is not possible to find unless you know it is there.

Given this evidence I think anyone would struggle to justify the claim that the BBC has been "very much captured by the trans voices." In fact, I would strongly assert the opposite.

GRA Reform Consultation Process

In response to Q29, Prof Stock claimed that trans people and their supporters had flooded the UK Government's 2018 GRA consultation process, and that "*Whoever has to analyse that data at some point, if anyone does, will also have to work out how many of those responses were genuine responses from individuals writing their thoughts out and how many were using this system, gaming the system [to] skew the data*".

The existence and impact of various campaigns to encourage people to respond to the consultation was in fact explicitly factored into the analysis of the consultation report published by the Government Equality Office in September 2020. One has to question why trans people should be criticised for responding to a consultation about a change in the law that directly affects them.

LGBT and trans organisations that provided guidance to supporters for completing the consultation included Stonewall, LGBT Foundation, Mermaids, and Gendered Intelligence. Consultation guides were also provided by feminist organisations such as Level Up, representative organisations such as the National Union of Students, and human rights groups such as Amnesty International. I was also personally named as the source of one of the most impactful "campaigns" co-ordinated in response to the consultation.¹² All of these campaigns encouraged people to tell their own stories of how the proposed changes to the legislation would impact them personally.

One group which did provide pre-determined answers was anti-trans campaign group Fair Play for Women. According to the Government Equality Office, this group provided a simple web-based form which allowed people to enter an email address, then would automatically submit pre-written answers to the consultation, without providing information on the background or context to the questions, or an opportunity for users to provide their own answers. Approximately 18,000 people took advantage of this.¹³ Therefore, contrary to the assertions made by Prof Stock, distortions appeared to come from anti-trans campaigns, rather than organisations or individuals who advocate for trans equality (see also Appendix D).

The press bias during the consultation period was staggering. In private correspondence, I have been informed by Trans Media Watch that an unpublished analysis of media stories on self-declaration indicates that there were approximately twice as many articles published opposing reform as those that supported it. However, when readership and circulation is factored in, that imbalance shifts to approximately 10 to 1 against. Several newspapers and magazines provided advice to their readership on how to respond to the inquiry to oppose reforms, most notably the *Sunday Times*, the *Guardian*, and the *Spectator*. The latter publication, which has which has an especially long history of publishing anti-trans diatribes, ensured that almost every webpage the *Spectator* published included links to their advice for the duration of the consultation by publishing numerous new pieces on trans issues. Trans people had nothing compared to the reach of national media in this regard.

Sex Segregation

¹² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919890/Analysis_of_responses_Gender_Recognition_Act.pdf

¹³ As above.

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In response to Q35, Prof Stock argued that “*With respect to single-sex spaces, I have never understood why trans activist organisations could not go for third spaces. Why could they not put their considerable power behind the case for third spaces in addition to single-sex spaces?*” This repeats the call that Ruth Serwotka of A Woman’s Place UK made on BBC 2’s Newsnight in October 2018. In reality, numerous trans and LGBT organisations have campaigned for the provision of all-gender facilities (such as public toilets) *alongside* single-sex spaces, and faced substantial opposition in doing so.¹⁴ However, such spaces do not and should not constitute a form of sex segregation for trans women and men, especially in the absence of any substantive evidence of systemic threat from trans people. The ideal situation is to expand the provision of public facilities and services for all people who have experienced sexual abuse or violence, while including trans women and men in single-sex spaces appropriate to their lived sex in line with best practice developed by professionals with expertise in this area.

Not once did Stock, Freedman or Sullivan describe how any proposal to exclude trans women from appropriate single-sex space would be implemented in practice. Further legal restrictions on access to single sex spaces would require a means of policing. Presumably this would require some form of ID check based on genital identification or a chromosome test. Given that their concerns all appear to address women’s single-sex spaces, this would disproportionately impact all women and girls, who would all require this new form of ID, while leaving men untouched by the proposals. Any such system would also leave trans men at liberty to use women’s single sex spaces while attempting to exclude trans women.

We have an example of what a practical alternative to self-declaration in single-sex spaces looks like in the US state of North Carolina. In 2016 the state implemented a so-called “bathroom bill” which required all public conveniences to be separated by “biological sex”. Both trans and non-trans women reported experiencing violence and harassment in public toilets as a direct result of the law. Some women reported losing their livelihoods after refusing to use the male toilets. According to an Associated Press analysis, the law cost the state \$3.8 billion in lost business due to opposition to the law from major companies such as PayPal, Deutsche Bank, and Adidas, as well as popular performers such as Bruce Springsteen and Ringo Starr.¹⁵

¹⁴ Colliver B, Coyle A, and Silvestri M (2019) The ‘online othering’ of transgender people in relation to ‘gender neutral toilets’. In: K Lumsden, E Harmer (eds) *Online Othering*. London: Palgrave Macmillan; Jones C and Slater J (2020) The toilet debate: Stalling trans possibilities and defending ‘women’s protected spaces’. *The Sociological Review* 68(4): 834-851.

