

**IN THE COURT OF SESSION**

**Court Ref: P578/22**

**SECOND INVENTORY OF  
PRODUCTIONS FOR THE APPLICANT**

**SEX MATTERS LIMITED**, a company limited by guarantee, incorporated under the companies acts (company number 12974690) and having its registered office at 63-66 Hatton Garden, London EC1N 8LE

**INTERVENER**

in the reclaiming motion of the decision of the Lord Ordinary in the petition of

**FOR WOMEN SCOTLAND LIMITED**, a company incorporated under the Companies Act and registered in Scotland with Company number SC669393 and with registered offices at 5 South Charlotte Street, Edinburgh EH2 4AN

**PETITIONER AND RECLAIMER**

for

Judicial Review of the revised statutory guidance produced by the Scottish Ministers under Section 7 of the Gender Representation on Public Boards (Scotland) Act 2018

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- 3 Minutes from Hansard of the Eighth Delegated Legislation Committee on 27 March 2008 in relation to the Draft Sex Discrimination (Amendment of Legislation) Regulations 2008 <https://publications.parliament.uk/pa/cm200708/cmgeneral/deleg8/080327/80327s01.htm>
  - 4 Scottish Government's Code of Practice on the Exercise by Constables of Powers of Stop and Search of the Person in Scotland <https://www.gov.scot/publications/code-practice-exercise-constables-power-stop-search-person-scotland/documents>
  - 5 Ministry of Justice Tribunal Statistics Quarterly: January to March 2023 Gender Recognition Certificates published 8 June 2023
  - 6 The Mail Online, 2 June 2023 Nearly one Brit had surgery to change their gender every day between 2021/22 <https://www.dailymail.co.uk/health/article-12140429/Number-Brits-undergoing-gender-changing-ops-doubles-decade-fascinating-stats-reveal.html>

- 7 Daily Record, 4 February 2023 Female Prison Guards ordered to strip search dangerous trans Scots convict Tiffany Scott <https://www.dailyrecord.co.uk/news/scottish-news/female-prison-officers-ordered-strip-29129967>
- 8 BBC News Online 28 February 2023 Isla Bryson: transgender rapist jailed for eight years <https://www.bbc.co.uk/news/uk-scotland-64796926>
- 9 Sex Matters: Why single-sex services matter: privacy, dignity, safety and choice <https://sex-matters.org/wp-content/uploads/2022/07/Single-sex-services-30-minute-read.pdf>
- 10 Sex Matters: Lesbians without Liberty <https://sex-matters.org/posts/single-sex-services/lesbians-without-liberty-2/>
- 11 Sex Matters: 20 July 2022 If you can't say sex how can you say sexual harassment? <https://sex-matters.org/posts/single-sex-services/if-you-cant-say-sex-how-can-you-say-sexual-harassment/>
- 12 Sex Matters: 22 February 2023: Searching for a simple answer <https://sex-matters.org/posts/updates/searching-for-a-simple-answer/>
- 13 Maya Forstater, Trans healthcare professions and patient consent 16 September 2020 <https://a-question-of-consent.net/2020/09/16/doctors/>
- 14 The Sunday Times December 31 2017 The female nurse I asked for came with stubble <https://www.thetimes.co.uk/article/the-female-nhs-nurse-i-asked-for-came-with-stubble-83rq9p0gg>
- 15 The Lancaster Guardian 18 January 2018 <https://www.lancasterguardian.co.uk/news/lancaster-mum-with-fear-of-men-locked-on-hospital-ward-with-transgender-patient-653048>
- 16 The Sunday Times, 11 December 2022 Objections to trans patients on women's hospital wards 'like racism' <https://www.thetimes.co.uk/article/objections-to-trans-patients-on-womens-hospital-wards-like-racism-vz309qqtg>
- 17 The Mail Online 11 January 2019 Transgender storm as men who self-identify as women are 'routinely' put on NHS hospital wards for females <https://www.dailymail.co.uk/news/article-6579807/Men-self-identify-women-routinely-NHS-hospital-wards-females.html>
- 18 The Mail Online, 19 October 2022, Hospital refuses to operate on sex attack victim after she requests all-female care because she fears mixed sex facilities are unsafe for women <https://www.dailymail.co.uk/news/article-11316141/Hospital-bans-sex-assault-victim-op-female-care-request.html>
- 19 <https://www.riseuk.org.uk/news/2021/rise-response-to-bhcc-briefing-about-contract-verdict>
- 20 Survivors Network 21 September 2022 Updated Statement on Legal Action <https://survivorsnetwork.org.uk/statement-on-legal-action-against-survivors-network/#:~:text=The%20claimant%20alleges%20that%20by,will%20be%20vigorously%20defending%20them>

- 21 Female-Only, Violence and Abuse Survivors (FOVAS) Survivors Blog pieces  
<https://fovas.wordpress.com/survivors-blog-pieces/>
- 22 Mail Online 5 November 2022 Transgender paedophile, who was born a man but identifies as female, is caught duping staff for 71-day stay at domestic violence refuge centre for vulnerable women <https://www.dailymail.co.uk/news/article-11392601/Transgender-paedophile-caught-duping-staff-71-day-stay-domestic-violence-refuge.html>
- 23 Mail Online 6 April 2019 When he was a man called Mark he was locked up after threatening to kill the mother of his child... today she's a woman called Melissa and able to roam free at a shelter for female domestic violence victims <https://www.dailymail.co.uk/news/article-6894599/When-man-called-Mark-locked-threatening-kill-mother-child.html>
- 24 [Sex Matters 23 February 2022 Karen Ingala smitth talk about single-sex services https://sex-matters.org/posts/updates/karen-ingala-smith-talks-about-single-sex-services/](https://sex-matters.org/posts/updates/karen-ingala-smith-talks-about-single-sex-services/)

**IN THE COURT OF SESSION**

**Court Ref: P578/22**

**APPLICATION FOR LEAVE TO INTERVENE IN THE PUBLIC INTEREST**

**SEX MATTERS LIMITED**, a company limited by guarantee, incorporated under the companies acts (company number 12974690) and having its registered office at 63-66 Hatton Garden, London, EC1N 8LE

**APPLICANT**

in the reclaiming motion of the decision of the Lord Ordinary in the petition of

**FOR WOMEN SCOTLAND LIMITED**, a company incorporated under the Companies Act and registered in Scotland with Company number SC669393 and with registered offices at 5 South Charlotte Street, Edinburgh, EH2 4AN

**PETITIONER**

for

Judicial Review of the revised statutory guidance produced by the Scottish Ministers under Section 7 of the Gender Representation on Public Boards (Scotland) Act 2018

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## Draft Sex Discrimination (Amendment of Legislation) Regulations 2008

### The Committee consisted of the following Members:

*Chairman:* Mrs. Joan Humble

† Byers, Mr. Stephen (*North Tyneside*) (Lab)  
 † Carswell, Mr. Douglas (*Harwich*) (Con)  
 † Cox, Mr. Geoffrey (*Torrige and West Devon*) (Con)  
 Crabb, Mr. Stephen (*Preseli Pembrokeshire*) (Con)  
 Crausby, Mr. David (*Bolton, North-East*) (Lab)  
 † Featherstone, Lynne (*Hornsey and Wood Green*) (LD)  
 † Follett, Barbara (*Parliamentary Under-Secretary of State for Work and Pensions*)  
 † Hill, Keith (*Streatham*) (Lab)  
 † Johnson, Ms Diana R. (*Kingston upon Hull, North*) (Lab)  
 † Keeley, Barbara (*Worsley*) (Lab)  
 † Mactaggart, Fiona (*Slough*) (Lab)  
 † Raynsford, Mr. Nick (*Greenwich and Woolwich*) (Lab)  
 † Reed, Mr. Andy (*Loughborough*) (Lab/Co-op)  
 Robathan, Mr. Andrew (*Blaby*) (Con)  
 Swinson, Jo (*East Dunbartonshire*) (LD)

† Thornberry, Emily (*Islington, South and Finsbury*) (Lab)  
† Vara, Mr. Shailesh (*North-West Cambridgeshire*) (Con)  
Celia Blacklock, *Committee Clerk*  
† attended the Committee

**The following also attended, pursuant to Standing Order No. 118(2):**

Bercow, John (*Buckingham*) (Con)  
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## **Eighth Delegated Legislation Committee**

*Thursday 27 March 2008*

**[Mrs. Joan Humble in the Chair]**

### **Draft Sex Discrimination (Amendment of Legislation) Regulations 2008**

8.55 am

**The Parliamentary Under-Secretary of State for Work and Pensions (Barbara Follett):** I beg to move,

That the Committee has considered the draft Sex Discrimination (Amendment of Legislation) Regulations 2008.

It is a pleasure to serve under your chairmanship, Mrs. Humble. I confirm that the provisions of the regulations are compatible with the European convention on human rights.

The United Kingdom has a long and proud tradition of legislating to protect people from discrimination. In 1975, Britain outlawed sex discrimination in employment, in education, in the provision of goods, facilities and services, and in the management of premises. Northern Ireland did the same in 1976. Given that context, the Government welcomes European law catching up with principles long enshrined in our domestic law by extending its existing protection against discrimination in employment-related areas to non-employment areas. We therefore welcome the European Council gender directive, which will be implemented in Great Britain and Northern Ireland by these regulations, ensuring consistency in sex discrimination protection throughout the European Union.

The Government's proposals for implementation of the regulations have been the subject of public consultation in both Britain and Northern Ireland. The consultation in Britain, which took place between 12 June and 4 September last year, was combined with the one on the proposed equality Bill, to allow people to see how the regulations would fit into the wider discrimination law reform landscape. The Northern Ireland consultation, which took place between 30 July and 21 September last year, was on the regulations alone.

Before I go into the content of the regulations and how they extend some of our existing protections and introduce new ones in the fields of goods, facilities, services and premises into our sex discrimination law, I would like to touch briefly on the timing of their implementation in the United Kingdom. Hon. Members will know that the directive, which was published in December 2004, required member states to have implemented the regulations by 21 December 2007.

Government policy is to implement European Union directives on time, but on this occasion that was not possible. Let me explain why.

As I said, the regulations, which replace those laid before the House on 28 November last year, amend legislation in both Great Britain and Northern Ireland. That is unusual. Northern Ireland Ministers have competence to legislate on discrimination matters, and

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the intention was for similar regulations to be introduced there on the same timetable as those in Great Britain. However, late in the process, it became clear that the First Minister and Deputy First Minister of Northern Ireland could not reach agreement on all the policy proposals in order to implement the gender directive there. As a failure by part of a member state to comply with a

directive is considered by the European Commission to be a breach by the whole member state, in this case the United Kingdom, a resolution had to be sought.

Although the implementation was already running late, the Government considered the most effective means of ensuring that the United Kingdom as a whole could comply with the directive was for regulations implementing it in both Britain and Northern Ireland to be taken forward in Westminster. Northern Ireland Ministers have not objected to that course of action and we have had the great support of their officials in the drafting of the regulations. Legislating in such a fashion is, we believe, the most effective way of putting the additional protections against discrimination in place in Great Britain and Northern Ireland as quickly as possible.

The regulations are being made under the European Communities Act 1972 and amend the protections in the Sex Discrimination Act 1975 and the Sex Discrimination (Northern Ireland) Order 1976, which broadly mirrors the 1975 Act. These amendments ensure that the UK complies with the gender directive, which seeks to achieve harmonisation and consistency in gender equality law throughout Europe.

In the UK, the regulations will introduce some new protections and extend existing ones, particularly on the provision of goods, services, facilities and premises. For the purposes of European law, sex discrimination also included gender reassignment discrimination, about which I shall say more shortly. The most significant changes proposed will introduce a specific prohibition on sex harassment and sexual harassment in the provision of goods, facilities, services and premises. Our legislation currently provides protection from discrimination, but not from harassment. The measures will also introduce protection from discrimination and harassment in relation to goods, facilities, services and premises for people who are intending to undergo, are undergoing or have undergone gender reassignment. We estimate that that will extend protection to about 5,000 people currently excluded from it.

There will be express protection from discrimination in the fields of goods, facilities, services and premises for women on the grounds of their pregnancy and maternity. We currently do not have that explicit protection in that area of our legislation, although many cases are likely to be covered by existing sex discrimination law.

I shall concentrate today on the proposals that were covered in public consultations in Great Britain and Northern Ireland on the implementation of the directive, beginning with harassment. The regulations will make it unlawful for a provider of goods, facilities, services or premises to subject a person who seeks to obtain those goods or use the services, or is supplied with them, to sexual harassment, sex harassment or harassment on the grounds of their gender reassignment.

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At this point it might be helpful for me to clarify the terms. Sexual harassment occurs when a person subjects another to unwanted attention of a sexual nature. An example would be a waiter pinching a customer's bottom, or a shopkeeper making lewd comments. By contrast, sex harassment occurs when a person generally behaves in an offensive way to another because of their gender. An example would be a pub owner referring to a woman as a "bimbo" while serving her. For the purposes of implementing the directive, the regulations will apply to the free-standing definition of harassment already in the 1975 Act and the 1976 order as it applies within the employment sphere. Hon. Members might be aware that a ruling was made by the High Court last year following a judicial review brought by the former Equal Opportunities Commission, which required us to recast the definition of sex harassment. The Sex Discrimination Act 1975 (Amendment) Regulations, which were laid before Parliament on 14 March, will give effect to that judgment, and the new definition of harassment is due to come into effect on 6 April. The new definition will therefore apply to goods, facilities, services and premises as it will to employment and vocational training.

The principle that a person's right not to be subjected to direct discrimination on the grounds of sex includes changing sex or gender reassignments. That was set out in the European Court of Justice in a 1996 employment case. We are clear that we now need to bring protection on those grounds outside the workplace if we are to implement the directive fully. We are therefore extending to the field of goods, facilities and services the existing employment protections in the 1975 Act and the 1976 order for people who undergo, are undergoing, or who have undergone gender reassignment. I want to make it very clear that the regulations do not impact on the rights of individuals to hold a religious belief, nor do they affect religious worship and observance arising from basic doctrines of faith, as this falls outside the scope of the directive. Where the regulations will have an impact is by making it unlawful for a person to be denied access to a shop, for example, or refused service in a

restaurant, or be the subject of abuse by a sales person on the grounds of their gender reassignment. Directives aside, such discrimination has no place in the United Kingdom today.

Through these regulations we shall also explicitly prohibit discrimination against pregnant women who are seeking access to goods, facilities, services, and premises, thereby ending a reliance on case law. In so doing, we have adopted, as far as possible, the approach already established in the employment field. We have included in the regulations a clarificatory provision related to health and safety. This responds specifically to concerns expressed during consultation by the civil aviation sector, that where airlines have policies not to carry late-term pregnant women on flights, these policies may amount to direct pregnancy discrimination.

The clarificatory provision means that an airline would not be discriminating on grounds of pregnancy if it refuses to allow a woman in the late stages of pregnancy to fly, because it is reasonable for the airline to believe that allowing her to fly would create a risk to her health and safety. This health and safety policy is applied in a similar way to people with physical

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conditions, such as heart conditions, which an airline reasonably considers would create a risk to a passenger's health and safety. This clarificatory provision applies equally in the case of sports that could put a pregnant woman at risk, for example using certain gym facilities, and—I would not have dreamed of doing this, but perhaps some women do—parachute or bungee jumping.

I turn next to the new protections for women who have recently given birth. The directive does not define maternity, but responses to the consultation overwhelmingly supported our proposal to define maternity by reference to the age of the child so as to provide the greatest legal certainty.

There was less agreement on the period for which protection under discrimination law should apply. Respondents' views ranged from as little as eight weeks to as much as three years. We have ruled out the higher and lower extremes as difficult to justify, given that we believe the purpose of the provision is to protect the unique relationship between a mother and her newborn child, so the Government have opted for a period of 26 weeks following the birth of the child. In our view 26 weeks meets, but does not go beyond, the requirements of the directive.

I now turn to insurance changes. Currently, the Sex Discrimination Act and Sex Discrimination Order enable the insurance industry to treat men and women differently for the purposes of calculating premiums and benefits, provided that the treatment is reasonable and is supported by reliable, actuarial evidence. We are exercising a derogation from the directive to continue to permit gender-based differences in insurance premiums and benefits, provided that the industry ensures that data relevant to the use of gender as an underwriting factor are compiled, published and updated in line with guidance published by the Treasury. This is a common-sense provision, which ensures fairness.

The differences in treatment between men and women must be proportionate, but in any event costs relating to pregnancy or maternity must not be reflected in differences in premiums and benefits.

The Government will defer this provision until 22 December 2008 in order to give the insurance industry sufficient time to prepare for this important change with minimal disruption.

In conclusion, for the purposes of this debate, I have concentrated on areas of most interest to the Committee, but the regulations will introduce other changes: for instance, in prohibiting pregnancy discrimination and shifting the burden of proof from the claimant to the respondent. I am happy to take questions on those issues. By introducing the regulations in the United Kingdom we will increase the legal protection from discrimination for those who wish to access or use goods, facilities and services, where they are provided to the public as set out by the directive. I urge the Committee to support our approach, and I commend the regulations.

9.11 am

**Mr. Shailesh Vara** (North-West Cambridgeshire) (Con): This is the first time that I have had the privilege and pleasure to serve under your chairmanship, Mrs. Humble.

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In general, the Conservatives support the main thrust of the regulations, which in effect put into law much of what is in place already, but in a more codified way. However, I have a number of concerns and questions that I hope the Minister will address. My main question is about Westminster dealing with matters that should have been dealt with by the Northern Ireland Assembly and the process of devolution. I noted her explanation that Westminster is dealing with this Northern Ireland matter owing to a failure of agreement between the First Minister and Deputy First Minister.

This is, nevertheless, a devolved issue, and the Northern Ireland Assembly has competence to deal with it. If the Assembly cannot reach agreement, what provision is there for us to deal with it? I commend the ingenuity of the officials in bringing it to Westminster, but that is not what was originally intended. Under what legislative process or enactment may matters that cannot be agreed on in the devolved Assembly be introduced in Northern Ireland via the back door of Westminster legislation?

Will the Minister be kind enough to explain what that means for the process of devolution? If the Assembly cannot reach agreement on other matters, will they automatically come back to Westminster? Did the Government have discussions with the European Union about addressing that anomaly, or did they simply act unilaterally on the advice of unelected officials? More importantly, will there be a debate on the Floor of the House—between elected officials—to ensure that this does not become a regular occurrence and that Westminster does not become a default mechanism when the devolved Assembly cannot reach agreement? Given the significance of the regulations to Northern Ireland, why does the Committee not include a single Member from a Northern Ireland constituency?

More generally, the UK consultation on the regulations ran from 12 June to 4 September last year—the dates in Northern Ireland were slightly different, although it followed a similar format. Much of that was during the summer holidays—so much for open government. I noted the Minister's comments about harassment, but the former Equal Opportunities Commission did seek judicial review with regard to the definition of harassment and the impact of the regulations on legislation. I would welcome an assurance from the Minister that proper consideration has been given, and that there will be no further conflict or questions raised about the definition—it has already gone to judicial review.

I also want to ask the Minister about the lead-in time for businesses properly to implement the new regulations. I understand that the estimated cost to business for implementing the proposals is £12 million. What efforts have been made to ensure that businesses, particularly small businesses, incur as little cost as is possible, and that they have had proper time to comply effectively with the legislation by the due date?

It is important that *Hansard* records the contribution made by the European Scrutiny Committees, both in the other place and in the House of Commons. The Committees considered the issue and felt that it was important. They made some helpful suggestions that assisted the Government in their negotiating position.

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After the matter had been dealt with by Brussels, the European Scrutiny Committees asked to review the matter again, and it is regrettable that the Government did not seek their advice, despite the request. It is particularly regrettable, as the earlier comments made by the European Scrutiny Committees had been helpful and were used by the Government.

That said, I repeat that we in the Opposition generally agree with much of what is being proposed. I would, however, welcome the Minister's comments about the issues that I have raised, in particular the matter of Westminster doubling up as a default mechanism for issues that cannot be resolved by the devolved Assembly.

9.17 am

**Lynne Featherstone** (Hornsey and Wood Green) (LD): It is an honour to serve under your chairmanship, Mrs. Humble.

The Liberal Democrats generally support the implementation of the directives and will support the Government. We regret the delay in the introduction of the regulations; I was grateful for the Minister's explanation, but it seems a jolly long time. There were good intentions in combining the regulations as annexed to the discrimination law review, but I am most concerned about the evidence of the Government consulting with stakeholders. I understand that there were only 92 responses to the consultation, so some of the issues that we will discuss could have benefited from a more genuine consultation. I have not seen a publication of the results of the consultation, so perhaps the Minister could throw some light on that.

I am concerned about the maternity issue, and I would like the Minister to clarify it. When the regulations come into force, it seems that it will be permissible to discriminate in provision of goods and services against a mother if the child is 27 weeks old, but not if it is 25 weeks old. I believe that it is wrong to discriminate against a mother with a young child—I understand that the line must be drawn somewhere, but I am not sure that 26 weeks is explicable in terms of discrimination or non-discrimination. I wonder whether choosing to define that by using the

definition in employment law was in the spirit of the directive, which I felt was more about humanising what is experienced if someone tries to go to a restaurant with a young child. However, Liberal Democrat Members will support the regulations. They contain far too many imperatives that cannot wait to be got exactly right to do otherwise, and I welcome the fact that we are making progress and addressing implementation.

The additional elements designed to outlaw sex discrimination in goods and services are most welcome. They reflect the liberal and equality values of my party and resonate with society at large. I and, I am sure, my party have always believed in the importance of standing up in particular for small minorities who have significant issues but not the numbers to make them attractive electorally.