¹⁵ <https://apnews.com/article/e6c7a15d2e16452c8dcbc2756fd67b44>

Appendix A – NHS Clinic Waiting Times

All the NHS gender identity clinics/services in the UK were asked for their waiting times on 1 July 2020, and a number of clinics provided updated waiting times as of 1 November.

Clinic	Age	Waiting Time	Date Last Updated
Brackenburn Clinic, Belfast	18 and over	n/a	
Welsh Gender Service, Cardiff	18 and over	>30 months	July 2020
Grampian GIC, Aberdeen	18 and over	n/a	
Inverness GIS, Inverness	18 and over	n/a	
Chalmers GIC, Edinburgh	18 and over	>23 months	July 2020
Sandyford GIS, Glasgow	18 and over	>31 months	July 2020
Sandyford GIS, Glasgow	Under 18s	>29 months	July 2020
West of England Specialised GIS, Exeter	18 and over	>60 months	July 2020
Porterbrook GIS, Sheffield	18 and over	>30 months	July 2020
Nottinghamshire Centre for Transgender Health, Nottingham	18 and over	>36 months	November 2020
Northern Region Gender Service, Newcastle	18 and over	26 months	November 2020
Northamptonshire GIC, Daventry	18 and over	>43 months	July 2020
Leeds & York Partnership GIS, Leeds	18 and over	>30 months	November 2020
Tavistock & Portman GIC, London	18 and over	>32 months	July 2020
Tavistock & Portman GIDS, London	Under 18s	>27 months	July 2020

Table derived by Trans Health UK – transhealthuk.noblogs.org/covid-19-gender-identity-clinics/

Appendix B – Patterns of Criminality

The “Swedish study” that I suspect the Committee will be presented with will centre around the following paragraph from the 2011 article “Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery” by Dhejne and colleagues:

“Second, regarding any crime, male-to-females had a significantly increased risk for crime compared to female controls (aHR 6.6; 95% CI 4.1–10.8) but not compared to males (aHR 0.8; 95% CI 0.5–1.2). This indicates that they retained a male pattern regarding criminality. The same was true regarding violent crime. By contrast, female-to-males had higher crime rates than female controls (aHR 4.1; 95% CI 2.5–6.9) but did not differ from male controls. This indicates a shift to a male pattern regarding criminality and that sex reassignment is coupled to increased crime rate in female-to-males. The same was true regarding violent crime.”

This raw statistic is based on 191 individuals who transitioned between 1973 and 2003. Dhejne then further divides this cohort into those who transitioned between 1973 and 1988, and those who transitioned between 1989 and 2003, and finds no statistical difference in conviction rates (rather than criminal behaviour) using the raw statistics between the later transitioners and cis women.

In her interview with TransAdvocate, Cecilia Dhejne said,

“The individual [...] who is making claims about trans criminality, specifically rape likelihood, is misrepresenting the study findings. The study as a whole covers the period between 1973 and 2003. If one divides the cohort into two groups, 1973 to 1988 and 1989 to 2003, one observes that for the latter group (1989 – 2003), differences in mortality, suicide attempts, and crime disappear. This means that for the 1989 to 2003 group, we did not find a male pattern of criminality.

“As to the criminality metric itself, we were measuring and comparing the total number of convictions, not conviction type. We were not saying that cisgender males are convicted of crimes associated with marginalization and poverty. We didn’t control for that and we were certainly not saying that we found that trans women were a rape risk. What we were saying was that for the 1973 to 1988 cohort group and the cisgender male group, both experienced similar rates of convictions. As I said, this pattern is not observed in the 1989 to 2003 cohort group.

“The difference we observed between the 1989 to 2003 cohort and the control group is that the trans cohort group accessed more mental health care, which is appropriate given the level of ongoing discrimination the group faces. What the data tells us is that things are getting measurably better and the issues we found affecting the 1973 to 1988 cohort group likely reflects a time when trans health and psychological care was less effective and social stigma was far worse.”

The quote further reveals that Dhejne and colleagues did not correct for socio-economic status in their statistical analysis. Trans people across the world have been economically disadvantaged compared to the wider population (including in the UK, as evidence in the Government Equality Office’s *National LGBT Survey 2018*), which Dhejne herself acknowledges.

Finally with regards to this study, Dhejne and colleagues do not clearly define the term “male patterns of criminality”, but from context it is apparent that they are referring to conviction rates by population size rather than a subset of sex-based crimes.

In summary, the study was not focused on investigating criminal behaviour, had small cohorts, did not correct for all other relevant factors, and when the cohort was split further appears to come to the exact opposite conclusion from that claimed by Prof Freedman.