In that regard, I want to address the ongoing discrimination against transgender people. I am disappointed that the directive and therefore the regulations persist in medicalising that issue when there are clearly individuals for whom physical gender reassignment is

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not relevant or contemplated but who face, as individuals, vicious castigation by those who do not understand the issues of transitional people and transgender people. There is a whole gender spectrum that is well short of surgery.

I wholeheartedly support the new protection against discrimination in respect of transgender people in the provision of goods and services, but I am disappointed that we have not used this opportunity to consult and potentially widen the protection to cover those who define their gender differently, but choose not to have it surgically reassigned. There are many people in between on that spectrum. I trust that when it is time for the single equality Bill, that issue will be grabbed hold of and dealt with in a wider and more understanding fashion.

I want to finish by considering a provision in the regulations that is welcome, except for the fact that it seems to have involved some infighting. Perhaps the Minister will clarify whether infighting was taking place in the heart of Government between pro-business and pro-equality Ministers. I do not know whether that is correct, but it is possibly the reason. Insurance is a massive skeleton in the cupboard when it comes to discrimination in the provision of goods and services. What I call the Sheilas' Wheels debate rages on sofas throughout the nation when the advert comes on the television: should insurers be allowed to cherry-pick low-risk and evidently better female drivers? The directive draws an even-handed compromise as to whether risk should be collectivised and when actuarial difference should attract additional risk premiums. I am not sure that I support the blanket exception, but I appreciate the significant overhaul that would be required of the insurance industry. That perhaps needs to be worked through. At least such discrimination will now have to be fully justified on actuarial data.

I would like the Minister to clarify one matter—the fault may be entirely on my side. When I was looking for the Treasury guidance referred to in the regulations and my office made inquiries, no one had heard of it. Could the Minister point me in the direction of that guidance? That is a minor point, but it would be helpful to have those guidelines.

With the Commission breathing down the Government's neck, it is probably appropriate to get the measure through and the issue dealt with, but I am looking to the longer term. If the Government are, as I believe, serious about dealing with discrimination and want to present a single equality Bill that is potentially worthy of cross-party support, a faster and more rigorous approach to some of the detail would be most welcome.

9.24 am

**Mr. Douglas Carswell** (Harwich) (Con): I have no principled objection to the extension of equality in this way. I recognise that life can be quite tough for some of the people covered by the regulations. If the regulations help make life easier for them, that is a very good thing. We need to live in a liberal, progressive, free society in which people are allowed to be themselves. If the regulations help achieve that, so much the better. I simply note that the fiat for this instrument comes not

Column number: 8

from elected Members of the House, but from unelected and unaccountable EU officials. We are, in effect, implementing an EU directive, and it would be wrong and bogus to pretend that we were not.

The regulations, like most of our laws, are made not by those who stand for election or those whose names appear on a ballot paper, but by remote officials. No wonder some of our voters rightfully regard Westminster politicians as parasitical. Perhaps next time Members bellyache about the way

in which the media treat them over expenses, they should remember that. What is the point of MPs if we are mere puppets on a string?

It is precisely because the driving force for the change under discussion comes from unaccountable officials that I fear what may happen if the proposal has any unintended consequences. It may be that, in our wisdom, we have foreseen all possible unintended consequences and there will be none; on the other hand, there may be such consequences, for example in insurance. The legislation may not achieve the desired effects and need to be tweaked or further amended. I fear that, because the fiat for the change has not come from elected Members, there will not be the responsiveness to those unintended consequences that there should be.

9.26 am

**John Bercow** (Buckingham) (Con): It is a pleasure to serve under your chairmanship, Mrs. Humble, in my case not as a member of the Committee but as a parliamentary visitor to it.

I express the warmest and most enthusiastic support for the regulations. The Government are doing the right thing. I shall not join my hon. Friend the Member for Harwich in his comments—I do not want to go down that track, although members of the Committee will have heard what he had to say. I simply make the point that equality of treatment between men and women, in terms of access to and supply of goods and services, is a fundamental principle. We are giving full effect to it, courtesy of the European directive, rather belatedly, but it is certainly better late than never.

I listened with interest and respect, as always, to my hon. Friend the Member for North-West Cambridgeshire, who spoke in his usual measured fashion from the Opposition Front Bench and asked a series of perfectly legitimate questions. I am very interested in what the Minister has to say about the Northern Ireland position and her explanation of why the Government have to do what they are doing. My simple observation at this stage would be that, as far as I am concerned, this is essentially a human rights matter. If it is, it must be addressed as a human rights matter on a United Kingdom basis.

I confess that I am not a lawyer—I say so to the Committee with some pride—and therefore I do not know the legal background to the matter. However, I remember that, on a previous occasion in Committee, when we debated the Civil Partnership Bill, the argument was made that Northern Ireland was different and separate, and that if Northern Irish politicians had a different view and reflected public opinion in expressing that view, that different—alternative—view should prevail. The argument was rejected then, and it seems to me that it should be rejected now.

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I do not know why, initially, the devolved Assembly was going to deal with this matter—if it was going to deal with it—but if it was going to do so in a way that conflicted with the human rights intentions of the Government, in my view, it was not legitimate for the Assembly so to behave. We are a unitary state and we should operate on that basis. The legislation is a good thing. I am delighted that it is coming, and I look forward to the Minister's summing up of the Government's position.

9.28 am

**Barbara Follett:** I thank members of the Committee for their contributions, which have been most useful. I thank especially the hon. Member for North-West Cambridgeshire, who asked questions about our position on dealing with legislation for Northern Ireland. The hon. Members for Harwich and for Hornsey and Wood Green also raised the issue, so it is widely held to be a problem. The answer is that, although the devolved Administrations are generally free to decide whether to legislate about any issue in the devolved domain, and are empowered to give effect to EU obligations in their own context, the UK Government are liable for a failure to implement EU obligations, and we decided, with the Northern Ireland authorities and Ministers, on the best way forward. Somebody once said that politics is the art of the possible, although who said it escapes my memory. We are exercising that art at this moment.

**Mr. Vara:** I note the Minister's comment. Politics in the western world is also democratic and therefore accountable. My question was specifically about the devolution element, which was debated and the public had a say in it. However, in respect of this back-door legislation, what accountability enabled Parliament to have a say in it? It seems to be happening on the hoof. If the measure was not envisaged originally, perhaps the Government should come clean and say, "There is a gap here that needs to be addressed," rather than deal with it in the background. I am concerned that deals are being hatched in the background, rather than Parliament having a say.

**Barbara Follett:** I am sorry that it looks that way to the hon. Gentleman. It is not so. Deals are not being hatched in the background. It is about trying to work out the best, most equitable and

democratic way of putting the directive through, and I think that we have succeeded.

**John Bercow:** The hon. Lady is a Minister; therefore she is making a ministerial speech and speaking in ministerial terms. She is being very measured, as a Minister. I do not knock her for that, but I am trying to get some clarification. Is it the case that senior Northern Irish politicians, who have a genuine objection to the measure, said, “We don’t want to soil our own hands with it and therefore we’re not going to touch it, but if you, the UK Government, wish to touch it, we are not pleased about it, but you must do your own dirty work because we are not going to do it for you.”? If that is so, so be it, but I should just like to be clear on that point.

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**Barbara Follett:** The hon. Member for Buckingham puts it in his inimitable way. We agreed this approach with the Northern Ireland Office, not with Northern Ireland Ministers, and we dealt with it through the established procedure—the memorandum of understanding. I think that we have dealt with it as democratically and fairly as we can.

People, including myself, get upset about the consultation being held during the summer holidays, but there are only a few windows of opportunity. We had, overall, 4,000 responses to the consultation, only 92 of which dealt specifically with the regulations. We were pleased with the result and felt that we had consulted widely. We certainly paid attention to the consultation process. On harassment, the hon. Member for North-West Cambridgeshire asked for an assurance that there would be no further challenges to the definition of harassment. I would love to give a definite assurance. We took steps to try to eliminate the chances of that happening by laying regulations on 14 March amending the definition of harassment in the Sex Discrimination Act 1975 to give the effect required by the Court following the judicial review that he mentioned. The new definition will come into force on 6 April and apply equally to employment and goods, facilities, services and premises from that date.

As someone who runs a small business herself—my husband’s—I am aware of business burdens. We are trying to do something that is both fair and fairly simple and straightforward; otherwise money is given to the compliance industry, which none of us want. We sought a proportionate response to implementation. We have complied with our obligations under the directive, while not going beyond them. We have not in any way gold-plated it; we have done what is required, and there are sound reasons for doing so. Discussions on the equality Bill will provide another opportunity for hon. Members to consider those reasons. We have done a full impact assessment on potential business burdens.

I agree with the hon. Gentleman that the European Scrutiny Committee plays a hugely valuable role in this place. I certainly value its work. The history is set out in detail in the explanatory memorandum to the Merits of Statutory Instruments Committee. I refer him to paragraph 4.4, which I will not read out because it would take a long time, but I have it here should he wish me to do so.

Why is there not a Northern Ireland Member on the Committee? That is a good question. By tradition, the Whips cannot say anything at this point, but the decision is taken by Government business managers and I had no role in it.

**Mr. Carswell:** The Whips will be speaking to the hon. Lady afterwards.

**Barbara Follett:** Yes, no slips for the rest of the year.

The hon. Member for Hornsey and Wood Green mentioned the timing of the consultation. As I said in my opening speech, the Government thought that it was important to present the proposals for the implementation of the directive with the discrimination law review. The hon. Member for Harwich talked about

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unintended effects and, in such a complex area, we have to be careful about that. We wanted to spread out the whole landscape in a single consultation package, which was part of the reason for the timing being over the summer. There were more than 3,000—nearly 4,000—responses to the discrimination law review. Although there were only about 90—I think it was 92—comments on the regulations, around 243 responses were received to the Northern Ireland consultation. The Government will publish the results of those consultations in due course.

An interesting point on the medicalisation of gender reassignment was raised. We consider that we have complied with our obligations under the directive and drawn on the current definition in the Sex Discrimination Act 1975. As part of the equality Bill, we will reconsider the definition of gender reassignment. I know that we keep promising the introduction of the equality Bill and I



assure hon. Members that it is coming—it has formed a major part of my work during the past eight months.

I liked the Sheilas' Wheels reference. We are continuing with the current position under the Sex Discrimination Act 1975, whereby discrimination in insurance provision is permitted. I am reliably assured by people from the industry and the Treasury that, if that was not the case, premiums all round would be raised. I do not think anybody would welcome that. The regulations will ensure that the reasons for discrimination are more transparent by requiring data to be published. That is necessary, and guidance is available on the Treasury website—I can forward hon. Members a copy should they wish.

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Having listened closely to what has been said, I thank hon. Members who have participated in the debate. The regulations will make a big difference to the lives of a lot of people. Sometimes, when we come to the House on a sunny Thursday morning that we should be spending with our constituents, we forget the effect that we are having in this room and that the dry language that we use will be transformed into a change to people's lives. The measure will make the lives of about 5,000 people a great deal more comfortable. People will no longer be denied access to basic goods and services on the grounds of sex or gender reassignment or suffer worse treatment than anyone else when they seek such access.

I am confident that the Government's approach strikes the right balance. We comply with our European obligations under the EU gender directive—we played a big part in negotiating the spirit and the letter of that—and we avoid putting unnecessary burdens on business. The regulations bring Great Britain and Northern Ireland into line with the requirements of European law and update the legislation to make it more relevant and more effective in protecting people from discrimination and harassment. I urge hon. Members to support those outcomes.

*Question put and agreed to.*

*Resolved,*

That the Committee has considered the draft Sex Discrimination (Amendment of Legislation) Regulations 2008.

*Committee rose at twenty minutes to Ten o'clock.*

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# **Code of Practice on the Exercise by Constables of Powers of Stop and Search of the Person in Scotland**

**Laid before the Scottish Parliament  
11 January 2017**

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## **Part 1 The nature of Stop and Search; why it is used**

### **Introduction**

1.1 It is a fundamental value of our society that we respect the right of every person to go about their lawful business without unjustified interference from the State. Where the State does interact with any person, that interaction should be governed by a respect by the State for that person, and for that person's freedoms and rights. In all its interactions the State must act with fairness and integrity, and in compliance with the law. Police work is an example of the interaction between the State and the individual, sometimes when the individual is at their most vulnerable. This Code must therefore be read in light of that fundamental value.

1.2 Police work in Scotland is carried out in accordance with fundamental policing principles, agreed by Parliament and exemplified in the Police and Fire Reform (Scotland) Act 2012. These are:

- that the main purpose of policing is to improve the safety and well-being of persons, localities and communities; and
- that the police should be accessible, engage with communities, and promote measures to prevent crime, harm and disorder.

These principles inform all police work and, by extension, this Code.

### **Primary Purposes of Stop and Search**

1.3 Stop and search can be used to achieve a number of different goals, but it has two primary aims in Scotland:-

- to promote public safety; and
- to help prevent and detect crime.

1.4 This Code is made under the Criminal Justice (Scotland) Act 2016. The purpose of this Code is to:

- set out the principles under which stop and search is undertaken;
- ensure consistency in the application of stop and search;
- explain why, when and how stop and search is used;
- set the standard to which constables can be scrutinised and evaluated.

1.5 This Code governs all situations in which constables stop and search a person without first making an arrest, unless the search is expressly excluded, either under this Code, by statute, or by virtue of the search being subject to a separate statutory

Code or guidance as to its exercise. The Code also sets out the requirements to be followed by the Police for recording information in relation to all stop and search activity covered by this Code.

1.6 Nothing in this Code alters or otherwise affects any provision in any statute which makes express provision as to the exercise of powers of stop or search, or which specifies any procedural requirements relating to stop or search.

1.7 Nothing in this Code alters or otherwise affects any existing rule of law or legal test, e.g. as to what amounts to reasonable grounds for suspicion or as regards admissibility of evidence.

1.8 The Notes for Guidance are not part of this Code, but are guidance to constables and others about its application and interpretation. The Annexes are part of the Code.

### **Securing public confidence and promoting community relations**

1.9 Searches are more likely to be effective, legitimate and secure public confidence when a constable's reasonable grounds for suspicion are based on a range of objective factors. The overall use of powers of stop and search is more likely to be effective when up-to-date and accurate intelligence or information is communicated to constables and they are well-informed about local crime patterns. Constables must be provided with or otherwise have access to, and acquaint themselves with, such information.

1.10 This Code of Practice must be available to view online and at all police stations.

## 2. Principles governing Stop and Search

2.1 Recognising that stopping and searching members of the public is a significant intrusion into their personal liberty and privacy, all stop and search activity must be appropriate, as defined by this Code. To be appropriate it must be:

- In accordance with law. That means in accordance with any legal duties imposed on constables, in particular under the Human Rights Act 1998 and the Equality Act 2010, as well as any requirements of the statute(s) under which the search is being conducted;
- Necessary. That means that the search is required to locate a harmful item or confirm the possession of an illegal item<sup>1</sup>; *and*
- Proportionate, both in the decision to carry out a stop and search *and* in the way in which a stop and search is conducted. In every case, a constable must balance the rights of the individual against the perceived benefit of the search.

2.2 In addition, any stop and search must be carried out in accordance with the Constable's declaration, and in particular, the following values:

- **Fairness** – a stop and search must be carried out fairly and impartially, and without unlawful discrimination;
- **Integrity** – a stop and search will not be carried out in a manner which is abusive, discriminatory, or which amounts to harassment or intimidation; the purpose of the search must be genuinely to find a particular item in the person's possession; it will reflect the principles of good conduct and personal responsibility; and
- **Respect** – This involves two aspects. Firstly, a constable must ensure that – so far as is reasonably practicable - the person being searched understands why they are being stopped and searched. Secondly, the procedure must be carried out with respect for individual needs – including religious and cultural values and beliefs.

2.3 **Accountability** – The principle that constables carrying out stop and search are fully accountable for their actions, and that all stop and search activity is accurately recorded, and open to scrutiny.

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<sup>1</sup> "Item" includes "items".

## **Part 2 When powers of Stop and Search may be used**

### **3. Applicability of this Code**

3.1 This Code applies to:

(a) all stops and searches of a person who is not in police custody carried out pursuant to a statutory power (see Annex A for a non-exhaustive list)

and

(b) searches of a person carried out in accordance with a search warrant issued by a court in Scotland

3.2 This Code does not apply to:

- Searches of persons in custody
- Searches of persons under arrest
- Searches of vehicles and vessels that do not also involve a search of a person<sup>2</sup>
- Searches of premises that do not also involve a search of a person
- Searches under Schedule 7 of the Terrorism Act 2000 (which are governed by a separate code)
- Searches of persons and vehicles in specified locations authorised under section 47A of the Terrorism Act 2000 (which are governed by a separate Code)

3.3 Constables must not search a person, even if they are prepared to submit to a search voluntarily, where no statutory power to search is applicable, and they have no warrant to do so.

3.4 Notwithstanding paragraph 3.3, a constable must take all steps necessary to protect life.<sup>3</sup>

3.5 A court or tribunal must take this Code of Practice into account when determining any question arising in the proceedings to which the Code is relevant.<sup>4</sup>

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<sup>2</sup> This Code does not apply to a search of a vehicle or vessel alone, but the Code does apply to the related search of any person within a relevant vehicle or vessel.

<sup>3</sup> See, e.g. sections 20 and 32 of the Police and Fire Reform (Scotland) Act 2012.

<sup>4</sup> See section 75 of the Criminal Justice (Scotland) Act 2016.

## 4. Legal Basis for Carrying out Stop and Search

4.1 Reasonable grounds for suspicion is the legal test that a constable must satisfy before they can stop and detain a person to carry out a search under almost all statutory provisions. The usual requirement is a reasonable suspicion that the person has committed, or is committing, or is about to commit, a particular crime or is in possession of a prohibited article.

4.2 The test must be applied to the particular circumstances in each case and is in two parts:

- (i) First, the constable must have formed a genuine suspicion in their own mind that they are likely to find the object for which the search power being exercised allows them to search; and
- (ii) Second, the suspicion must be reasonable. This means that there must be an objective basis for that suspicion based on facts, information and/or intelligence which are relevant to the likelihood that the object in question will be found, so that a reasonable person would be entitled to reach the same conclusion based on the same facts, information and/or intelligence.

### **Personal factors alone can never support reasonable grounds for suspicion**

4.3 The following cannot be used *alone* as the reason for stopping and searching any individual:

- (a) a person's physical appearance with regard to the relevant protected characteristics set out in the Equality Act 2010, section 149, i.e. age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation (see Note 2)
- (b) a person's clothing or general appearance
- (c) generalisations or stereotypical images that certain categories of people are more likely to be involved in criminal activity.
- (d) the fact that a person has any previous convictions.

### **Reasonable grounds for suspicion based on information and/or intelligence**

4.4 However, reasonable suspicion can be supported by information or intelligence that refers to personal factors. For example, intelligence might include a description of a person suspected of carrying an article for which there is a power of search. Such a description may refer to a person's physical appearance. Intelligence relating to a person's previous convictions or pending cases may be relevant in certain circumstances, for example where prior behaviour, in combination with other information or intelligence, provides reasonable grounds of suspicion for a search.



Reasonable grounds for suspicion should normally be linked to accurate and current intelligence or information, relating to articles for which there is a power to stop and search, being carried by individuals in any locality. This would include reports from members of the public or other constables describing:

- (a) a person who has been seen carrying such an article, or
- (b) crimes committed in relation to which such an article would constitute relevant evidence, for example, stolen property or an offensive weapon or bladed or sharply pointed article used to assault or threaten someone

4.5 Searches based on accurate and current intelligence or information are more likely to be effective. Targeting searches in a particular area at specified crime problems not only increases their effectiveness but also minimises inconvenience to members of the public. It also helps justify the use of powers of stop and search, both to those who are searched and to other members of the public. This does not, however, prevent stop and search powers being exercised in other locations where such powers may be exercised and reasonable suspicion exists.

### **Reasonable grounds for suspicion and searching groups**

4.6 Where there is reliable information or intelligence that members of a group habitually carry knives unlawfully or other weapons or controlled drugs, and dress in a distinctive manner or use other means of identification in order to identify themselves as members of that group, that distinctive style of dress or other means of identification may provide reasonable grounds to stop and search any person believed to be a member of that group.

### **Reasonable grounds for suspicion based on behaviour, time and location**

4.7 Reasonable suspicion may also exist without specific information or intelligence and on the basis of the behaviour of a person. For example, if a constable encounters someone on the street who is obviously trying to hide something, the constable may (depending on the other surrounding circumstances) base such suspicion on the fact that this kind of behaviour is often linked to stolen or prohibited articles being carried. A constable must be able to explain, with reference to specific aspects of the person's behaviour or conduct which they have observed, why they formed that opinion. A hunch or instinct which cannot be explained or justified to an objective observer can never amount to reasonable grounds. A constable should always be alert to the possibility of innocent explanations for apparently suspicious behaviour.

### **Questioning to decide whether to carry out a search**

4.8 Constables have many encounters with members of the public which do not involve detaining people against their will. Constables do not require any statutory power to speak to a member of the public. There is no power for constables to stop or detain a member of the public in order to find grounds for a search. On the other hand, if reasonable grounds for suspicion emerge during such an encounter, a constable may detain the person to search them.

4.9 In some cases a constable will be in possession of information and/or intelligence, the quality or nature of which is such that a constable may reasonably decide that it is unnecessary to ask questions of a member of the public before detaining that person and conducting a search. Such cases will be relatively rare. In every other case, constables should follow the steps set out in paragraphs 4.10 to 4.13.

4.10 A constable who has reasonable grounds for suspicion may detain the person concerned in order to carry out a search. Before detention and carrying out a search, the constable should try to engage with the individual (see Chapter 5), and ask questions about the person's behaviour or presence which gave rise to the constable's suspicion.

4.11 Constables must inform a person being detained that they do not have to provide any information about themselves, or to say anything. However, members of the public have the right to volunteer information with a view to avoiding a search, and constables must afford members of the public an opportunity to provide information if they wish to do so. A constable must ensure that, as far as is reasonably practicable, the person understands what has been explained to them.

4.12 If, as a result of questioning the person before a search, or of other circumstances which come to the attention of the constable, there cease to be reasonable grounds for suspecting that an article of a kind for which there is a power to stop and search is being carried, no search may take place. In the absence of any other lawful power to detain the person, they are free to leave at will, and must be told that (see Note 5).

4.13 If, as a result of questioning the person, or of other circumstances which come to the attention of the constable, a constable's reasonable grounds for suspicion are confirmed, or if reasonable grounds for suspicion emerge during an encounter, the constable may detain the person to search them. Reasonable grounds for suspicion however cannot be provided retrospectively by such questioning during a person's detention, or by refusal to answer any questions asked.

4.14. Before searching, a constable must inform the person that they are being detained for the purpose of a search and take action in accordance with paragraphs 6.9 to 6.10 ("Steps to be taken prior to a search").

### **Searches of persons not suspected of an offence**

4.15 The exercise of some stop and search powers depends on the likelihood that the person searched is in possession of an item for which they may be searched; it does not always depend on the person concerned being suspected of committing an offence in relation to the object of the search. A constable who has reasonable grounds to suspect that a person is in innocent possession of a stolen or prohibited article, controlled drug or other item for which the constable is empowered to search, may stop and search the person even though there would be no power of arrest (see Notes 3 and 4).

4.16 Some search powers are exercised to ensure the care and protection of the person being searched and/or to ensure the safety of others. The exercise of these powers does not depend on the person concerned being suspected of a crime. Under the powers in Section 66 of the Criminal Justice (Scotland) Act 2016 a constable may search a person who is being taken, or is to be taken, from one place to another. The purpose of a search under this section is to ensure that the person is not in possession of any item or substance that could cause harm to them or someone else.

4.17 Section 67 of the Criminal Justice (Scotland) Act 2016 gives constables power to search a person who is seeking to enter or attend, or who has entered or is attending, a relevant event or premises, where the person has consented to the search as a condition of entry imposed by the occupier or organiser. The purpose of a search under this section is to ensure the health, safety or security of people on the premises or at the event.

### **Searches authorised under section 60 of the Criminal Justice and Public Order Act 1994**

4.18 Section 60 of the Criminal Justice and Public Order Act 1994 allows for searches to be carried out in a particular locality, for a specific limited period of time, where an authorising officer believes that incidents involving serious violence may take place or that persons are carrying dangerous instruments or offensive weapons in that locality without good reason. The 1994 Act also lays down various steps which must be taken in relation to use of section 60 powers.

4.19 The powers under section 60 are separate from and additional to the normal stop and search powers which require reasonable grounds to suspect an individual of carrying an offensive weapon (or other article).

4.20 Where an authorising officer authorises any operation under section 60, they must, where practicable, inform relevant members of the community about the authorisation, both before and after any relevant action. The public should be informed of the purpose and outcomes of each section 60 operation.

4.21 Although the powers in section 60 provide that a constable may stop any person or vehicle and make any search they see fit whether or not they have grounds for suspecting that the person or vehicle is carrying weapons or articles of the relevant kind, the selection of persons and vehicles under section 60 to be stopped and, if appropriate, searched should reflect an objective assessment of the nature of the incident or weapon in question and the individuals and vehicles thought likely to be associated with that incident or those weapons. When selecting persons and vehicles to be stopped in response to a specific threat or incident, constables must take care not to discriminate unlawfully against anyone on the grounds of any of the relevant protected characteristics set out in the Equality Act 2010 (see Note 2).

4.22 Section 60(4A) of the Criminal Justice and Public Order Act 1994 also provides a power to constables in uniform to require a person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for

the purpose of concealing their identity. This power can only be used if an authorisation given under section 60 is in force. Constables must ensure an appropriate balance between powers exercised under s60(4A) and the need to ensure respect for individuals, bearing in mind that some individuals wear items as a legitimate expression of their identity, and not with a view to concealing their identity for a criminal purpose (e.g. for cultural or religious reasons (and see Note 6)).

### **Powers to search persons in the exercise of a power to search premises**

4.23 The following powers to search premises also authorise the search of a person, not under arrest, who is found on the premises during the course of the search:

- (a) section 49B of the Criminal Law (Consolidation) (Scotland) Act 1995 under which a constable may enter school premises and search the premises and any person on those premises for any bladed or pointed article or offensive weapon;
- (b) under a warrant issued under section 23(3) of the Misuse of Drugs Act 1971 to search premises for drugs or documents but only if the warrant specifically authorises the search of persons found on the premises;
- (c) under a search warrant or order issued under paragraph 1, 3 or 11 of Schedule 5 to the Terrorism Act 2000 to search premises and any person found there for material likely to be of substantial value to a terrorist investigation; and
- (d) under a warrant issued under section 11 or section 52 of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003 to search any premises and any person found there for: evidence of an offence under that Act; illegally taken salmon or trout; or illegal fishing equipment.

4.24 Before the power under section 49B of the Criminal Law (Consolidation) (Scotland) Act 1995 may be exercised, the constable must have reasonable grounds to suspect that an offence under section 49A of that Act (having a bladed or pointed article or offensive weapon on school premises) has been or is being committed.

4.25 A warrant to search premises and persons found therein may be issued under section 23(3) of the Misuse of Drugs Act 1971 if there are reasonable grounds to suspect that controlled drugs or certain documents are in the possession of a person on the premises.

4.26 Searches of a person authorised under a warrant do not require separate grounds in addition to those used to obtain the warrant. However, it is still necessary to ensure that the selection and treatment of those searched under these powers is based upon objective factors connected with the search of the premises, and not upon personal prejudice or relevant protected characteristics (see Note 2).

## **Part 3 – Engagement prior to a search**

### **5. Engagement – Steps to be taken *before* conducting a search**

5.1 This Code does not affect a constable's ability to speak to a member of the public in the course of the constable's duties (see Note 1). Stop and search is only one aspect of policing. Engagement (i.e. how constables interact with members of the public and how members of the public interact with constables) can be a key factor in determining outcomes, including public confidence, as well, for example, as allaying suspicions or establishing or confirming grounds for search.

5.2 Unless the circumstances described in the first sentence of paragraph 4.9 exist, before carrying out a search, a constable should try to engage with the individual (see paragraphs 4.10 – 4.13). Constables should use every-day language, build a rapport where possible, and treat everyone with fairness, integrity and respect.

5.3 Constables may, as a result of their engagement, decide not to search a person (see paragraph 4.12).

## **Part 4 – How Stop and Search powers are to be used, recorded and monitored**

### **6. Conduct of Searches – General**

6.1 The use (and misuse) of stop and search powers has a significant impact on public confidence in the police. Every reasonable effort should be made to minimise disruption to a person being searched and to respect their dignity.

6.2 The co-operation of the person to be searched must be sought in every case, even if the person initially objects to the search. The law allows constables to use reasonable force. This means the minimum amount of force necessary to accomplish the lawful objective of the search which the constable is seeking to achieve.

6.3 The length of time for which a person may be detained must be reasonable and kept to a minimum. The thoroughness and extent of a search must depend on the circumstances of the search, including what is suspected of being carried, and by whom. If the suspicion relates to a particular article which is seen to be, or there is good reason to suspect has been, slipped into a person's pocket or bag, then subject to reasonable consideration of the safety of the searching constable, and in the absence of other grounds for suspicion or an opportunity for the article to be moved elsewhere, the search must be confined to that pocket or bag. In the case of a small article which can readily be concealed, such as a drug, and which might be concealed anywhere on the person, a more extensive search may be necessary. Similarly, the recovery of a stolen or prohibited article (such as a knife) from a person's possession may provide reasonable grounds for a constable to suspect that they have additional items in their possession which would warrant a more extensive search.

6.4 The search must be carried out at or near the place where the person was first detained (see Note 7).

6.5 There is no power to require a person to remove any clothing in public other than an outer coat, jacket, gloves, headgear or footwear except under section 60(4A) of the Criminal Justice and Public Order Act 1994 (which empowers a constable to require a person to remove any item worn to conceal identity) (see Notes 7 and 8).

6.6 A search in public of a person's clothing which has not been removed must be restricted to superficial examination of outer garments. This does not, however, prevent a constable from placing his or her hand inside the pockets of the outer clothing, or feeling round the inside of collars, socks and shoes if this is reasonably necessary in the circumstances to look for the object of the search or to remove and examine any item reasonably suspected to be the object of the search. Similarly, subject to the restrictions on the removal of headgear, a person's hair may also be searched in public, having due regard to gender, identity or other relevant religious or cultural differences (see Note 6).

6.7 Where on reasonable grounds it is considered necessary to conduct a more thorough search (e.g. by requiring a person to take off more than an outer coat, jacket, gloves, headgear or footwear), then this should, where possible, be done out

of public view, for example in a police van, unless paragraph 6.8 applies, or a police station if there is one nearby (see Notes 7 and 8). Any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity, may only be made by a constable of the same sex as the person searched, and may not be made in the presence of anyone of the opposite sex (see Annex B for exceptions). These searches must be conducted in accordance with Annex C.

6.8 Searches involving exposure of intimate parts of the body must not be conducted as a routine extension of a less thorough search, simply because nothing is found in the course of the initial search. Searches involving exposure of intimate parts of the body may be carried out only at a nearby police station or other nearby location which is out of public view (but not a police vehicle). These searches must be conducted in accordance with Annex C.

### **Steps to be taken prior to a search**

6.9 Before any search of a person detained for the purpose of a search takes place, the constable must take reasonable steps, if not in uniform, to show their warrant card to the person to be searched and - whether or not in uniform - to give that person the following information:

- (i) the constable's name and number (except where the constable reasonably believes that giving their name might put them, or another constable, in danger, in which case a warrant or other identification number shall be given) and the name of the police station to which the constable is attached (except where the constable reasonably believes that giving the name of the police station might put them or another constable in danger);
- (ii) that they are being detained for the purposes of a search;
- (iii) the fact that they do not have to provide any information about themselves, or to say anything;
- (iv) the legal search power which is being exercised;
- (v) a clear explanation of the object of the search in terms of the article or articles for which there is a power to search; along with

**EITHER**

(a) in the case of powers requiring reasonable suspicion, the grounds for that suspicion. This means explaining the basis for the suspicion by reference to information and/or intelligence about, or some specific behaviour by, the person concerned;

**OR**

(b) in the case of the power under section 60 of the Criminal Justice and Public Order Act 1994 (see paragraphs 4.18 to 4.22), the nature of the power, the authorisation, and the fact that it has been given.

and

(vi) unless an exception in paragraph 9.1 applies, that the constable is required to make a record of the search and that they are entitled to a copy of the record of the search in accordance with the requirements set out in this Code. The constable must explain to the person to be searched what those requirements are (see also paragraph 6.12).

6.10 Constables must ensure, so far as is reasonably practicable, that the person understands why they are to be searched and what the search will involve. If the person to be searched does not appear to understand what is being said, or there is any doubt about the person's ability to understand English, the constable must take reasonable steps to bring information regarding the person's rights and any relevant provisions of this Code to their attention. If the person is Deaf or cannot understand English and is accompanied by someone, then the constable should try to establish whether that person is an appropriate person to interpret or otherwise help the constable to give the required information (see also Chapter 8).

**Steps to be taken immediately after a search**

6.11 The person who has been searched should be given a receipt (see Note 12). The receipt should include the following information:-

- police powers of stop and search
- the right of a person searched to obtain a copy of the record of the search
- the right of a person searched to complain, including how to go about making a complaint

6.12 Constables should explain that a person who is subject to a search to which this Code applies is entitled (unless they have chosen not to give their name, address and date of birth - see paragraph 6.9 (iii)) to obtain a copy of the record of search, provided they ask for it from the police within 6 months of the date on which they were searched.



6.13 A person who is to be, or has been, searched is under no obligation to provide their name, address and date of birth and they should not be asked to provide those details for the purpose of completing the record. Constables should explain that the right to obtain a copy of a record of the search will only apply where the person has provided their name, address and date of birth.

6.14 Where a constable who is conducting a search is called to an urgent incident, exceptionally, it may be wholly impracticable to provide a receipt. In that event, if the person has provided their details, the constable should verbally explain the circumstances and advise them that they can access a copy of the record of search by calling at any police station, unless *either* there are exceptional circumstances which make it wholly impracticable to make a record of the search *or* the person searched has not provided their name, address and date of birth.

## **7. Conduct of searches – additional considerations where a child or young person is involved**

7.1 This section of the Code is designed to offer constables assistance in recognising and understanding the needs of children and young people in relation to stop and search. It acknowledges that children and young people have different requirements to adults and that they may require additional support to help them comprehend and participate in the search process.

7.2 This section does not replace any requirements placed on constables elsewhere in the Code. Rather, it provides additional guidance and suggests ways in which constables can tailor their approach towards children and young people.

7.3 For the purposes of this code, children and young people are defined as those being under the age of 18.<sup>5</sup>; <sup>6</sup>

7.4 In taking a decision to search a child or a young person, a constable must treat the need to safeguard and promote the well-being of that child or young person as a primary consideration.<sup>7</sup> Where a constable believes it to be more harmful to a child or young person to carry out a search than not, then the search should not proceed and other measures to safeguard them should be considered.

7.5 Constables should ensure that the principles of fairness, integrity and respect apply equally to children and young people, as they do to adults.

7.6 Constables actions should be compatible with the child or young person's human rights. This Code has been designed to comply with the UN Convention on the Rights of the Child.<sup>8</sup> It is also consistent with the Scottish Government's GIRFEC (Getting It Right for Every Child) approach.

7.7 Constables should have an awareness of how the minimum age of criminal responsibility might affect their interactions with children and young people. For example, when responding to a child or young person's question about the potential outcome of a search, constables should be prepared to provide the appropriate response, based on whether the child or young person will (or will not) be held criminally responsible for their actions.

7.8 As is explained in paragraph 4.15, some stop and search powers do not depend on the person concerned being suspected of committing an offence in relation to the object of the search. A child or a child's pram may also be used to conceal an item on behalf of an adult. A constable who has reasonable grounds to

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<sup>5</sup> Where a constable believes a person to be under the age of 18, but they are unwilling or unable to provide their age, the constable should proceed as if the person is under 18.

<sup>6</sup> It is acknowledged that the definition of a „child“ varies across Scots law. For the purposes of this Code of Practice, however, the definition used is drawn from the UN Convention on the Rights of the Child. This is consistent with s.68 of the Criminal Justice (Scotland) Act 2016.

<sup>7</sup> S.68, Criminal Justice (Scotland) Act 2016

<sup>8</sup> <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

suspect that a child or young person is in innocent possession of a stolen or prohibited article, controlled drug or other item for which the constable is empowered to search, may stop and search the child or young person (see Notes 3 and 4). Constables should ensure that such searches are carried out in such a way as to minimise distress to the child or young person.

7.9 Where a constable believes a search is necessary, they should be aware of the inherent power imbalance that exists between a constable and a child or young person and how this may affect their interactions with them. It should not be assumed, for example, that because a child or young person is compliant and/or silent, that they are fully comfortable with a search being carried out. Equally, if a child or young person appears to be acting unreasonably, the root of such behaviour may be in fear or confusion.

7.10 Constables should be aware that, on occasion, children and young people may display behaviour which arouses suspicion of wrong-doing, but which is in fact related to a communication impairment, disability or additional learning support need. This may include gesturing, shouting or avoiding eye contact. When a search of a child or a young person is being considered, a constable should check whether the child or young person considers themselves to have such a disability, and if so, what additional support they might require to participate in a search (bearing in mind that a person with such a disability may have difficulty articulating the nature of that disability or what support they need).

7.11 Constables should use age-appropriate terms when engaging with children and young people, and avoid the use of technical or legal language, unless required to do so by law. Where, for example, a constable is required to state the statutory basis for a search, then they should also be prepared to explain this in terms the child or young person can easily understand. Constables should be aware that not all children of the same age will have the same level of understanding and, where practicable, should allow time for the child or young person to ask questions before a search begins.

7.12 Where it appears to a constable that a child/young person lacks the capacity to understand why a search may be necessary, or what a search may entail, then the presumption is that the search should not proceed. Consideration should then be made of how best to safeguard that child or young person, where it is believed that child or young person continues to be at risk of harm.

7.13 As stated in 7.4, the well-being of the child should be the primary consideration in deciding whether to proceed with a search of a child or a young person. That applies equally to children and young people with a learning disability or other type of disability. For example, someone who is autistic may be particularly sensitive to touch and might find a physical search over-whelming. Where a search is considered likely to have a detrimental effect on a child or a young person, then alternative safeguarding measures should be considered.

7.14 Constables should be aware that the status of a child or young person as looked after or care experienced can be relevant to how such people engage with constables; for example, they may find it more difficult to engage with the police as a

result of previous trauma. Constables should be alert to the possibility that a child or young person may be looked after or care experienced and if so, consider what additional support they might require. In doing so, constables should be sensitive about whether and how they ask questions about a person's status, bearing in mind that some looked after and care experienced children and young people can regard questions about their status as stigmatising, and also that their peers may be unaware of their status.

7.15 Children or young people who have experienced abuse may also react strongly to the prospect of being searched, particularly if they believe that the search is likely to involve strip-searching or intimate searching.

7.16 Even where there is no history of abuse, children and young people have reported that being searched by someone who is a stranger to them is both uncomfortable and intrusive.

7.17 Where a child or young person is becoming distressed during a search, consideration should be given to discontinuing the search or pausing it until a responsible adult can be present (where this is practicable and the child or young person wishes this to happen).

7.18 For the purposes of this Code, a "responsible adult" is defined as someone over the age of 18, with responsibility for the child or young person. This might include, for example, a parent or carer, an older sibling or a key worker. Their role is to support the child or young person and help them understand what is happening. Constables should note that a „responsible adult“ is distinct from an „appropriate adult“, a term which has its own meaning.<sup>9</sup>

7.19 When considering a search of a child or young person, a constable should attempt to minimise any embarrassment they might feel. This might include, for example, carrying out a search discreetly and away from a peer group. Where practicable, a constable should involve the child/young person in considering where the search should take place. A constable should not assume that places considered suitable for adults will be where a child or a young person would feel most at ease.

7.20 Any search of a child or a young person should be carried out by a person of the same sex (see Annex B). All searches should respect the dignity and privacy of the child or young person.

7.21 A constable should explain at each stage of a search of a child or young person what they are doing and why. Where a child requests a brief pause in the search (for example, to compose themselves) then this should be accommodated, where practicable. The search should be completed as swiftly as possible.

7.22 Where a strip search or intimate search of a child or young person is considered necessary, it must be conducted in accordance with Annex C.

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<sup>9</sup>For more information, see Scottish Appropriate Adult Network National Guidance (2015): <http://www.scottishappropriateadultnetwork.co.uk/guidance>

7.23 Where a search takes place and no item is found and the child or young person has provided their name, address and date of birth, a constable should clearly explain how the information will be stored, the length of time it will be kept and the purposes for which it may be used.

7.24 Following completion of a search, a child or a young person should be supplied with a receipt, which should include age appropriate information about stop and search, and details of how to make a complaint if the child or young person feels that they have been treated unfairly.

7.25 Constables should be aware that children and young people can find it difficult to access complaints processes, which are often designed by adults for adults. Where a complaint is received by the Police from or on behalf of a child or young person, consideration should be given to how best to respond in an age appropriate, timely and child-centred manner.

7.26 Where a search has proved to be negative, constables should consider a child or young person's individual needs and circumstances, when deciding whether or not to make their parents (or other care-givers) aware of the fact that they have been stopped and searched.

7.27 Factors to be considered by constables may include: the age of the child; the circumstances in which the stop and search took place; any views expressed by the child or young person and any perceived on-going risk to the child or young person and/or others.

7.28 Where a child or a young person has expressed a view about whether their parents (or other care-giver) should be informed of a stop and search, and a decision is taken which appears to contradict that view, then constables should clearly explain to the child or young person the reasons for their decision.

7.29 Constables should be aware that some children and young people may be placed at increased risk by their parents being notified of a search. This would include, for example, a child or young person living in a household where there is a history of domestic abuse.

7.30 More generally, constables should consider whether informing a child or a young person's parents (or care-giver) might inadvertently suggest that their child has been involved in wrong-doing, when they have not.

7.31 As well as being subject to search, children and young people may also be witnesses to searches. Where an adult in the company of a child is being searched, constables should be aware of the effect such a search may have on them. For younger children, witnessing something they do not understand or being parted from their care-giver for the duration of the search can be particularly upsetting. Care should be taken to ensure that the child is reassured and that any separation from the care-giver is either avoided or kept to an absolute minimum.

7.32 Carrying out stop and search in a respectful and age appropriate manner is likely to minimise the damage it can cause to children and young people's

perceptions of the Police.<sup>10</sup> Constables should therefore be aware of the potential to build positive relationships with children and young people in their local community by following the steps outlined in this Code.

7.33 Children and young people may have additional support needs beyond those outlined in this chapter. It is therefore important that constables also familiarise themselves with the content of Chapter 8 and consider how this may apply to children and young people.