Appendix C – BBC’s Coverage of Trans Issues

From the DCMS Select Committee hearing of 29 September 2020:

John Nicolson: *“In June of this year an article was published on the BBC website by your LGBT correspondent, reporting that every UK political party had condemned the UK Government’s proposed lack of action on trans people. After that was written and published, it was later amended to include a balanced comment, not from the Secretary of State, but from somebody unrelated who appeared to oppose trans rights. This takes me back to the Sports Personality of the Year, where if you remember Tyson Fury, who said that he thought gay people should be shot dead, was allowed to remain on the shortlist. It was something I put to Tony Hall at one particular hearing. I could not imagine that somebody who said, ‘Let’s shoot dead Muslims’, or Jews or whatever, would be shortlisted for an award like that.*

“On the question of trans people, this hostile comment was included after the article had been written. I cannot imagine if you were running a story on Black Lives Matter that you would drop in a quote from somebody who was hostile to Black Lives Matter and the movement, or that if you were doing something on equality for women you would drop in a quote from somebody who thought that was intrinsically a bad idea.”

Tim Davie: *“I do not have the article in front of me, so it is very difficult to make a detailed editorial assessment. By the way, I think it is very interesting, the point you just made about Black Lives Matter, because I was very clear that racism is abhorrent and, absolutely, as the BBC we stand against it, we stand in support of our black colleagues. Those things are absolutely core to us.*

“This is difficult for us editorially. As editor-in-chief, I have to walk the line. It is interesting. On Black Lives Matter, clearly there is some debate around the political campaigning, the various elements of that, that I think is a legitimate debate. There is no endorsement there, there is no nothing.

“On the trans case, I do not know. Without that in front of me, I cannot get to that line, but all I would say —”

Chair: *“Thank you, Tim. I think we have that point. We are going to have to move on now.”*

From the DCMS Select Committee hearing of 15 December 2020:

John Nicolson: *“I notice that the BBC seems to be under the impression that it has to balance all its reports about trans issues now by calling in transphobic groups like the so-called LGB Alliance, to give a counter-argument. This is absurd because you would never do a report on racism, for example, and call in a racist organisation to say that they do not think black people have a right to equality. What can the BBC do to address this? Do you think it is buckling under a very well-funded, concerted campaign to attack trans people, which seems to have been given undue prominence recently?”*

Dame Melanie Dawes: *“I think it is a very good point, and a very good example of something that we have been talking to Stonewall about, about how the broadcasters can, when they feel they need to bring balance into a debate, do it in an appropriate way, rather than in the way that you just described, which can be extremely inappropriate.”*

This was later followed up by the Chair, Julian Knight MP:

Chair: *“In response to the question on the BBC’s reporting of so-called balance on trans issues, you said that could lead to something that is extremely inappropriate. What do you mean by that, and what will you actually do?”*

Dame Melanie Dawes: *"We have heard from those who are real experts in this field—and I have spoken to the chief executive of Stonewall about it myself—that, as Mr Nicolson was saying, there have been some occasions where we have been told, and I have not seen the programmes myself, in order to provide balance on trans issues people who are opposed to the issues, in principle, are seen as giving balance to that debate. As Mr Nicolson says, we would never accept people saying that racism is okay in a debate about race. It is about making sure we do that in an appropriate way, recognising that there are a lot of views around this —"*

Chair: *"Forgive me for cutting across you, Dame Melanie, but what are you actually doing about it? You say you are aware of the issue. Obviously, you have oversight of the BBC. What are you doing?"*

Dame Melanie Dawes: *"We are working with Stonewall and others — it is not just Stonewall — to make sure that we provide good advice on ways to get that debate balanced and rounded in a way that does not fall into the problems of —"*

Chair: *"Have you spoken to the BBC about it?"*

Dame Melanie Dawes: *"I have not spoken to the BBC about it but —"*

Chair: *"You have not done anything then. All you are doing, effectively —"*

Dame Melanie Dawes: *"— we are taking it forward as a piece of work following the conversation I had on this very topic a couple of months ago."*

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Appendix D – Responses to GRA Consultation

Prof Stock in answer to Q29:

“Many of the respondents were simply given the forms, filled out, and told how to fill them out, which skews the data. We saw it with the National Union of Students. We saw it with other activist and campaign groups telling their constituents how to fill it out and giving them a pre-filled out form. ‘Here is a copy and paste’.

“Whoever has to analyse that data at some point, if anyone does, will also have to work out how many of those responses were genuine responses from individuals writing their thoughts out and how many were using this system, gaming the system, to flood it in the hope that that would skew the data.”

From the Government’s analysis of the responses to the GRA reform consultation:

“36% of the responses were submitted through official government channels, 39% through an online form hosted by Stonewall, 7% through an online form hosted by Level Up, and 18% through a template provided by Fair Play for Women.”

“The largest three campaigns noted above used different approaches when co-ordinating responses to the consultation, resulting in large differences in response rates to each question (as visible in Annex B). Stonewall used an online questionnaire with accompanying guidance, which prioritised some questions by making them visible as standard, with others only visible through an expandable menu. Level Up also provided an online questionnaire, but with only a limited number of consultation questions, which had also been re-worded. Fair Play for Women offered respondents a template with prefilled answers to a limited number of questions. Where campaigns appear to have significantly influenced the overall distribution of responses to a question, this is noted in the report.”