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<sup>10</sup> Criminal Justice: Stop and Search Powers for Alcohol and the Minimum Age of Criminal Responsibility, Scottish Youth Parliament (2016). Available here: [www.syp.org.uk/stop\\_and\\_search\\_powers\\_for\\_alcohol\\_and\\_the\\_minimum\\_age\\_of\\_criminal\\_responsibility](http://www.syp.org.uk/stop_and_search_powers_for_alcohol_and_the_minimum_age_of_criminal_responsibility)

## **8. Conduct of Searches - additional considerations where a vulnerable adult is involved**

8.1 This section of the Code is designed to offer constables assistance in recognising the needs of vulnerable adults in relation to stop and search.

8.2 Vulnerability in this context refers to difficulties a person may have with understanding what is going on or communicating with the police

8.3 In practice, it may not always be obvious that a person has a vulnerability which might impact on the way that stop and search powers should be exercised. Constables must therefore always be aware of the possibility that a person to be searched may be vulnerable and tailor their approach accordingly.

8.4 Vulnerability is most likely to be encountered in situations where a person has mental illness, personality disorder, autism or a learning disability. These conditions are likely to impact on the way that the person is able to understand and communicate and constables must be aware of the need to modify their language, tone of voice and physical behaviours to assist in communicating.

8.5 Vulnerability impacts on whether a constable can search, and how any search should be conducted.

8.6 It is important to identify vulnerability early and constables need to consider the best method of identifying significant communication needs. This may require collaboration and communication between the police, other agencies and the individuals being searched and may involve obtaining support for the vulnerable person.

8.7 Constables must focus on assessing the individual's communication ability and consider whether any support is required to meet that need. That may often be achieved simply by asking the person to explain any difficulties they have. Some people carry documents which explain the issues they have, such as an "Autism Alert card" or a "Keep Safe" card. Or it may be that the person is with friends or family members who can assist or that there are others nearby or contactable who are able to help including any professional who knows the person well. In some circumstances, constables may require to seek suitable support (e.g. a responsible adult) to assist them in communicating with the vulnerable person. Constables should explore all avenues to ensure that the person is fully aware of what is happening to them. The vulnerable person must be able to understand the nature and potential significance of police actions and questioning, the nature and extent of their own rights, and to be able to exercise their rights in a meaningful way.

8.8 If suitable support is available, constables must balance their wish to search the person with the proportionality of detaining the person until the person who is to provide support can attend, which may take some time. In some circumstances, this may not be justifiable, and constables will need to consider any other options available to them, always having regard to any risk of harm to the person.

8.9 Speaking to constables may be a distressing experience for some vulnerable persons and the mere presence of the police may cause them anxiety and impact on their ability to communicate. Constables should therefore have regard to the following factors to mitigate these issues:

- Some vulnerable people may not understand personal space and may invade others' personal space or may need more personal space themselves.
- Use of the person's name at the start of each sentence will help them know they are being addressed
- Clear, slow and direct instructions will allow the person time to process information – the use of technical or legal language should be avoided
- Some autistic people with sensory issues will not like to be touched
- Extra time may be required for the person to fully process and respond and the person may need more breaks during the search
- Re-wording and repetition of questions in a different way may be helpful
- Language should be kept clear, concise and simple and short sentences used
- Vulnerable persons should have it explained clearly what is happening and, if appropriate, where the person is being taken and why
- Visual supports, if available, should be used to explain what is happening or, if the person can read, to be shown information in writing.
- If possible, physical contact should be avoided but if it is required, a full explanation should be given in advance
- Facial expressions and hand gestures should be kept to a minimum to avoid distracting the person

8.10 Where it appears that the person lacks the capacity to understand why a search may be necessary or to understand what that search will involve, then the presumption is that the search should not proceed. Constables will then need to consider what further action might be necessary to safeguard the person when they may be at risk of harm.

8.11 When conducting a search, constables should attempt to minimise any distress or embarrassment that the person might feel. Where practicable, constables should seek and take account of any views expressed by the person about the process, such as providing them with a choice of where the search can take place or how it might be conducted. The search should always be done discreetly and away from any peer group or other persons whom the person had been with when detained for the search.

8.12 When a strip search or intimate search of a vulnerable person is considered necessary, this must be conducted in accordance with Annex C.

8.13 Vulnerable persons may also be witnesses to searches and constables must be aware of the effect that such a search of another may have on them. Constables may have to explain the process to persons other than the individual being searched in some circumstances.



## 9. Recording requirements

9.1 When a constable carries out a search in the exercise of any power to which this Code applies, a record must be made of it, electronically or on paper, unless there are exceptional circumstances which make this wholly impracticable (e.g. in situations involving public disorder). It is unlikely to be practicable in most cases to make a record of a search under section 67 of the Criminal Justice (Scotland) Act 2016 (searches on entry to relevant premises and events, where consent has been given as a condition of entry imposed by the organiser).

9.2 The constable carrying out the search must make the record as soon as practicable after the search is completed (see Note 9).

9.3 The record of a search must always include the following information:

- Details of the constable conducting the search (including the police station to which they are attached (but see 9.6 below).
- Details of the corroborating constable
- Time of search
- Date of search
- Locus of search (nearest address, private place or street)
- Name of person searched (if provided; there is no requirement for a person to provide their name if nothing is found, but it should be recorded if given)
- Age of person searched (if provided)
- Constable's estimate of the age of the person searched (if not provided and the constable estimates the person's age to be under 18 years)
- Gender of person searched
- Date of Birth of person searched (if provided)
- Address of person searched (if provided)
- Self - defined ethnicity and national origin of person searched (if provided) (see Note 11)
- Whether the search was a standard search (i.e. a search which is *not* a strip or an intimate search), a strip search within a police station, a strip search outwith a police station, or an intimate search (as set out in Annex C).
- The legislation used
- The grounds on which the search is based, including the grounds for reasonable suspicion
- The outcome of the stop and search
- Details of any item(s) recovered
- In the case of a search conducted pursuant to the power under section 60 of the Criminal Justice and Public Order Act 1994, the nature of the power, the authorisation and the fact that it has been given (see Note 10).
- In the case of a search of a person pursuant to a warrant the date the search warrant was issued and the fact that the warrant was produced.

### **Searches which do not result in an arrest**

9.4 The person who has been searched must be given – at the time of the search - a receipt which explains how they can obtain a copy of the record (see paragraphs 6.11 to 6.14).

### **Searches which result in an arrest**

9.5 If a person is arrested as a result of a search to which this Code applies, as well as the stop and search being recorded in accordance with this Code, the receipt should be placed within the prisoner's property bag and recorded on the national custody system.

9.6 Nothing in this Code requires the names of constables to be shown on the record of search or any other record required to be made under this Code where a constable reasonably believes that disclosing names might endanger themselves or other constables. In such cases the record should disclose the constable's warrant or other identification number and the police station which they are attached to, except where the constable reasonably believes that giving the name of the police station might put them or other constables in danger.

9.7 A separate record for each person searched must be available should a copy be required.

9.8 The record of the grounds for making a search must, briefly but informatively, explain the reason for suspecting the person concerned, by reference to information and/or intelligence about, or some specific behaviour by, the person concerned.

9.9 Nothing in this Code requires a constable who requests a person in a public place to account for themselves, i.e. their actions, behaviour, presence in an area or possession of anything, to make any record of the encounter or to give the person a receipt where no search is conducted.

## 10 Monitoring and supervising stop and search

10.1 Any misuse of stop and search powers is likely to be harmful to policing and lead to mistrust of the police by the local community and by the public in general. Supervising officers must proportionately monitor the use of stop and search powers and should consider, in particular, whether there is any evidence that they are being exercised on the basis of stereotyped images or inappropriate generalisations.

10.2 Supervising officers must monitor the use of stop and search powers by individual constables to ensure that they are being applied appropriately and lawfully. They must also ensure that the practice of constables under their supervision in stopping, searching and recording is fully in accordance with this Code. Monitoring may take many forms, including: direct supervision of the exercise of the powers; examining records held on the stop and search database (particularly examining the constable's documented reasonable grounds for suspicion); asking a constable to account for the way in which they conducted and recorded particular searches; or through complaints about a stop and search that a constable has carried out. Training opportunities for individual constables and for the wider police service should be identified as a result of such monitoring, with best practice identified and communicated proactively throughout the service.

10.3 Senior officers with local responsibilities for stop and search and those who have the national policy leads for stop and search must also undertake regular monitoring of the broader use of stop and search powers to ensure that they are used fairly and proportionately and, where necessary, take action at the relevant level. They must also examine whether the records reveal any trends or patterns which give cause for concern and, if so, take appropriate action to address this.

10.4 Supervision and monitoring must be supported by the compilation of comprehensive statistical records of stops and searches at national, divisional and local authority level. Any apparently disproportionate use of the powers by particular constables or groups of constables or in relation to specific sections of the community should be identified and reviewed to determine the reasons and, where appropriate, action should be taken.

10.5 As soon as practicable after the end of each reporting year (ending 31 March), the Chief Constable of a relevant police service<sup>11</sup> must publish, as a minimum, information on how many times during the reporting year a stop and search was carried out in Scotland by constables of that service. In addition, so far as practicable, the information is to disclose:

- (a) the number of stops and searches carried out under each statutory power;
- (b) how many persons were searched on two or more occasions
- (c) the age and gender, and the ethnic and national origin, of the persons searched

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<sup>11</sup> "relevant police service" means the Police Service of Scotland and any other police organisation which has constables, as defined in section 73 of the Criminal Justice (Scotland) Act, exercising functions in respect of which Parts 1 and 2 of that Act apply.

- (d) the proportion of searches that resulted in
  - (i) something being seized by a constable, including information as to the number of cases in which the item seized was of the type suspected by the constable at the outset of the search (See Note 13)
  - (ii) a case being reported to the procurator fiscal
- (e) the number of authorisations issued under section 60 of the Criminal Justice and Public Order Act 1994
- (f) the number of complaints made to a relevant police service about the carrying out of searches (or the manner in which they were carried out) in Scotland by constables of that service.
- (g) the number of receipts issued

## Notes for guidance

1 Nothing in this Code affects the ability of a constable to speak to or question a person in the ordinary course of the constable's duties without detaining the person or exercising any element of compulsion. This Code does not seek to prohibit or restrict everyday interaction between constables and members of the community.

2 The "relevant protected characteristics" referred to in paragraphs 4.3, 4.21 and 4.26 are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

3 Innocent possession means that the person does not have the knowledge that they are carrying an unlawful item. Ordinarily such knowledge is required before arrest can be considered. Children under the age of criminal responsibility are sometimes used by older children and adults to carry stolen property, drugs and weapons and, in some cases, firearms, for the criminal benefit of others, either:

- in the hope that police may not suspect they are being used for carrying the items;

or

- knowing that if they are suspected of being couriers and are stopped and searched, they cannot be prosecuted for any criminal offence.

Stop and search powers therefore allow the police to intervene to break up criminal gangs and groups that use young children to further their criminal activities.

4 Whenever a child or young person under the age of 18 is suspected of carrying unlawful items for someone else, or is otherwise found in circumstances which suggest that their welfare and safety may be at risk, the facts should be reported and actioned in accordance with the relevant police service's Child Protection Policy, or equivalent policy (if it has one). This will be in addition to treating them as a potentially vulnerable or intimidated witness in respect of their status as a witness to the serious criminal offence(s) committed by those using them as couriers. Safeguarding considerations will also apply to other persons aged under 16 who are stopped and searched under any of the powers to which this Code applies and constables should, where appropriate, report any such interaction to the relevant authorities. Similarly, any contact with children or young people aged between 16 and 18 who are subject to compulsory supervision under the terms of the Children's Hearings (Scotland) Act 2011 should be reported to the appropriate authorities, where appropriate.

5. Where a person is lawfully detained for the purpose of a search, but no search takes place, the detention will not thereby have been rendered unlawful.

6. Many people customarily cover their heads or faces for religious reasons - for example, Muslim women, Sikh men, Sikh or Hindu women, or Rastafarian men or women. A constable cannot order the removal of a head or face covering except where there is reason to believe that the item is being worn by the individual wholly

or mainly for the purpose of disguising identity, not simply because it disguises identity. Where there may be religious sensitivities about ordering the removal of such an item, the constable should permit the item to be removed out of public view. Where practicable, the item should be removed in the presence of a constable of the same sex as the person and out of sight of anyone of the opposite sex. Similar considerations may arise where headgear or other form of head covering is worn as part of their gender expression (e.g. headscarves or wigs), and again the constable should, where practicable, permit the item to be removed out of public view. Similarly, the touching of hair may be regarded as being disrespectful by individuals with particular beliefs, and accordingly should, where necessary, be conducted out of public view where possible.

7. A person may be detained under a stop and search power at a place other than where the person was first detained, only if that place, be it a police station or elsewhere, is nearby. Such a place should be located within a reasonable travelling distance using whatever mode of travel (on foot or by car) is appropriate. This applies to all searches under stop and search powers, whether or not they involve the removal of clothing or exposure of intimate parts of the body (see paragraphs 6.7 and 6.8) or take place in or out of public view. It means, for example, that a search under the stop and search power in section 23 of the Misuse of Drugs Act 1971 which involves the compulsory removal of more than a person's outer coat, jacket or gloves cannot be carried out unless a place which is both near the place they were first detained and out of public view, is available. If a search involves exposure of intimate parts of the body and a police station is not nearby, particular care must be taken to ensure that the location is suitable.

8. A search in the street itself should be regarded as being in public for the purposes of paragraphs 6.5 to 6.8, even though it may be empty at the time a search begins. Although there is no power to require a person to do so, and this should be explained to the person, there is nothing to prevent a constable from asking a person voluntarily to remove more than an outer coat, jacket or gloves in public. This would constitute a strip search (see Annex C).

## **Recording**

9. Where a stop and search is conducted by more than one constable the identity of all the constables involved in carrying out the search (including any constable supporting another constable who is physically carrying out the search) must be recorded on the record. Nothing prevents a constable who is present but not directly involved in searching from completing the record.

10. It is important for monitoring purposes to specify the time at which authority is given for exercising the stop and search power under section 60 of the Criminal Justice and Public Order Act 1994.

11. Constables should record the self-defined ethnicity and national origin of every person stopped. The person should be asked to select one of the five main categories representing broad ethnic groups and then a more specific cultural background from within this group, using the groups listed in the census questionnaire. An additional "Not stated" box is available but should not be offered

to respondents explicitly. Constables should be aware and explain to members of the public, especially where concerns are raised, that this information is required to obtain a true picture of stop and search activity and to help improve ethnic monitoring, tackle discriminatory practice, and promote effective use of the powers. If the person gives what appears to the constable to be an “incorrect” answer (e.g. a person who appears to be white states that they are black), the constable should record the response that has been given and then record their own perception of the person’s ethnic background. If the “Not stated” category is used the reason for this must be recorded.

12. It is unlikely to be practicable in most cases to make a record of a search under section 67 of the Criminal Justice (Scotland) Act 2016 (searches on entry to relevant premises and events, where consent has been given as a condition of entry imposed by the organiser). If it is not practicable to make a record of a search under section 67, there is no requirement to issue a receipt in respect of that search.

13. In this context, “seized” means items found or recovered as a result of the search.

## **ANNEX A**

### **List of main statutory powers of Stop and Search of the person (note: other statutory powers of search may also exist)**

Section 47 Firearms Act 1968 (firearms)

Section 23 Misuse of Drugs Act 1971 (drugs)

Section 60 Civic Government (Scotland) Act 1982 (stolen property)

Section 4 Crossbows Act 1987 (crossbows)

Section 11 Protection of Badgers Act 1992 (evidence of commission of an offence under that Act)

Section 60 Criminal Justice & Public Order Act 1994 (power to stop and search in anticipation of violence)

Section 101 Conservation (Natural Habitat etc) Regulations 1994 (evidence of commission of an offence under that Act)

Section 4 Wild Mammals Protection Act 1996 (evidence of commission of an offence under that Act)

Section 21 Criminal Law (Consolidation) (Scotland) Act 1995 (control of alcohol at sporting events)

Section 48 Criminal Law (Consolidation) (Scotland) Act 1995 (offensive weapons)

Section 50 Criminal Law (Consolidation) (Scotland) Act 1995 (knives)

Section 7 Protection of Wild Mammals (Scotland) Act 2002 (evidence of commission of an offence under that Act)

Section 11A Fireworks Act 2003 (possession of a firework in contravention of a prohibition imposed by fireworks regulations)

Section 66 Criminal Justice (Scotland) Act 2016 (power to search a person who is to be, or is being taken from one place to another, to ensure not in possession of an item that could cause harm to self or others)

Section 67 Criminal Justice (Scotland) Act 2016 (power to search on entry to relevant premises or events, where consent to the search has been consented to as a condition of entry imposed by the organiser)



## ANNEX B

### Establishing Gender of Persons for the Purpose of Searching

1. Certain provisions of this Code explicitly state that searches and other procedures may only be carried out by, or in the presence of, persons of the same sex as the person subject to the search or other procedure.
2. All searches and procedures must be carried out with courtesy, consideration and respect for the person concerned. Constables should show particular sensitivity when dealing with transgender individuals (see Notes to this Annex).

### Consideration

3. In law, the gender (and accordingly the sex) of an individual is their gender as registered at birth unless they have been issued with a Gender Recognition Certificate (GRC) under the Gender Recognition Act 2004 (GRA), in which case the person's gender is their acquired gender. This means that if the acquired gender is the male gender, the person's sex becomes that of a man and, if it is the female gender, the person's sex becomes that of a woman and they must be treated as their acquired gender.

### Searching of Transgender Persons

4. As transgender people may have biological characteristics which differ from the gender that they live in, there is potential for distress and embarrassment during searching. Application of the following guidance should minimise the potential impact when searching a transgender person.
5. If a search is begun without any knowledge that the person being searched is transgender and it only comes to light during the search then, unless the transgender person requests a different gender of searching constable to take over the search, the search should simply be completed as usual by the original searching constable.
6. If a person is thought or known to be transgender prior to a search being carried out, then the constables should ask that person

#### ***'Is there anything I need to know before I search you?'***

7. A female - male trans man who still has female physical characteristics may identify strongly as a man but may request to be searched by a female constable. In such a case, the trans man should still be referred to using male pronouns and treated as a man in all other ways except in terms of the gender of the constable who searches him.
8. A male - female trans woman who still has the male physical characteristics may identify strongly as a woman but may request to be searched by a male constable. In such a case the trans woman should still be referred to using female pronouns and treated as a woman in all other ways except in terms of the gender of the constable who searches her.

9. If a person is unwilling to make such an election, the constable should try and determine the gender in which the person lives their life. This is likely to be indicated by the name, title or gender on their main identity document e.g. drivers licence, bank card etc. If the person appears for example to live as a woman, they should be treated as such.

10. Once the gender of the constable conducting the search has been established, the search should commence. The transgender status and appearance of the person being searched should not be commented upon. If any physical variation is encountered due to gender reassignment during searching, the constable should maintain a professional and respectful manner as per any physical variation encountered due to disability during searching.

**Note:** It may be necessary to share information about the person's gender identity with other custody related organisations and other police staff. Such disclosure should only be made in relation to the transgender person when to do so would be relevant, legal, proportionate and fair.

## **Documentation**

11. The person's gender as established above must be recorded in the person's custody record or, if a custody record has not been opened, on the record of search or in the constable's notebook.

12. Where the person elects which gender they consider themselves to be but is not treated in accordance with their preference, the reason must be recorded in the record of search, in the constable's notebook or, if applicable, in the person's custody record.

## **Disclosure of information**

13. Section 22 of the GRA defines any information relating to a person's application for a GRC or to a successful applicant's gender before it became their acquired gender as „protected information“. Nothing in this Annex is to be read as authorising or permitting any constable or any police staff who has acquired such information when acting in their official capacity to disclose that information to any other person in contravention of the GRA. Disclosure includes making a record of „protected information“ which is read by others.

## **Notes for Guidance**

A1 While there is no agreed definition of transgender (or trans), it is generally used as an umbrella term to describe:

- anyone whose gender identity (including their gender expression) does not fully correspond with the sex they were assigned at birth. This is inclusive of
- trans women (people who were assigned male at birth but who identify as a woman)

- trans men (people who were assigned female at birth but who identify as men)
- non-binary people (who do not identify solely as men or women; instead their gender identity as between or beyond the man/woman binary or they have no gender)
- cross-dressing people (including people whose gender expression includes dressing in clothing which does not fully correspond with the sex they were assigned at birth but otherwise identify with their assigned sex).

A2 The Chief Constable is responsible for providing corresponding operational guidance and instructions for the deployment of transgender constables and staff under their direction and control to duties which involve carrying out, or being present at, any of the searches and procedures described in paragraph 1 of this Annex. The guidance and instructions must comply with the Equality Act 2010 and should therefore complement the approach in this Annex.

## **ANNEX C**

### **CONDUCT OF STRIP AND INTIMATE SEARCHES**

In this Annex, the word „detainee“ is used to describe the person who has been detained for the purposes of the search.

#### **A: Strip search**

1. A strip search is a search involving the removal of more than outer coat, jacket, gloves, headgear or footwear.

#### **Action**

2. A strip search may take place only if it is considered necessary to remove an article which the detainee would not be allowed to keep and the constable reasonably considers the detainee might have concealed such an article. Strip searches shall not be routinely carried out if there is no reason to consider that articles are concealed.

#### **The conduct of strip searches**

3. (a) The strip search must be authorised by a constable of the rank of Inspector or above.
- (b) The reason for the search must be fully explained to the detainee
- (c) A constable carrying out a strip search must be the same sex as the detainee (see Annex B);
- (d) the search shall take place in an area where the detainee cannot be seen by anyone who does not need to be present, nor by a member of the opposite sex (see Annex B), except a responsible adult who has been specifically requested by the detainee and who has agreed to be present during the conduct of the search;
- (e) Unless sub-paragraph (f) applies, whenever a strip search involves exposure of intimate body parts, constables must ensure that the number of persons who witness the search must be kept to the absolute minimum necessary, although there must always be at least two persons other than the person who is being searched present during the search. No person of the opposite sex to the person being searched who is not a medical practitioner or nurse shall be present. If the search is of a child or young person, the police should try to ensure that a responsible adult is present. Except in urgent cases, as in (f) below, a search of a child or young person may take place in the absence of the responsible adult only if the child or young person signifies in the presence of the responsible person that they do not want that person to be present during the search and that person agrees. A record shall be made of the child or young person's decision and signed by the responsible adult.

(f) The requirements set out in sub-paragraph (e) above may be departed from in cases of urgency, where there is risk of serious harm to the detainee or to others, but only to the extent absolutely necessary.

(g) The search shall be conducted with proper regard to the sensitivity and vulnerability of the detainee in the circumstances and every reasonable effort shall be made to secure the detainee's co-operation and minimise embarrassment. Detainees shall not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and put those clothes back on before removing further clothing;

(h) If necessary to assist the search, the detainee may be required to hold their arms in the air or to stand with their legs apart and bend forward so a visual examination may be made of the genital and anal areas, provided no physical contact is made with a body orifice;

(i) If articles are found, the detainee shall be asked to hand them over. If articles are found within any body orifice other than the mouth, and the detainee refuses to hand them over, their removal would constitute an intimate search, which must be carried out as in Part B;

(j) A strip search shall be conducted as quickly as possible, and the detainee allowed to dress as soon as the procedure is complete.

(k) Where it is decided that the detainee should be subject to a strip search, the reason for this should be recorded and the name of the authorising officer should also be included.

## **B: Intimate search**

4. An intimate search consists of the physical examination of a detainee's body orifices other than the mouth. The intrusive nature of such searches means the actual and potential risks associated with intimate searches must never be underestimated.

### **Action**

5. Body orifices other than the mouth may be searched only under the authority of a warrant issued by a Sheriff.

6. The search is to be carried out by an Authorised Health Care Professional (HCP). Examination by a HCP can take place only with the consent of the detainee.

7. In the case of children or young persons, or a person who has a mental illness, personality disorder, autism or a learning disability, the seeking and giving of consent must take place in the presence of a responsible adult.

8. A constable of the same gender as the person to be searched is to be present to corroborate the search.

9. Before the search begins, a constable or designated detention constable, must tell the detainee that a warrant to carry out the search has been issued.

10. Except in urgent cases, and subject to paragraph 11 of this Annex, an intimate search of a child or young person or mentally disordered or otherwise mentally vulnerable person may take place only in the presence of a responsible adult. The responsible adult must be of the same sex as the person to be searched (see Annex B), unless the detainee specifically requests a responsible adult of the opposite sex who is readily available.

11. Except in urgent cases, an intimate search of a child or young person or mentally disordered or otherwise mentally vulnerable person may take place in the absence of a responsible adult only if the child or young person or mentally disordered or otherwise mentally vulnerable person signifies in the presence of the responsible adult that they do not want that person to be present during the search, and that person agrees. A record shall be made of the child or detainee's decision, and signed by the responsible adult.

12. Unless paragraph 13 of this Annex applies, whenever an intimate search occurs, constables must ensure that the number of persons who witness the search must be kept to the absolute minimum necessary, although there must always be at least two persons other than the person who is being searched present during the search. Subject to paragraph 10 of this Annex, no person of the opposite sex to the person being searched who is not a medical practitioner or nurse shall be present. .

13. The requirements set out in paragraphs 10 to 12 of this Annex may be departed from in cases of urgency, where there is risk of serious harm to the detainee or to others, but only to the extent absolutely necessary.

14. The search shall be conducted with proper regard to the sensitivity and any vulnerability of the detainee.

## **Documentation**

15. In the case of an intimate search, the following shall be recorded as soon as practicable:

- the date the warrant was issued and the fact that the warrant was produced.
- the fact that the appropriate consent was given by the detainee to the health care professional or (as the case may be) refused, and if refused, the reason given for the refusal (if any).
- which parts of the person's body were searched;
- who carried out the search;
- who was present; and
- the result.



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<https://www.gov.uk/government/statistics/tribunal-statistics-quarterly-january-to-march-2023/tribunal-statistics-quarterly-january-to-march-2023#gender-recognition-certificates>



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Ministry of Justice

Official Statistics

# Tribunal Statistics Quarterly: January to March 2023

Published 8 June 2023

## 7. Gender Recognition Certificates

**In the financial year of 2022/23, 1,240 Gender Recognition Panel (GRP) applications were received and 954 were disposed of in total. 398 Gender Recognition Panel (GRP) applications were received and 297 were disposed of between January to March 2023. 714 applications were pending by the end of March 2023.**

The number of GRP applications received and disposed of in 2022/23 was the highest number in the last decade. The panel also had its highest sittings this year at 212 sittings days. 1,240 applications were received and 954 were disposed of in the year, an increase of 55% and 76% respectively. However, open caseload has nearly doubled (69%) in a year due to existing backlogs.

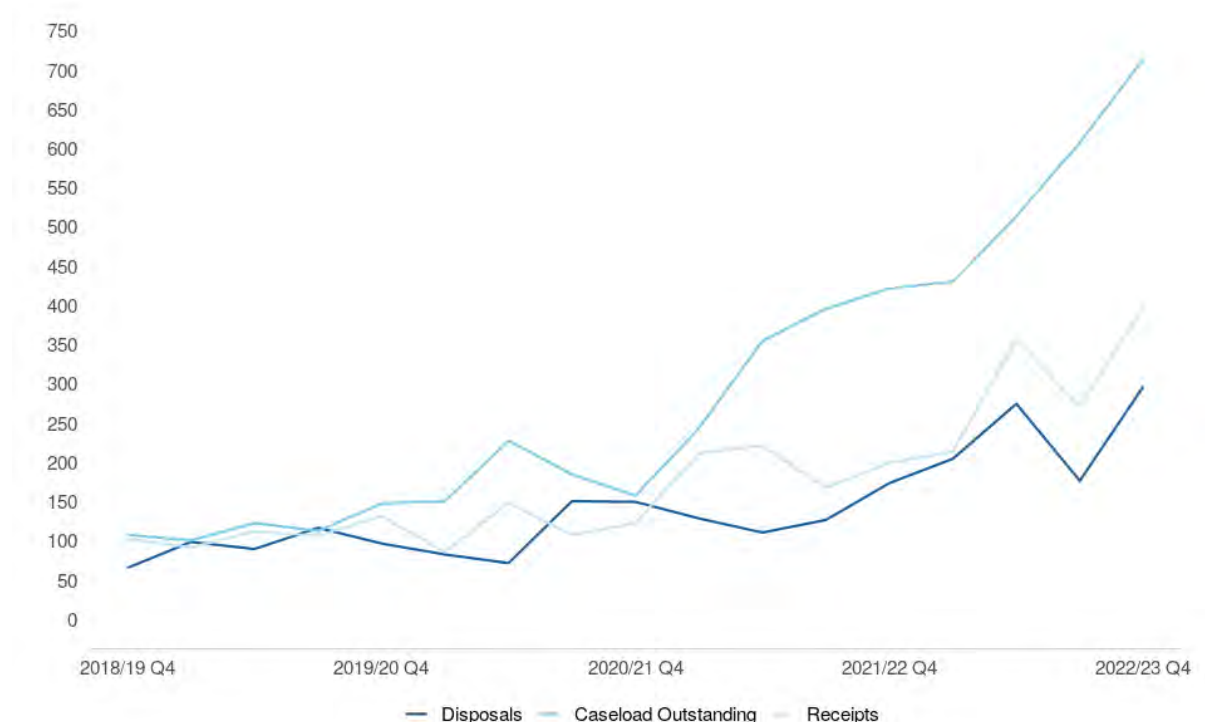
The GRP received 398 claims this quarter, an increase of 99% (198 claims) compared to January to March 2022. Of the 297 applications disposed of, a full Gender Recognition Certificate (GRC) was granted in 89% of cases (265 full GRCs), down 4 percentage points compared to the same period in 2022 (where 162 full GRCs were granted out of 174 disposals).



As expected, GRP receipts have increased annually since 2017/18, particularly more recently following a reduction in the application fee in May 2021 from £140 to £5, and the move to an online application process in July 2022. This has come at the same time as an increase in both the open caseload and refusals, with open caseload reaching 714 cases in Q4 2022/23. The increase in disposals is due to an increased number of applications received, meaning an increase in the number of hearings to address applications. 5% of all disposals (14 cases) have been refused this quarter. Applications can be refused if they do not meet the required criteria. More information on the criteria can be found at the following link: Apply for a Gender Recognition Certificate - GOV.UK ([www.gov.uk](https://www.gov.uk/apply-gender-recognition-certificate)) (URL: <https://www.gov.uk/apply-gender-recognition-certificate>).

Since April 2005/06, when the Gender Recognition Act 2004 came into effect, 68% of interim certificates (171 of the 252 interim GRCs granted) have been converted to a full GRC, 52% of which were converted within 30 weeks. No interim certificates were converted to a full GRC between January to March 2023. Of the 265 full certificates granted in January to March 2023, 31 were for married applicants and 226 for single applicants. 159 (60%) of the individuals granted full certificates were registered male at birth while 106 (40%) were registered female at birth.

**Figure 7.1: Applications for Gender Recognition Certificates received, disposed of and pending, Q4 2018/19 to Q4 2022/23** (Source: Tables GRP\_1 and GRP\_2)



<https://www.dailymail.co.uk/health/article-12140429/Number-Brits-undergoing-gender-changing-ops-doubles-decade-fascinating-stats-reveal.html>

# MailOnline

## Nearly one Brit had surgery to change their gender every day between 2021/22

By [JOHN ELY SENIOR HEALTH REPORTER FOR MAILONLINE](#)

**PUBLISHED:** 11:45, 2 June 2023 | **UPDATED:** 11:45, 2 June 2023

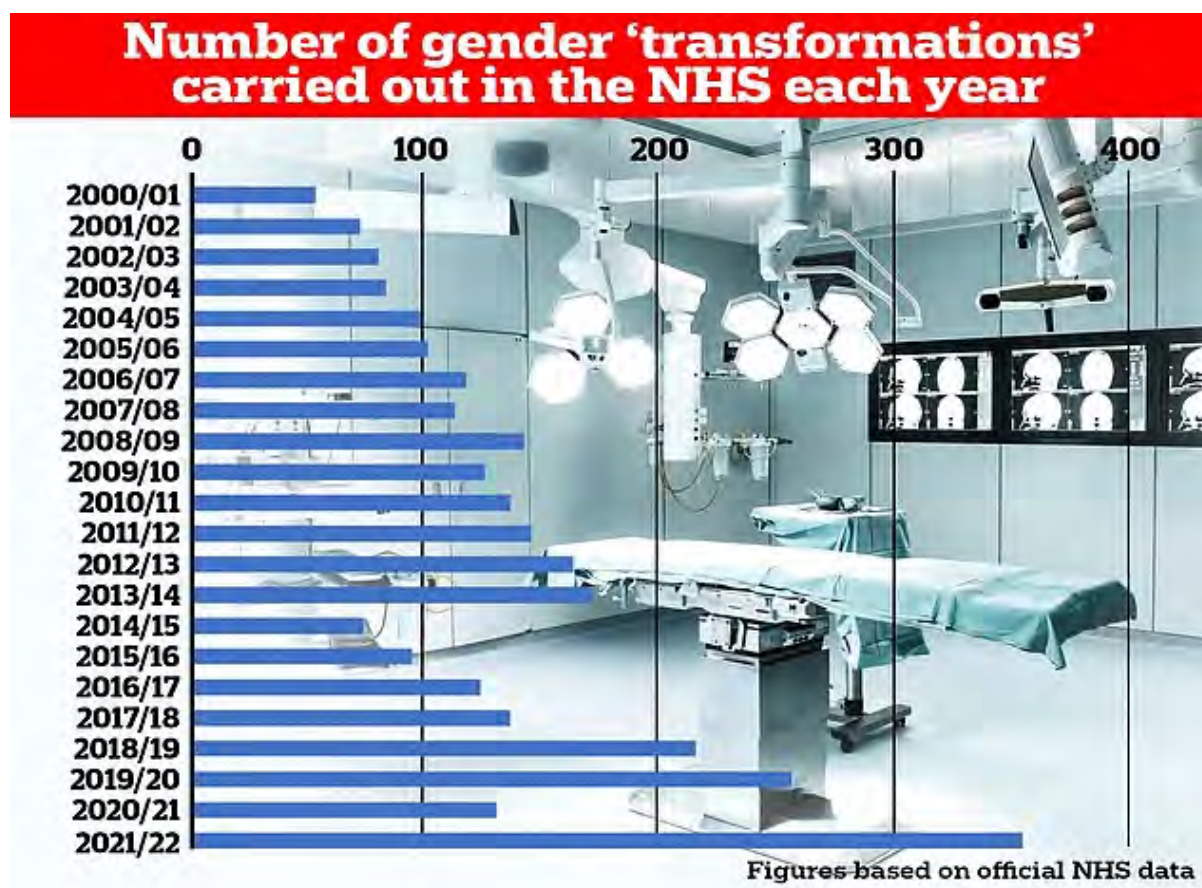
[NHS](#) medics performed one gender-changing procedure nearly every day last year, figures show.

The record number (355) — obtained by MailOnline analysis — illustrates the growth of Britain's trans community.

Just 146 procedures were carried out annually a decade ago, for comparison.

Such ops include so-called 'bottom' surgeries, when biological men have their genitalia cut off and skin fashioned into a neo-vagina. Biological females can undergo a phalloplasty — an op to create a penis.

The complex surgery allows patients to better match their gender identity.



This graphs shows the total number of male to female and female to male gender transformations carried out in the NHS in England since 2000

Nearly 97 per cent of the surgeries are for men transitioning to become women, our analysis of tens of millions of hospital admissions revealed.

But the NHS Digital data, which spans nearly 20 years, does not breakdown the age of those receiving the surgeries.

Stephanie Davies-Arai, of Transgender Trend, an organisation concerned about the current trend to diagnose children as trans, said the failure to record age could be considered 'negligence'.

She said that as older men typically do not go for full sex-reassignment surgery, a young cohort may be driving the rise over the past decade.

'These young men are far more likely to simply be gay, but at NHS adult clinics they will be waved through without any proper assessment or exploration.

'Vulnerable young men who are autistic, gay, or suffer mental health issues will be "affirmed" as women, no questions asked.'

She added: 'If it is a cohort of younger men swelling these figures, this will become the next medical scandal after the Tavistock.'

Ms Davies-Arai said the rising number of procedures was 'not surprising, given the rise in transgender rights activism over the past decade'.

'What is worrying is that free treatment on the NHS is now seen as a right for those who are suffering no medically-diagnosed condition but wish to change their bodies to match an "identity",' she added.

The NHS was contacted for comment.

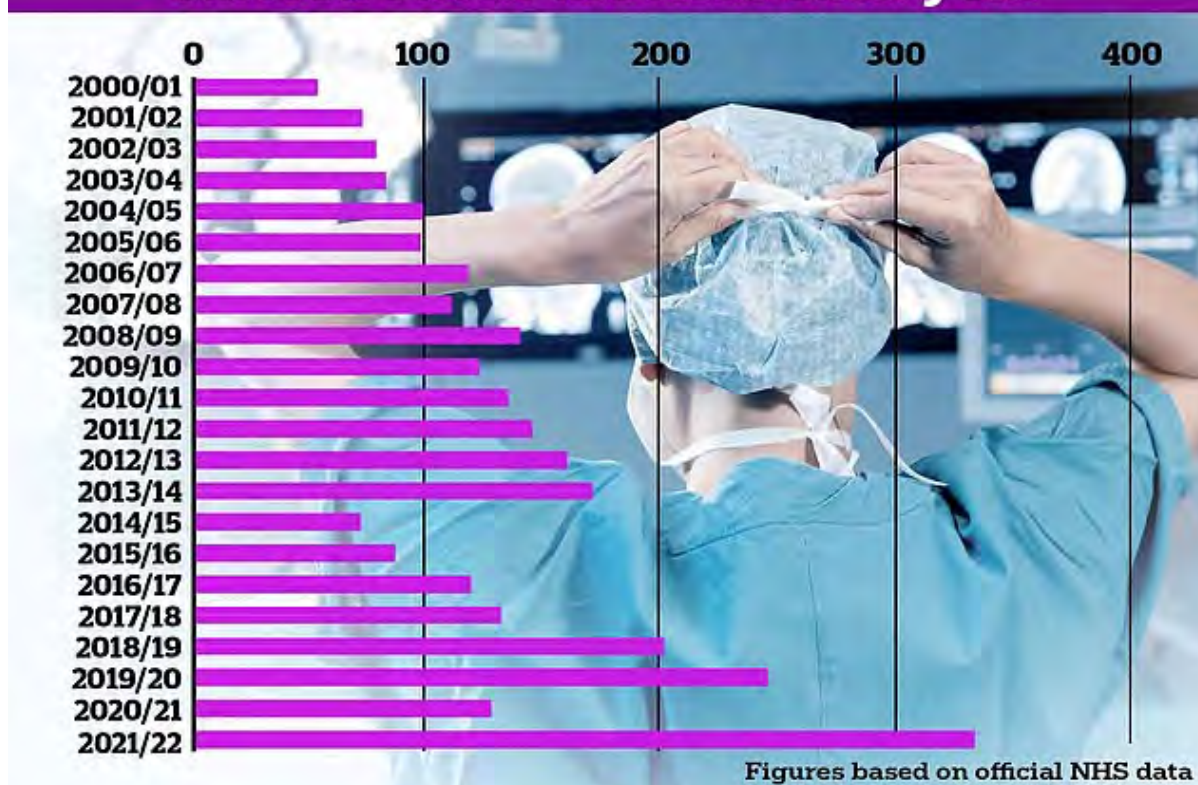
In total, 355 gender-changing operations were recorded in England between April 2021 and March 2022.

The majority of these (333) were listed as being for the transformation from male to female.

The NHS data analysed by MailOnline, based solely on hospital admission statistics, does not factor in individual patients. For example, some of the patients may have required numerous operations within the 12-month period.

It also does not break-down the type of operation each admission received.

## Number of male to female 'transformations' carried out in the NHS each year



The number of male to female procedures carried out in the NHS vastly dwarfs the number of female to male ops

Procedures are carried out on Brits who have lived for over a year as their preferred gender identity and now want to have their physical appearance altered to match it

For transmen, such procedures can include the surgical removal of the breasts and the construction of a penis and scrotum.

Transwomen can have complicated ops to remove their genitals and replace them with an artificial vagina.

Cosmetic surgery such as facial feminisation and breast implants are not routinely available on the NHS and are, therefore, unlikely to be included in the data.

The data set also only includes patients who had surgeries either in an NHS hospital or a private provider commissioned to do so by the health service.

This means trans Brits who underwent surgery privately are not included in the total.

The total number of such procedures carried out in 2021/22 is up 38 per cent on the total seen before the pandemic.



Looking at the past 20 years of NHS data the increase is even starker, with nearly five times as many gender transformations carried out in the NHS as in 2001.

The NHS did not record the age of the patients who underwent gender transformations.

Sources said this is due to a change enacted in 2016 — where this information was redacted by hospitals due to the 'sensitivity' of such information.

But data from the last year it was recorded, 2015, revealed the average of age of transwomen, a biological male wanting surgery to appear more feminine, was 44.

Transmen, biological females who identify as men, had an average age of 23 that year.

The NHS data also revealed the number of transwomen seeking surgery to better match their feminine gender identity vastly outnumber transmen.

Just over 2,900 admissions were recorded female to male gender transformation surgery in the NHS over the last two decades. This represents 97 per cent of the total admissions.

What is behind this gender imbalance is unclear.

The waiting lists for such surgeries on the NHS are extreme, with campaign groups estimating there are some [2,000 transmen are currently waiting for a phalloplasty](#), the surgical creation of a penis.

This is, in part, due to the complexities of such a difficult and specialised operation, with only a limited number of surgeons in the UK performing these procedures.

According to the NHS data, people wanting male to female surgeries waited an average of 129 days for their operation whereas those wanting female to male procedures only had to wait 48 days.

Trans health in the UK has come under scrutiny in recent years, particularly relating to hormone treatments given to kids questioning their gender.

The health service's embattled Gender Identity Development Service (GIDS,) the only service of its kind for children, based at London's Tavistock and Portman Foundation Trust, was set to close in July 2022 after inspectors rated it as 'inadequate'.

Mental health issues were 'overshadowed' in favour of gender identity treatment, it was found. The clinic was accused of rushing children onto puberty blocking drugs by former patients who feel they weren't challenged enough.

However, GIDS [will now remain open until at least March 2024](#) because the creation of two new regional hubs — which are set to replace it — are taking longer to set-up than anticipated.

On the other hand, adults wanting gender-affirming care have criticised long waits for care on the NHS.

According to health service rules, people must have socially transitioned, meaning living as their new gender identity, for at least a year before becoming eligible for taxpayer-funded surgery.

# Female prison guards ordered to strip search dangerous trans Scots convict Tiffany Scott

Staff at Low Moss male prison claim their human rights went "out the window".

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Tiffany Scott, previously Andrew Burns (Image: The Central Scotland News Agency)



Female [prison](#) officers claim their [human rights](#) went “out of the window” when they were ordered to carry out intimate searches on dangerous trans prisoner Tiffany Scott.

Full body searches of Scott began being carried out by women officers when Scott’s gender identity changed from “male” to “female” on a prisons computer record system, the [Daily Record](#) can reveal.

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But one prison insider said “nothing else about Scott has changed physically,” and women officers who refused to do the searches have to submit their reasons in writing.

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The transfer of 31-year-old Scott – formerly Andrew Burns – from HMP Low Moss, near Glasgow, to a women’s prison later this year was blocked after the Record revealed the Scottish Prison Service plans.

The political storm, which brought huge criticism for Nicola Sturgeon, led to the halting of all against women being sent to women’s prisons.

Now female officers from the Low Moss male prison have come forward to express their concerns over women having to carry out searches on Scott – who has to remove clothing for the procedure.

One whistle-blower revealed that several female prison staff have repeatedly refused to do searches on Scott, who still has male genitalia.



HMP Low Moss prison near Bishopbriggs, East Dunbartonshire (Image: Andrew Milligan/PA Wire)

They also expressed safety concerns after Scott had a “meltdown” after learning their move to a female prison was being blocked.

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A Low Moss officer spoke to the Record after discussions with fellow staff members – all of whom believe female workers should not have to carry out full body searches on Scott or any other trans prisoner with male genitalia.

The source said: “This all started last summer when the PR2 system (Prisoner Records) suddenly designated Scott to be a woman, several years after changing name to Tiffany Scott.

“Up to then a woman would not have been asked to search the lower half during a full body search, obviously because it would have been totally inappropriate to ask a woman to do that.

“But from one day to the next it became inappropriate for male officers to do the searches – and the human rights of the female staff went out the window. It’s mad because nothing else about Scott has changed physically.





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The source said Scott, who is held in segregation, had a “meltdown” after finding out that a planned move from Low Moss was blocked – a direct response to the Record’s revelations about the prison switch.

The source said: “She had a meltdown and broke a phone box that had been put in the cell. She then used bits of that to disturb a wound from surgery.

“It’s the same chaotic, violent and self -harming stuff that she’s been up to since she came here a few years ago.”

The officer poured scorn on Brown’s claims that no decision had been given to move Scott out of Low Moss to a women’s jail.

The source said: “Tiffany Scott had most certainly been informed, as had all staff here, that the Scottish Prison Service had cleared her for a move.

“She was expecting to go to Cornton Vale or the new prison in Stirling. The move wasn’t in any doubt.”

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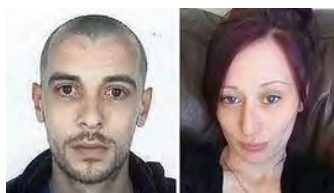
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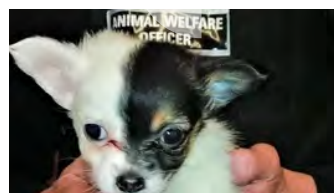
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Scottish Prisoner Officers Association spokesman Phil Fairley said he was concerned female staff felt pressurised to carry out intimate searches on Scott, and said: "I will be taking this up with management at the prison."

A Scottish Prison Service spokesman said: "We don't comment on individuals. The Scottish Prison Service is experienced in conducting searches in a way that support both individuals and staff."

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Perhaps the problem here is how we classify prisons? Perhaps rather than "male" or "female" these could instead be for those with or without dangling items? Would that be simple enough for MSPs?

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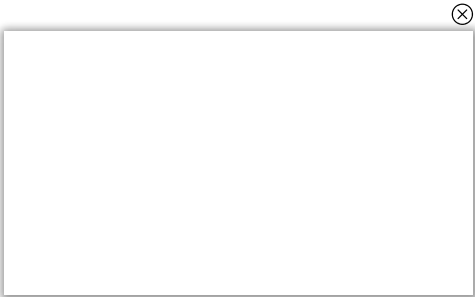
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# Isla Bryson: Transgender rapist jailed for eight years

🕒 28 February



PA MEDIA

| Bryson made the decision to transition from a man to a woman while awaiting trial

**A double rapist who changed gender while waiting to stand trial has been jailed for eight years.**

Isla Bryson attacked two women in Clydebank and Glasgow in 2016 and 2019 while known as Adam Graham.

The judge said Bryson posed a high risk of reoffending and would be supervised for three years after release.

The case sparked a heated debate over whether Bryson should be housed in a male or a female prison after transitioning from a man to a woman.

Bryson, 31, was initially remanded to a women's jail after being found guilty, but was then moved to a men's facility.

- **What is the transgender prisoners row all about?**
- **Is double rapist Isla Bryson a man or a woman?**
- **Prison bosses defend sending rapist to women's jail**

This followed concerns about the safety of any women held alongside a transgender sex offender in a female jail.

The case ultimately led to an urgent review and a change in policy which will see all newly-convicted or remanded transgender prisoners initially placed in jails according to their birth sex.

The trial heard that Bryson, from Clydebank, had preyed on vulnerable women online.



| Bryson committed the crimes in 2016 and 2019 while known as Adam Graham

Passing sentence, Lord Scott told Bryson: "You see yourself as the victim in this case. But you are not."

The judge said reports suggested Bryson had a set of neuro-developmental disorders.

"Your vulnerability is no excuse at all for what you did to these two women in 2016 and 2019," he said.

"Regardless of your own vulnerability, in a period of just under three years, you raped two women who can both be regarded as vulnerable."

Lord Scott said Bryson had preyed on victims because of their vulnerability and raped them in their own homes.



| Bryson's estranged wife Shonna Graham said the focus should be on the victims

He added that the rapist - who continues to deny committing the offences - would be placed on the sex offenders register for life.

Bryson's estranged wife, Shonna Graham, said the focus should be on the victims.

"The way I see it is he is a man, he done the crime as a man... he should do the time in a man's jail," she said.

Ms Graham said she had met Adam Bryson in 2015 and they married the following year.

The 31-year-old said there had never been any suggestion during their relationship that her husband wanted to become a woman.







"I hope he rots in jail. I hope the victims can put this evil person behind them."



| Judge Lord Scott said Bryson posed a high risk of reoffending

In court, defence advocate Edward Targowski KC said Bryson had been subjected to "ill-judged, ill-informed and ignorant" comments about the decision to undergo gender reassignment.

Mr Targowski said his client had decided to change gender many years ago, had received "maximum" amounts of medication, and was on a NHS waiting list for a gender reassignment operation.

A review into the case was ordered by Justice Secretary Keith Brown and its key findings were made public earlier this month, although the full report was

not published on grounds it contained personal information.

It showed that the Scottish Prison Service had made the decision to divert Bryson to Cornton Vale women's prison in Stirling, rather than the planned destination of HMP Barlinnie in Glasgow, while the offender was in transit.

Two days later, senior management decided "due to the level of risk and remaining uncertainties" to move the inmate to a male prison, HMP Edinburgh.



## Analysis

By Lynsey Bews

Political correspondent, Scotland

The Isla Bryson case came to the press and public's attention at arguably the worst time for the Scottish government.

Its Gender Recognition Reform Bill, aimed at making it easier for trans people to change their legally recognised sex, had just been blocked by UK ministers following a difficult journey through Holyrood.

Those opposed to the legislation raised concerns about the potential for the new system of self-ID to be abused by violent men.

When Isla Bryson was initially sent to Cornton Vale women's prison following conviction, ministers insisted the new legislation had had no impact on that decision.

But opponents said the case crystalised the issues with self-identification.

Isla Bryson's trans status was being taken at face value, yet many, including the first minister, doubted it was genuine.

First Minister Nicola Sturgeon told the Scottish Parliament that Bryson would not be incarcerated in Cornton Vale "either short-term or long-term".

Asked about the case on Tuesday, SNP leadership candidate Humza Yousaf said: "Isla Bryson is deceptive, manipulative, trying to get advantage of the system.

"I hope they're incarcerated and will be incarcerated in a male prison."

Scottish Conservative MSP Russell Findlay said Bryson could be back on the streets in as little as four years, which would be "little comfort to victims".

Bryson made the decision to transition from a man to a woman while awaiting trial.

It is thought to be the first time a trans woman has been convicted of raping women in Scotland.

There are relatively few trans prisoners in Scotland.

The latest Scottish Prison Service statistics said there were 12 trans women and three trans men between October and December 2022. There were 7,019 male prisoners and 265 female inmates.

The Scottish government has stressed that the case is not connected to the Gender Recognition Reform Bill, which has not yet been enacted and was **blocked from becoming law** by the UK government.

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23rd February 2022

## Karen Ingala Smith talks about single-sex services

"I have heard leaders of charities that are supposed to support women who've been subjected to men's violence say that it is 'not safe' for them to speak about this. That makes me so angry. How can they talk about their safety and accept those salaries when we are literally dealing with women and children who are genuinely unsafe because of men?"



Sex Matters spoke to Karen Ingala Smith, CEO of Nia – a charity that offers services to women, girls and children who have been subjected to sexual and domestic violence and abuse – about how the charity maintains single-sex provision.

*Karen, you're one of the few voluntary sector leaders who have stood up for women's single-sex services. Why are single-sex services so important for women who have survived domestic and sexual violence?*

Being abused by a man, whether a partner, relative, associate or stranger, can have a profound impact on a woman's well-being. Lots of women need space away from men to process what has been done to them and to begin to rebuild their lives.

Some women, not all, experience trauma after abuse. Trauma isn't so much about what is done to you, it's how your body and mind react to what has been done to you. It's not a conscious thing, it's not a choice, it's not something that women can give themselves a good talking to about and move on.

To address trauma, women need to be in a space that doesn't trigger a trauma response. And for some women, this means a

space away from men.

I think that we should be providing services that support all women's needs, not just those that are less complicated. Including males in services for those who have been subjected to sexual and domestic violence and abuse can mean excluding the most vulnerable women who need support. I know not all women survivors need this, but I don't think those who do not need it, should be denying the space of women who do.

And then there's safety. Most sexual and physical violence is committed by men. If you want to provide a safe space for women, the statistically most effective thing that you can do to keep that space safe is to exclude men from it, irrespective of how those men identify. In fact, research shows that at best, violent criminality of males with a transgender identity follows the pattern of general male offending. If people say the answer is risk assessment, they're missing the point. The point of risk assessment is to identify and remove any risks which are not necessary, not to throw extra ones in and hope for the best.

Some women have never been given the space to think about what they want and how they want to live their life. Female socialisation is powerful and men are very good at turning things around and making it all about them – and requiring the care and support of women. Some of the women that we work with have literally never had this experience – a male free experience – and being away from the male gaze, away from men projecting their expectations, can be transformative.

### *How did Nia develop its policy?*

Back in 2017, the board was just about to ratify the five-year strategic plan and I said that I thought there was something missing. We'd identified the threat to single-sex services for some time and were alarmed to see that things were getting worse. I suggested we should think about articulating protection of women-only policies in our strategic priorities.

The board and senior management team of Nia knew this was a risk to the charity's survival and that it might bring negative attention, but we agreed that inaction meant we would be complicit in the erasure of single-sex services, so we decided that we'd face the risk.

In short, if this was going to bring about the end of Nia, it was the hill we were prepared to die on and we'd do so proudly knowing that we were doing what we were supposed to do, protecting women, girls and children who have been subjected to men's violence.

Nia is a service provider, not a lobbying organisation, but we have tried to stay true to our political objectives. It did feel like an important step at the time and I was proud that the trustees and senior management team had come to the decision they did.

The next thing was the policy. We knew that the Equality Act exceptions allowed for the lawful provision of single-sex services. There was, and still is, a lot of misinformation about the exceptions and we believe this was a deliberate tactic in some cases. A lot of organisations were producing trans inclusion policies – so I turned that around and produced a *Prioritising Women Policy* which both outlined the legal position and some of the research that backed up the importance of single-sex services. And then I got it checked for legality – again, I knew that negative attention was likely to follow and I didn't want us to have got it wrong. As with all our policies, it then went to the board of trustees for consultation and ratification, they made some changes, and then we rolled it out to the organisation.

### *Why has it become so difficult for women's organisations to say they are female-only?*

The short answer is that most of us are dependent on government bodies for funding and the trans lobby has been very successful in promoting their interpretation of the law and of what is right – and branding everyone with a different perspective as bigoted. When you're bidding for a contract, it's the contract funder, not the service provider, who sets the conditions.

It's not an easy thing to do, to make a decision which might cause funding problems – which might ultimately close you down and stop you supporting women. Some think they're making a pragmatic decision and that in doing so they'll be able to continue to provide the support. We could see the argument for that, but long term, that was not going to service the interests of women who were being or had been subjected to men's violence.

In fact, even at Nia, some of our contracts (for community-based work) require us to provide services for men. Where that's the case, we do that and it doesn't therefore make a difference if those males have transgender identities. But we do not allow men to live in our refuges, come to services in our women's centre, or get involved in our group work. If we work with a male, it's never in the same place as we work with women.

Some women's organisations have lost the connection with their feminist roots, others have fallen for identity politics and been duped into thinking that they're the ones who are doing the right thing.

You can't identify out of sex-based oppression or the threat of men's violence against women.

Clearly second-tier organisations haven't helped either. When I gave evidence about providing single-sex services at the Women and Equalities Select Committee, Sarah Champion MP challenged the representative from Women's Aid about why the organisation had failed to give guidance on the Equality Act and the exceptions – when the Act had been in force for 10 years. It was awkward, but she was absolutely right.

*As a frontline service provider what support would you want from regulators like the Equality and Human Rights Commission and the Charity Commission, and second-tier and umbrella organisations in the voluntary sector?*

I'd like them to focus on funders so that awareness of the importance of single-sex services and their protection is built into funding frameworks. Even if all those bodies said the right thing, if funders continue to be stuck under the influence of the men's rights lobby, a lot of frontline service providers will still feel stuck. There should be penalties for not properly meeting women's needs through the provision of single-sex services. A proper Equalities Impact Assessment would show that single-sex services are the most effective way to meet women's needs.

*What advice would you give to other voluntary sector leaders who are grappling with this issue?*

Not advice, but I'd want to ask them if they really think they're doing the right thing for women, girls and children if they stay quiet and allow the services that our fore-sisters built to be destroyed. It took an incredible upsurge of women's activism to create the specialist services that exist today. Feminist activists and survivors (many women are both) built the specialist women's sector. We should be protecting that legacy, not playing safe because we've become an arm of the patriarchal state.

They should be prioritising women and girls. If they're not prepared to do that, then really I think they're in the wrong job.

I have heard leaders of charities that are supposed to support women who've been subjected to men's violence say that it is "not safe" for them to speak about this. That makes me so angry. How can they talk about their safety and accept those salaries when we are literally dealing with women and children who are genuinely unsafe because of men?

*Karen Ingala Smith has been Chief Executive of Nia since 2009. With over 29 years' experience in the women's sector which encompasses frontline delivery, and operational and strategic management, she's a leader in feminist-informed service provision. She is also the founder of the campaign [Counting Dead Women](#).*

Sex Matters drew inspiration from Nia's policy to develop a [model policy on single sex services](#).

"Most of us in the group have had issues with men and it makes you feel like you're not alone.  
It's a beautiful, very safe environment where you can be yourself."

Anonymous Nia client

"It's women only and that's important cos they [the staff] understand and it's safe to be here."

Anonymous Nia client



24th February 2023

## Lesbians without liberty

“Women who love women are being forced back into the closet because we are being told we cannot meet or socialise without including men who identify as women.”

**Joanna Cherry KC MP**



sexmatters

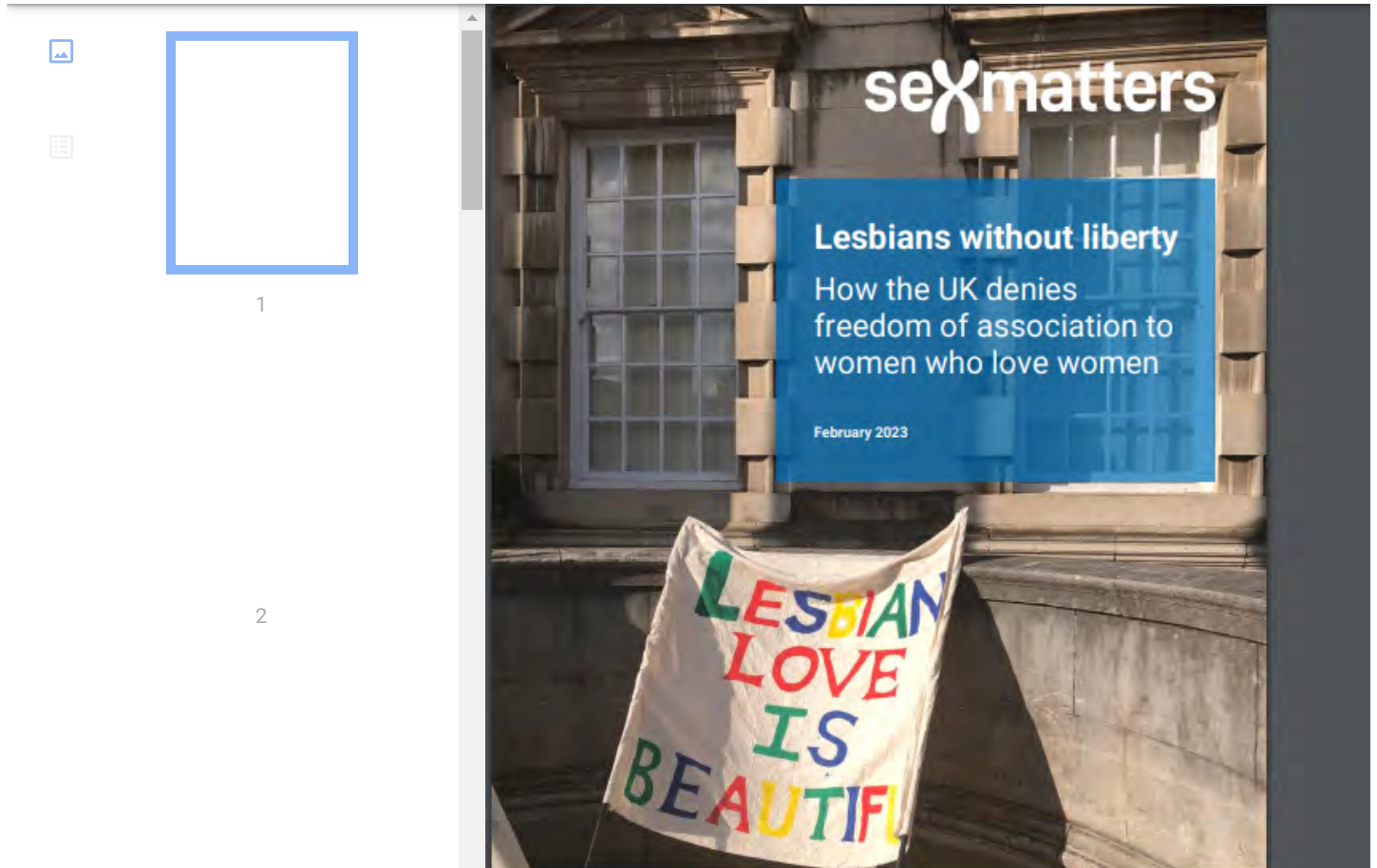
If you heard of a country that passed a law banning lesbians from creating formal associations based on their sex and their sexual orientation you would think that it was an authoritarian regime, stuck in the dark ages of gay rights. You would expect Stonewall and Amnesty International to be up in arms.

But it happened here in the UK.

Last year, our [survey of users of single-sex services](#) got many responses from lesbians telling us about losing their associations. They told us about groups that were previously women-only coming under pressure to include men who identify as women. They said that women who dissent are excluded. They reported how events and meet-ups including book groups and cycling clubs, discos and drinking nights have disappeared, or gone underground. Venues cancel events; posters are defaced; women are harassed and bullied unless lesbian events are “inclusive” of males who identify as women. All this is mirrored online: even lesbian dating sites include men who claim they are women, and those who try to state a preference for biological women get thrown out.

We collected the stories into a report: Lesbians without liberty, published today:



[Lesbians without liberty](#)[Download](#)

The report also includes an analysis of the state of the law. This builds on work done by LGBA Cymru who [commissioned a legal opinion from Naomi Cunningham](#) on the defence of lesbian spaces.

## Forced back into the closet

Joanna Cherry KC MP has written the foreword. She says:

“Women who love women are being forced back into the closet because we are being told we cannot meet or socialise without including men who identify as women. Lesbians feel betrayed by politicians, who seem happy to stand by as lesbians are erased from public life unless we accept the mantra of the gender ideologues who believe that we should be same-gender attracted rather than same-sex attracted.”

It seems very clear that what is happening to lesbians, who are being forced to meet in secret or to allow males into their groups, is an abuse of their human right to freedom of association.

What is most shocking is that the government and the Equality and Human Rights Commission both say that this is how the law should be interpreted: that if a male person has a gender-recognition certificate he has a right to join an association set up by lesbians for lesbians.

In its recent [statement of reasons](#) for blocking the Gender Recognition Reform (Scotland) Act, the government states:

“Where an individual has changed their sex for the purposes of the 2010 Act by obtaining a full GRC, the association is therefore not able to refuse membership on the grounds of their previous sex. They also cannot restrict membership to people who are not covered by the gender reassignment characteristic because an association’s membership can only be based on a shared protected characteristic and not the absence of it.”

[The Equality and Human Rights Commission](#) also argues that the effect of a gender-recognition certificate is to change a person's legal sex for the purposes of the Equality Act.

## **We think they are wrong: this is a misunderstanding of the law**

The human rights act says that so far as it is possible to do so, legislation must be read in a way which is compatible with the Convention rights. Freedom of association, the right to form groups and meet together to express or defend common interests, is a fundamental human right, protected by Article 11 of the European Convention on Human Rights.

The interpretation of the meaning of sex in the Equality Act which destroys lesbian and gay rights to freedom of association might be overturned in court, but it does not have to wait for that. The government has the power to issue a statutory order to clarify that a gender-recognition certificate does not change a person's sex for the purposes of the Equality Act. If you have not signed our petition, [sign it today](#).

This would protect the rights of lesbians and gay men to freedom of association, as well as the right of men and women in general who wish to form single-sex associations. It would not prevent those who wish to form groups based on gender self-id from doing so.

20th July 2022

## If you can't say sex, how can you say sexual harassment?



An employment tribunal in Leeds has handed down [judgment](#) in a case involving catering staff at a Sheffield NHS Hospital Trust.

A female employee reported that a male colleague had asked her to go into a private room and then had quipped about removing his underwear. Another reported having seen the same male colleague naked from the waist down in the women's changing rooms.

When a manager asked the male employee about this, he not only denied it but brought sexual harassment and discrimination claims against the hospital trust, and against the investigating manager and the female employee personally.

The tribunal found for the male employee on the discrimination claim, concluding:

"The Claimant was asked personal and embarrassing questions in a relatively formal work meeting in front of a colleague. That is detrimental."

If you don't know the full story, that short summary will seem like an account of an incomprehensible reversal of victim and offender. The missing piece of the jigsaw is of course that the male employee ("V") identifies as a woman, and the discrimination found by the tribunal was on the basis of gender reassignment.

This judgment demonstrates how confusion about the legal meanings of "man" and "woman", reality-denying EDI policies and fear of "misgendering" combine to destroy protection against sexual harassment and sex discrimination.



## What happened?

The claimant, a law graduate, applied for a job as a catering assistant at the Sheffield Hospital Trust's Central Production Unit in January 2020 after a long period of poor mental health and unemployment. Although the job had been advertised as a full-time post, V insisted on working only two or three days a week and the Trust agreed.

Before V started work, management sent a note to all staff informing them that V would be using the female communal changing-rooms, and there were to be no questions or comments. This was followed up with a second note about "celebrating diversity", which warned that "the Trust would take decisive action where people were subjected to discrimination, and encouraged staff to report any disrespectful or discriminatory behaviour they experienced or witnessed". The Trust's Head of Equality, Diversity and Inclusion then delivered training to every member of catering staff on trans inclusion.

When some female staff raised concerns about the changing-room, they were told that there was no evidence of transgender women being a threat or causing any issues in the workplace, and that there needed to be a balance of rights and respect for someone who wanted to live her life completely as a woman.

V started work on 13th July 2020. On 28th July 2020, V arrived at work crying and shaking because of "hate crime" outside of work. On the same day, V claimed to have overheard two female staff in the women's changing room saying:

Voice one: ("middle aged, posh, not holding back and opinionated") I am sick to death of this bloke with a dick pretending to be a woman, who doesn't even dress like a girl and has facial hair, that thing may rape me and we can drive it out of the department and maybe find a suitable leper colony for it.

Voice two: ("younger, softly spoken, quite posh, arrogant, but young") I agree but we need to do something but what can we do when management are sucking up to that thing.

Voice one: We will find a way.

The Trust accepted V's account, so the tribunal was not called upon to decide whether or not this conversation had taken place.

On 11th August 2020, during an investigation of the changing-room incident of 28th July, V reported having found a note saying "Get out you tranny freak" posted into the claimant's locker in the ladies' changing-room on the same day. V had not previously reported the note, which V claimed to have destroyed. Again, the Trust accepted this as true.

At 3pm, some hours after reporting the destroyed note, V produced a new note: "GET OUT TRANNY" written on a sanitary-disposal bag in capital letters, which V claimed to have just found in V's locker. Once again, the Trust did not challenge V's report, so the Tribunal was not called upon to make a factual finding about it.

In June 2021, there was a conversation between V and Mrs Townsend, a colleague who had been kind to the claimant, giving make-up tips and discussing personal issues. V asked for a word in private. They went to the "disposable room". V complained of not feeling well, and being hot and sweaty. Mrs Townsend suggested taking a break, having a cold drink and going back to work. At that point Mrs Townsend said V told her that "she [V] had taken off her underwear" and mimed a hand-wringing motion suggesting dripping knickers. Mrs Townsend finished the conversation and then recounted it to the shift manager, Mrs Hawkshaw. Mrs Hawkshaw expressed surprise, but they did not discuss it further. Mrs Townsend also made a note of the conversation and added exclamation marks.

On 24th June another female employee told Catering Manager Liz Hawkshaw that a colleague had seen the Claimant in the changing room "naked from the waist down". Mrs Hawkshaw took a statement from her.

The next day there was a meeting with V to address various workplace conduct issues. Mrs Hawkshaw did not directly ask about the incident in which V had been seen naked from the waist down in the women's changing room, but asked general questions about removing underwear at work. Those questions were the subject of the Tribunal's finding of discrimination.

## Getting sex wrong

V's conduct in undressing in a communal women's changing room so that V was naked from the waist down was an extraordinary violation of workplace norms, and of the boundaries of V's female colleagues. But V was not directly challenged or disciplined for this behaviour; instead Mrs Hawkshaw awkwardly asked V general questions about removing underwear at work.

The reason for Mrs Hawkshaw's awkwardness is obvious. V had been given officially sanctioned access to the women's changing-rooms and showers. It is normal to remove your underwear to use a shower. It is not normal to allow men to remove their underwear in women's changing rooms (or even to be there). But managers well above Mrs Hawkshaw's pay-grade had made the decision that V would use this space; and V's female colleagues had been trained and warned that to express discomfort would be regarded as discrimination, which could have disciplinary consequences.

The protected characteristic of gender reassignment (identifying as trans) does not change or erase a person's sex. But nowhere in the judgment is this basic and important fact acknowledged. The word "male" is not used once to describe the Claimant.

Once you describe V as male, the defence against the discrimination claim becomes clear: would it be normal to question a male employee without the protected characteristic of gender reassignment who acted as V had acted? Yes. Then it is not gender-reassignment discrimination. But that legally conventional defence, using the concepts employed by the Equality Act itself, has been declared to be transphobic "misgendering". The Hospital Trust is a Stonewall Diversity Champion.

So the Trust tried to defend the case without transgressing the new norms that Stonewall had imposed on it. And the tribunal (which is guided by the Equal Treatment Benchbook, also heavily influenced by the new sex-denialist orthodoxy) didn't notice.

The female employees who had been trained and warned to deny reality in order to be inclusive and keep their jobs did as they had been told, and if they felt fear, shock or concern for their own dignity or safety, they did not admit it. Even so, two women were personally accused of sexual harassment for merely reporting what had happened. So they must have been at pains to say they saw nothing sexual in any of this.

If they had wanted to say that they or other female staff felt sexually harassed by V, or discriminated against by their employer's policies, there were no acceptable words they could use. To say anything would have been to risk being branded a transphobe, and in breach of their employer's "PROUD values".

But these women's compliance was not enough. The tribunal held that in even asking questions about V's behaviour they had discriminated against V for being a "trans woman", not a "cis woman". So they may be branded transphobes anyway. More workplace re-education is doubtless on its way.

## This should be appealed

This judgment should be appealed.

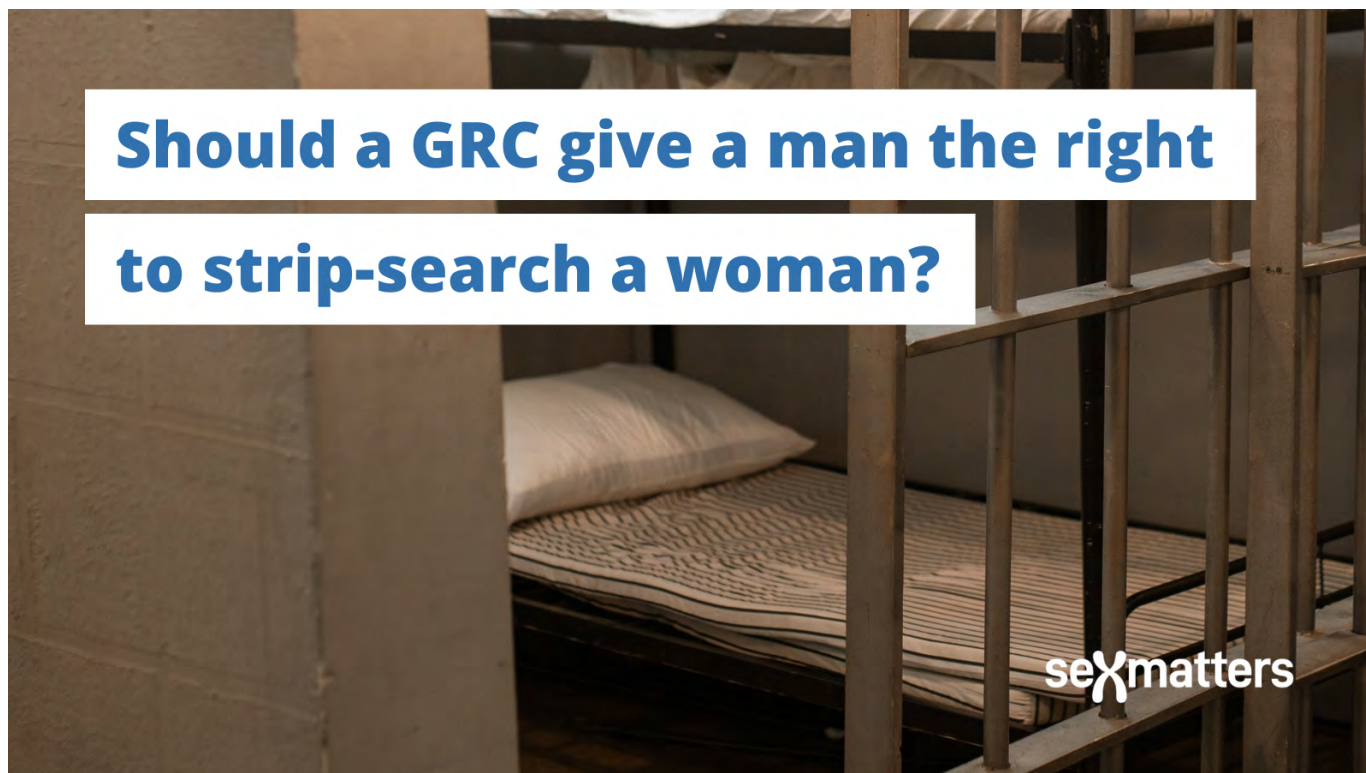
The tribunal got it legally wrong by using a female comparator for a male in a case of gender-reassignment discrimination. The correct comparator is another man (See [Green v Secretary of State for Justice 2013](#)).

Although it is only a first-instance judgment and not precedent-setting, it is likely to be used as an example to persuade employers and service providers that they must tell staff that they cannot challenge any man in women's spaces, even a half-naked man in a communal changing-room, for fear of discriminating.

If the Hospital Trust won't appeal it, one or more of the women who were included in the claim could. We know there would be support. The Equality and Human Rights Commission could back them or could take over the case to demonstrate to employers the important point about comparators, and to defend the right of women to object to exposure and voyeurism, and to be protected from sexual harassment.

22nd February 2023

## Searching for a simple answer



What does a gender-recognition certificate actually do? The question comes into sharp focus when people are forced to undress, or have to submit to intimate touching. It is a question of central importance to HM Prison and Probation Service's policy on searching.

### Human rights

As the Divisional Court in *R (LD, RH and BK) v Secretary of State for Justice [2014]* explains:

"The power conferred by Rule 41 [which governs searching in prisons] is of course necessary because, without it, any search, and particularly a strip-search, would constitute an assault."

The court notes that the European Court of Human Rights (*Valašinas v Lithuania, 2001*) found that a strip-search carried out in the presence of a person of the opposite sex is degrading and constitutes a breach of Article 3 ([which concerns torture and degrading treatment](#)). Even the more frequent "rub-down" search (over clothing) can engage Article 3 and 8.

In the [Corston report](#) (2007), Baroness Corston described the effect of strip-searches on women in particular as "humiliating, degrading and undignified, a dreadful invasion of privacy".

### Access all areas?

Apart from "rub-down" searches (where female staff are allowed to search men) searches of prisoners, staff and visitors must be undertaken by a staff member of the same sex as the person being searched.

On 3 October 2022 the Prison and Probation Service issued a new Searching Policy Framework, which focuses solely on their legal status (i.e. whether someone has a GRC or not).

“Prisoners should be full searched applicable to the acquired gender, irrespective of their bodily characteristics (including genitalia). In practice, this means that male to female transgender prisoners in receipt of a GRC should be full searched by female officers and female to male transgender prisoners with a GRC should be full-searched by male officers. To do otherwise would incur a significant risk of litigation.”

## What about transgender staff?

It is central to the policy that staff should be the same sex as the person being searched (except where women are patting down men). But the new policy swerves a critical question – what happens if a staff member has a GRC?

We were consulted on this over 18 months ago, so we know that the Prison Service has been thinking hard about it. When we wrote to the Justice Minister asking what the new policy means by “same sex”, Sue Roberts of the Prison and Probation Service wrote back saying that HMPPS was still considering the question.

She said that the new Searching Policy Framework would be updated again with directions on transgender staff, “with and without Gender Recognition Certificates”, but gave no timeframe for when this would be done.

Letter from HMPPS



HM Prison &  
Probation Service

HM Prison and Probation Service  
Directorate of Security  
8<sup>th</sup> Floor, 102 Petty France  
London SW1H 9AJ

Maya Forstater

Via email: [maya.forstater@s-matters.org](mailto:maya.forstater@s-matters.org)

Date: 14<sup>th</sup> February 2023

**RE: Searching Policy Framework – Transgender Staff**

Dear Ms Forstater,

Thank you for your letter to the Secretary of State of Justice, Dominic Raab MP, dated 15 January 2023. I am replying to you as a policy representative at His Majesty's Prison and Probation Service (HMPPS) in relation to transgender staff searching.

The HMPPS Searching Policy Framework sets out the procedures for searching prisoners, visitors, and staff on entry to or within prisons, however, does not currently address searching by transgender staff.

We are in the process of considering this and have conducted extensive consultation. This includes diversity and inclusion experts, staffing networks, frontline users, external groups, and other public bodies. Once the position on transgender staff searching has been determined, an update to the Searching Policy Framework will be made and published on Gov.UK.

The updated policy will include directions on transgender staff, with and without Gender Recognition Certificates, conducting searches. The policy will be compliant with the Equality Act 2010, Gender Recognition Act 2004 and the European Convention of Human Rights.

I hope this letter has been of assistance. Please do not hesitate to contact me if you have further queries.

Yours Sincerely,  
Sue Roberts

**His Majesty's Prison and Probation Service,  
Directorate of Security**

## A simple answer

We think the answer is really simple. No.

- Should a woman or girl be forced to be searched by a man? No.
- Should a woman officer be obliged to search a man? No.



- Does it matter if the man identifies as a woman? No.
- Does it matter if the man dresses as a woman, or prefers feminine pronouns? No.
- Does it matter if that man has a piece of paper saying he is a woman? No.



Stephanie Calvert, MtF Border Force Officer

A strip search of a woman or a girl by a man would constitute humiliating treatment and a clear infringement of Article 3. Even in the case of a rub-down search, it could breach Article 3 and Article 8. A GRC does not change that.

Nor should an employer compel staff to commit assaults.

Equally a person may reasonably object to being searched by someone who has adopted the appearance of the opposite sex (particularly via extreme body modifications) and who refers to themselves as a member of the opposite sex.



Ollie Griffiths, FtM prison officer, HMP Featherstone

## Lawful exceptions

Is it unlawful discrimination to restrict trans prison officers from searching prisoners?

No.

The Equality Act contains exceptions to the general prohibitions on sex discrimination and gender-reassignment discrimination, that would cover the case of trans prison officers (whether or not they have a GRC).

And there is a more fundamental reason why excluding trans staff from searching duties would not be discrimination, even without the exceptions. Not being allowed to commit sexual assault is not a detriment. Any affront felt by a trans person who is not permitted to search someone is an unjustified sense of grievance, which cannot amount to “detriment”: [Barclays Bank plc v Kapur \(No 2\) \[1995\] IRLR 87](#).

## Why is HMPPS taking so long to come up with an answer?

We think the only answer that is compatible with other people’s human rights is:

**Searches that are supposed to be carried out by someone of the same sex as the person being searched must be carried out by someone of the same sex as the person being searched.**

Why is this not obvious to officials at HMPPS?

One reason is that they have previously received legal advice that a GRC confers the legal right to be treated as the opposite sex *in all respects*. As the then Justice Minister, Lord Wolfson of Tredegar, told the House of Lords in 2021:

“Prisoners and staff members in receipt of a GRC have the right to be treated as their acquired gender in every respect.”

As the policy notes they think they would “incur a significant risk of litigation” in the case that they refused a male prisoner with a GRC having the service of a female prison officer searching them.

We think this advice they have been given is wrong. And it ignores the risk of litigation on the other side, from prisoners, visitors and staff forced to be searched by members of the opposite sex, and from female staff pressured to strip-search males with a GRC.

While it is frustrating that it is taking this long to reach a simple answer, we are encouraged to hear that the updated policy “will be compliant with the Equality Act 2010, Gender Recognition Act 2004 and the European Convention on Human Rights”.

Perhaps it is taking so long because HMPPS is being lobbied by external groups such as Stonewall, and by internal groups such its [Pride in Prison and Probation](#) staff network. This network calls recognising sex differences “transphobic” and has sent an internal email saying that “protect women and girls” is a “coded term which means that a person believes trans women do not belong in women’s spaces”. Civil-service networks such as a:gender are also influential. Steph Calvert (pictured above), a frontline Border Force Officer who has led this network and identifies as female, compares single-sex spaces to [apartheid and racial segregation](#).

These special-interest groups have been arguing since before the Gender Recognition Act became law in 2004 that people who declare a trans identity should be allowed to conduct searches and intimate examinations of members of the opposite sex. In 1999, when the protected characteristic of gender reassignment was first added to the Sex Discrimination Act, trans lobby group Press for Change vigorously [opposed](#) the [exception](#) for intimate searches.

In the tussle over whether men who identify as women have the right to touch and look at women’s bodies without those women’s consent, anyone who objected has been smeared as a “transphobe” and a “bigot”, and threatened with losing their job.

## Breaking the spell

We think there could be a deeper reason why this particular policy has become so stuck.

Trans rights are human rights. And human rights are universal.

Once it is recognised that a GRC does not give a male prison officer the right to search female visitors, prisoners and colleagues, it will be clear that the same principle applies in other places where searching takes place.

- A male teacher with a GRC saying female does not have the right to search a female student.
- A male police officer with a GRC saying female does not have the right to search a female suspect.
- A male airport-security officer with a GRC saying female does not have the right to search female passengers or female colleagues.

And once we say that a GRC does not give men the right to run their hands over women's and girls' bodies, or to watch them strip in the context of searching, what about the privacy and freedom from humiliation of women such as the female staff members at the [Sheffield Hospital](#) who were told they had to share showers and changing rooms with their trans-identifying male colleague? What about the college students told to [strip naked in front of](#) Adam Graham? What about the women forced to share [locked mental-health wards](#) with men who identify as women? What about the women at [Jaguar Land Rover](#) forced to share toilets with a male colleague who identified as "non-binary"?

What about the [policy of housing trans-identifying males](#) in prison with women at all? In the case of *FDJ v Secretary of State for Justice [2021] EWHC 1746 (Admin)*, a female prisoner tried to assert her right not to be locked up with male sex offenders. But the court dismissed this, saying:

"It is not possible to argue that the Defendant [Ministry of Justice] should have excluded from women's prisons all transgender women. To do so would be to ignore, impermissibly, the rights of transgender women to live in their chosen gender."

Once we have noticed for one purpose that the right to "live in a chosen gender" (with or without a certificate) is not a right to distort reality, subject other people to humiliating treatment or compel others to act as if they believe the person has actually changed sex, we have noticed it for all purposes.

Transgender people have the same human rights whether or not they have a GRC. The prison service already recognises that a trans person without a GRC does not have a human right to search or be searched by members of the opposite sex, how could possession of a government-issued certificate change that?

No wonder civil servants at HMPPS are pushing this hot potato around their desks, leaving staff on the ground to do their best to navigate the issue in practice without any policy.

Nobody wants to be the person who writes the policy that says a teenage girl visiting her father in prison can be forced to submit to a male officer with a government certificate running his hands under her breasts, and his fingers around the inside of her waistband and across the back of her skirt.

But nor does anyone want to be the person who notices that this girl has rights. Because if this girl has rights, so too do all the other girls and women whose interests have been so casually discarded in the name of "trans inclusion".

*Trans rights are human rights – and other people's rights are human rights too.*



# Trans healthcare professionals and patient consent



By **Maya Forstater** < <https://a-question-of-consent.net/author/hiyamaya/> >



**September 16, 2020** < <https://a-question-of-consent.net/2020/09/16/doctors/> >



In services where sex matters, there are real practical conflicts between the interests of people who wish to be treated as if they are the opposite sex, and the rights, interests and safeguarding of others. This requires careful and grown up policies, not just a celebration of diversity, backed up by good intentions and hope.

**Your relationship with medical practitioners is one of these situations.**

Patients are vulnerable people, and doctors and healthcare systems have power. The revelation of decades of abuse of patients by Jimmy Savile across dozens of NHS hospitals led to intensive [investigations](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/407209/KL_lessons_learned_report_FINAL.pdf) < [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/407209/KL\\_lessons\\_learned\\_report\\_FINAL.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/407209/KL_lessons_learned_report_FINAL.pdf) >, and safeguarding improvements across the healthcare system. So too have cases of [doctors sexually](https://www.theguardian.com/uk-news/2020/feb/07/gp-manish-shah-sexually-assaulted-24-patients-given-three-life-sentences) < <https://www.theguardian.com/uk-news/2020/feb/07/gp-manish-shah-sexually-assaulted-24-patients-given-three-life-sentences> > [abusing patients](https://www.independent.co.uk/life-style/health-and-families/health-news/disgraced-gynaecologist-raped-50-other-women-133605.html) < <https://www.independent.co.uk/life-style/health-and-families/health-news/disgraced-gynaecologist-raped-50-other-women-133605.html> >. And there have also been challenges to routine practices, which previously ignored consent, such as [medical students practising intimate examinations on anaesthetised female patients](#) <

<https://www.forbes.com/sites/paulhsieh/2018/05/14/pelvic-exams-on-anesthetized-women-without-consent-a-troubling-and-outdated-practice/#79db45b47846>.

Healthcare providers now have rafts of policies to protect patients and ensure their informed consent. Then there is the Care Quality Commission whose job is to inspect hospitals, GPs surgeries and social care services asking; *are they safe? Are they effective? Are they caring? Are they responsive to people's needs, and are they well led?*

It is a basic matter of consent that patients can choose to be seen (at least for primary care) by a doctor or nurse of a particular sex. No justification is needed, but obvious reasons include feeling more comfortable, religious codes of modesty or a history of abuse or trauma. Intimate examinations in particular can be embarrassing or distressing, and it is common that girls and women prefer to be seen by a female healthcare professional for these procedures.

**It should go without saying, but when someone is putting their fingers inside your vagina, consent matters.**

The General Medical Council in its [ethical guidance < https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/good-medical-practice/domain-3---communication-partnership-and-teamwork#paragraph-46](https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/good-medical-practice/domain-3---communication-partnership-and-teamwork#paragraph-46) tells doctors:



“

You must treat  
patients as individuals  
and respect their  
dignity and privacy  
You must treat  
patients fairly and with  
respect whatever their  
life choices and beliefs

NHS policy is that patients can choose to see a male or female General Practitioner < <https://www.nhs.uk/common-health-questions/nhs-services-and-treatments/can-i-choose-to-see-a-male-or-female-gp/>>. The GMC advises < [https://www.gmc-uk.org/-/media/documents/maintaining-boundaries-intimate-examinations-and-chaperones\\_pdf-58835231.pdf?la=en&hash=A6DCCA363F989E0304D17FBC4ECB9C1060028385](https://www.gmc-uk.org/-/media/documents/maintaining-boundaries-intimate-examinations-and-chaperones_pdf-58835231.pdf?la=en&hash=A6DCCA363F989E0304D17FBC4ECB9C1060028385)> that chaperones should also be routinely offered, whatever the sex of patient or practitioners. The chaperone's main responsibility is to provide a safeguard for both parties and to act as a witness to continuing consent. Hospital policies < <https://www.southernhealth.nhs.uk/resources/assets/inline/full/0/91948.pdf>> generally state that chaperones should be of the same sex as the patient (unless the patient prefers otherwise).

A clinic which goes against a patient's request for a GP of a particular sex, or that pressurises them to decline to have chaperone is not respecting consent. Systematically putting emotional pressure on patients to submit to this would be institutional abuse.

## How do policies for medical staff transitioning deal with patient consent and preference over the sex of the person examining them?

There is no national approach to transitioning at work in the NHS, but regional trusts often have policies (For example these ones from [West Suffolk < https://www.wsh.nhs.uk/CMS-Documents/Trust-policies/351-400/PP18355-Trans-policy-v7.pdf>](https://www.wsh.nhs.uk/CMS-Documents/Trust-policies/351-400/PP18355-Trans-policy-v7.pdf), [Cambridgeshire and Peterborough < https://www.cpft.nhs.uk/Documents/Disclosure%20log%20-%20FOI/February%202020/F20426A%20CPFT%20Transgender%20Guidelines%20Jan%202019.pdf>](https://www.cpft.nhs.uk/Documents/Disclosure%20log%20-%20FOI/February%202020/F20426A%20CPFT%20Transgender%20Guidelines%20Jan%202019.pdf), [Brighton and Sussex < https://www.bsuh.nhs.uk/wp-content/uploads/sites/5/2016/09/Trans-Guidelines-August-2019.pdf>](https://www.bsuh.nhs.uk/wp-content/uploads/sites/5/2016/09/Trans-Guidelines-August-2019.pdf)). The NHS trust policies are all slightly different but cover similar “acceptance without exception” ground, following the recommendations of organisations like [GIRES. < https://www.gires.org.uk/wp-content/uploads/2019/08/Gender-Diversity-Policy-Guide-for-Employers-201908.pdf>](https://www.gires.org.uk/wp-content/uploads/2019/08/Gender-Diversity-Policy-Guide-for-Employers-201908.pdf) I have not been able to find one which considers how accommodating the desire of some health care professionals to be treated as a member of the opposite sex at all times interacts with the rights of patients. **This is a policy blindspot.**

The [British Medical Association < https://www.bma.org.uk/bma-media-centre/leading-doctors-affirm-trans-and-non-binary-rights-in-healthcare>](https://www.bma.org.uk/bma-media-centre/leading-doctors-affirm-trans-and-non-binary-rights-in-healthcare) recently passed a motion in support of legal self-ID, calling for trans healthcare workers to be “able to access facilities appropriate to the gender they identify as” and “ensure trans people are able to access gendered space.” (by “gendered spaces” they mean single sex spaces — spaces where other people do not expect or consent to share with members of the opposite sex). They do not mention how they would deal with the interaction between healthcare workers self ID and patients’ rights, dignity and consent in relation to choosing and knowing the sex of those examining them.

## When a male GP ‘becomes a woman’

The Guardian last week ran a story [“Meet the trans key workers treating, teaching and serving the UK” < https://www.theguardian.com/society/2020/sep/11/meet-the-trans-key-workers-treating-teaching-and-serving-the-uk>](https://www.theguardian.com/society/2020/sep/11/meet-the-trans-key-workers-treating-teaching-and-serving-the-uk) which featured a transgender GP, Dr Kamaruddin. Dr Kamruddin is a GP partner at the East One practice in East London.

Dr Kamaruddin has written and been interviewed about transitioning at work as a GP in [British Journal of General Practice < https://bjgp.org/content/67/660/313>](https://bjgp.org/content/67/660/313)

, [Transgender Living < https://pocketmags.com/transliving-magazine/transliving-issue-57/articles/211001/an-interview-with-dr-kamilla>](https://pocketmags.com/transliving-magazine/transliving-issue-57/articles/211001/an-interview-with-dr-kamilla) (2017), [a three-part series in Malaysians in Medicine < https://malaysianmedics.org/blog/humans-of-medicine-12>](https://malaysianmedics.org/blog/humans-of-medicine-12) (2020), [Newsweek < https://www.newsweek.com/trans-female-doctor-fighting-trans-health-1510156>](https://www.newsweek.com/trans-female-doctor-fighting-trans-health-1510156) (2020). The Royal College of General Practitioners gave Kamaruddin an [“Inspire award” < https://www.rcgp.org.uk/about-us/the-college/who-we-are/get-involved/volunteers-week/inspire-awards-2019/awards-ceremony.aspx>](https://www.rcgp.org.uk/about-us/the-college/who-we-are/get-involved/volunteers-week/inspire-awards-2019/awards-ceremony.aspx) for member of the year in 2019.

**Dr Kamaruddin’s celebrated story illustrates the risk to patients’ dignity, privacy and respect for their beliefs if there are no policies to protect them, and the fact that there are no policies.**



Dr Kamaruddin is one of four GP partners at the East One Practice. GP Partners invest financial capital as co-owners and have large degree of control. They make hiring decisions and decide how things are organised and run. The practice’s patients are amongst the most deprived fifth of the population of England, with a large Bangladeshi muslim population, many speaking English as a second language.

At the age of 53, after being a partner at the practice for 15 years Dr Kamil Kamruddin decided to transition to live as a woman. Dr Kamaruddin recounts announcing the decision to the other three partners and their joint employees during a regular monthly practice meeting,



“

My colleagues and staff welcomed the news without much surprise. They voiced their support and even gave a round of applause.

When the other partners and staff raised the question of how to explain this to patients Kamruddin said:

”

I told them that I would tell them myself, I wanted to carry that burden.

In the [Newsweek < https://www.newsweek.com/trans-female-doctor-fighting-trans-health-1510156>](https://www.newsweek.com/trans-female-doctor-fighting-trans-health-1510156) article: Kamaruddin describes the first day coming to work in the new identity of Kamilla “with a big smile and a bright dress”, having had facial surgery, a hair transplant and other non-specified surgery.

Kamaruddin called it “a satisfying experience”. The GP recounts compliments and congratulations and fantastical cases of mistaken identity “One of my colleagues did not recognise me at first, thinking I was a female locum GP. But it was my patients who took me by surprise the most. No one was hostile towards me. Some thought I was the wife of Dr Kamaruddin, me, their doctor, and a lot of them thought that I was a new GP. “

”

In the end, my staff did not have to field any awkward questions or hand out any leaflets.

Kamaruddin is out and proud (and celebrated with awards and prizes) as a trans woman in public life, but on [East One’s website < http://www.eastonehealth.nhs.uk/about/>](http://www.eastonehealth.nhs.uk/about/) the family doctor is now listed simply as “female”.

#### GP Partners

Dr Ricardo Cabot (Male)

Dr Ricardo Cerezo-Aviles (Male)

Dr Chloe Evans (Female)

Dr Kamilla Kamaruddin (Female)

As well as the celebrated lack of leaflets and “awkward” questions in person, the practice’s website does not offer any information to patients who want to understand

what “transgender” means or how they can clearly and simply ask for a female doctor

### Search results:

You searched for transgender  
Found 0 results.

Nor does it include any information about the chaperone policy.

### Search results:

You searched for chaperone  
Found 0 results.

Kamaruddin says new patients “**did not ask any questions at all** because they either thought I was a female GP or it did not bother them at all that I was a transgender doctor.”

This account raises questions:

- Is it appropriate for an individual doctor to announce a plan to transition at an all-staff meeting rather than to first work out with appropriate safeguarding and other leads, a plan which considers how to inform patients and secure their dignity, privacy and consent when being examined?
- Is it appropriate for the transitioning person to decide unilaterally that they alone will be the one to explain their transition to patients? Is that an appropriate plan?
- If patients are given no leaflets and did not asked “awkward questions” how can the surgery be sure that patients are giving their informed consent for accepting a male doctor when they have asked for a female doctor (for example do they understand that transition does not necessarily involve genital surgery? )
- How are the rights and interests of patients secured by a policy and information system that will now book them an appointment with a male doctor when they have specifically requested a female?



**Can anyone ask these questions without being called a transphobe? And if not who is protecting patients' interests?**

Intimate examinations without a chaperone as a show of acceptance



Again and again, across different platforms Dr Kamaruddin discusses female patients, mainly Muslim women, allowing intimate examinations without a chaperone, as a positive experience validating the doctor's new identity.

”

After my transition,  
they even allowed me  
to perform more  
intimate examinations  
that they did not let me  
to do when I was a  
male GP.

“Every single one of them refused my offer of a chaperone even when they knew that I am transgender. “

In a feature in [Malaysian Medics International <](https://malaysianmedics.org/blog/humans-of-medicine-12)

[https://malaysianmedics.org/blog/humans-of-medicine-12>](https://malaysianmedics.org/blog/humans-of-medicine-12) Kamruddin says “I had a fear that my patients would treat me differently as they might not agree with my new identity due to prejudice and ignorance. ... Surprisingly, my patients were adorable; some thought I was a new female locum GP, few male patients were flirting with me, and almost all were happy for me when they got to know I was the same person”.

Again this raises questions:

- Is it appropriate for a medical practice to see the role of staff and patients as being to validate a doctor's gender identity with complements, unquestioning acceptance and a letting down of personal sexual and religious boundaries?
- Were these patients really empowered to say ‘no’ if they did not wish to be seen by intimately examined by the doctor — if this view is seen as *hostile, prejudiced and ignorant*?
- Were these patients really empowered to say they wanted to have chaperone, when the person offering the choice sees it as highly personal to the healthcare worker, and celebrates if the patient decline a chaperone, as a sign of positive affirmation?
- Did the surgery consider the fact that “every single one”, amongst a population described as conservative muslim women turned down the offer of a chaperone for intimate examinations as a sign that the measures they have in place free and informed consent might not have been effective? Was this monitored?

In none of the laudatory articles can I find anyone questioning what systems and policies Dr Kamruddin and partners at East One put in place to ensure that patients' interests are respected.

Ultimately these are not questions about just this one particular GP's practice, but about the policies and professional guidance across the healthcare system. Deference, fear or confusion should never be mistaken for consent.

In 2017 [the NHS apologised < https://www.thetimes.co.uk/article/the-female-nhs-nurse-i-asked-for-came-with-stubble-83rq9p0gg>](https://www.thetimes.co.uk/article/the-female-nhs-nurse-i-asked-for-came-with-stubble-83rq9p0gg) to a woman for sending a transexual nurse who was obviously male to undertake a smear test. **In 2020 would the BMA, the GMC and the Royal College of GPs argue that such a woman should be viewed as *hostile, prejudiced and ignorant*?**

**Should the woman be encouraged, pressured or forced to submit?**

**If not, what policies do healthcare providers have to prevent this happening?**

**The Care Quality Commission did not see any risk here**

The Care Quality Commission inspects GP's surgeries to check they are *safe, effective, caring, responsive to people's needs, and well led*. What does the case of Dr Kamaruddin show about how they consider these questions when health care professional wants to be treated as the opposite sex?

CQC assessments, are detailed, getting down to the level of looking at how mops are stored. Sometimes they are **criticised** < <https://www.gponline.com/bma-demands-resignation-cqc-chief-inspector-steve-field/article/1377395> > for box-ticking paperwork. Nonetheless you would think that the questions I have asked above might have been be raised by inspectors concerned with risk in order to sign off on statements such as this:



“

People who use the service were protected from the risk of abuse, because the provider had taken reasonable steps to identify the possibility of abuse and prevent abuse from happening

CQC

If you can't envisage the possibility of a risk (or you can but you are not allowed to speak about it) then you cannot begin to talk about what reasonable steps could be taken.

In their [2014 report <https://www.cqc.org.uk/sites/default/files/old\\_reports/1-557729923\\_East\\_One\\_Health\\_INS1-564022415\\_Scheduled\\_30-01-2014.pdf>](https://www.cqc.org.uk/sites/default/files/old_reports/1-557729923_East_One_Health_INS1-564022415_Scheduled_30-01-2014.pdf) on the East One practice (when Kamruddin was still listed as male) the CQC gives an amber “improvements needed” rating, highlighting that staff do not always treat people with consideration and respect, and that records of DBS checks were lacking. The report also notes that they had heard “sometimes it is very difficult to make an appointment with a female doctor.” The inspectors note that the practice “had a

chaperone service available for people wishing to have someone of the same gender present during examinations” and that this is important for respecting patients dignity.

**The next inspection was in 2016 <**

**[https://api.cqc.org.uk/public/v1/reports/377f483b-4528-4da7-bbc6-](https://api.cqc.org.uk/public/v1/reports/377f483b-4528-4da7-bbc6-c6ba20782359)**

**[c6ba20782359](https://api.cqc.org.uk/public/v1/reports/377f483b-4528-4da7-bbc6-c6ba20782359)**> (after Kamil became Kamilla ) the CQC did not see any need to ask any particular questions on how this transition was managed in relation to patient consent and dignity. Nor do they clarify the distinction between sex and gender identity.

The inspectors finds that there are still improvements needed, in particular on the role and training of chaperones. The report notes that there are notices advising patients that chaperones are available, but does not comment on uptake (data which should be recorded). The report gives no sign that the inspectors wondered whether female patients (including conservative religious women, with english as a second language) are really acting with free and informed consent in turning down a chaperone for an intimate examination by a doctor they have known for 15 years as a man, or wonder whether they were under emotional pressure to do so.

Nor does it mention in the section under leadership (which also required improvement) whether the potential for consent and safeguarding risks raised from having a male doctor being treated as if they were female had been considered as part of the clinics risk management.

In their **2017 report < <https://api.cqc.org.uk/public/v1/reports/78f9b366-a5c6-4df3-ac8f-f93b59cee46a>** the inspectors say blandly “Staff we spoke with on the day of the inspection were aware of their responsibilities when chaperoning.” and “Patients could be treated by a clinician of the same gender”. Again they do not ask the question about how female patients feel about being told Dr Kamaruddin is the same “gender” as them (and that sex is irrelevant).

**The word “sex” does not appear once in any of these three CQC reports.**

## **The Care Quality Commission does not see sex**

Does the CQC, the agency with responsibility for assessing the adequacy of safeguarding in healthcare really not see **sex** as a relevant factor in safeguarding and for treating patients with kindness, dignity and respect?

It seems not.

Their [equality statement < https://www.cqc.org.uk/about-us/jobs/working-cqc-our-commitment-equality >](https://www.cqc.org.uk/about-us/jobs/working-cqc-our-commitment-equality) on their website ignores the Equality Act protected characteristic of sex (and replaces “gender reassignment” with gender identity or expression).

## Inclusive recruitment

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The East One practice also fails to mention sex in its equal opportunity policy.

The practice does not discriminate on the grounds of race, gender, social class, age, religion, sexual orientation or appearance, disability or medical condition.

Of course like so many other public bodies the CQC is a member of the Stonewall Champions scheme. Its management at the highest level has set an [objective < https://www.cqc.org.uk/sites/default/files/20190408b\\_equalityobjectives-2019-21.pdf >](https://www.cqc.org.uk/sites/default/files/20190408b_equalityobjectives-2019-21.pdf) to gain a higher placement on Stonewall Index (the equality strategy mentions Stonewall three times. The words female and sex do not appear once).

**The regulator, whose job includes protecting the dignity and agency of female patients to be seen by a female doctor when they ask for one, has made itself answerable to Stonewall; a charity that views women’s boundaries as bigotry.**

**Across the healthcare service doctors, managers and inspectors are being told to mentally replace sex with “gender identity” at all times. This creates a loophole in their ability to identify inappropriate behaviour and abuse of power which relate to sex.**

## Lessons learned?

When the reports detailing how Jimmy Savile had been enabled to abuse patients in the NHS's care came out in 2014 the government, regulators and healthcare providers all promised to learn the painfully obvious lessons.

The reports showed again and again how things had been allowed to happen which should have been seen as obviously inappropriate, when safeguarding loopholes met the desires of an unusually flamboyant character.

”

Inexplicably, Savile  
was allowed to watch  
female patients as  
they stripped naked  
for bathing.

Jeremy Hunt, then Secretary of State for Health

In 2015 [Kate Lampard](#) <

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/407209/KL\\_lessons\\_learned\\_report\\_FINAL.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/407209/KL_lessons_learned_report_FINAL.pdf)>

wrote an independent report commissioned by the government, drawing together lessons learnt from the 44 NHS trusts. The Lampard report highlighted the unusualness of Savile but also the everyday vulnerability of bureaucracies:

Much of the story of Savile and his associations with NHS hospitals is unusual to the point of being scarcely credible. It concerns a famous, flamboyantly eccentric, narcissistic and manipulative television personality using his celebrity profile and his much-publicised volunteering and fundraising roles to gain access, influence and power in certain hospitals.

Savile's celebrity and his roles as a volunteer and fundraiser also gave him power and influence within NHS hospitals which meant that his behaviour, which was often evidently inappropriate, was not challenged as it should have been. Savile's ability to continue to pursue his activities without effective challenge was aided by fragmented hospital management arrangements; social attitudes of the times, including reticence in reporting and accepting reports of sexual harassment and abuse, and greater deference than today towards those in positions of influence and power; and less bold and intrusive media reporting.

Kate Lampard

**While the ink was barely drying on the Lampard report government, regulators, healthcare providers and the media have been busy adopting guidelines and language which replicate this pattern of deference and reticence to speak up when evidently inappropriate things are happening.**



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A patient who requested a female nurse was seen by a transsexual practitioner of ‘obviously male appearance’

CHRISTOPHER FURLONG

# The female NHS nurse I asked for came with stubble

Nicholas Hellen, Social Affairs Editor

Sunday December 31 2017, 12.01am, The Sunday Times

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A woman who requested a female NHS nurse to perform her cervical smear test was “embarrassed and distressed” after a person with stubble and a deep voice summoned her for the intimate procedure.

When the patient pointed out the mistake, the nurse replied: “My gender is not male. I’m a transsexual.”

This weekend, the woman, who decided not to go ahead with the examination, said it was “weird where somebody says to you: ‘My gender is not male’ and you think: ‘Well, what does that even mean? You are clearly a man.’ ”

The nurse “had an obviously male appearance . . . close-cropped hair, a male facial appearance and voice, large number of tattoos and facial stubble”, she said.

The woman received an official NHS apology after she made a complaint about her treatment.

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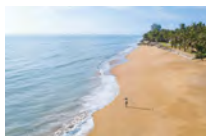
The incident has been revealed as Justine Greening, the equalities minister and education secretary, is considering proposals that would allow people to change their gender legally without a doctor’s diagnosis.

The Sunday Times reported last week that a consultation on the changes to the Gender Recognition Act had been delayed amid claims Greening was getting cold feet about self-certification.

The patient said it was “bad enough for a fortysomething mother”, but the effect of such an incident on her 17-year-old daughter would have been much worse.

James Caspian, a psychotherapist who specialises in working with transgender people, said these kind of awkward situations would become more common if self-certification went ahead. “Politicians have not thought through all the implications of allowing self-certification,” he said.

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The patient has requested anonymity for herself and the clinic because of fears it or the nurse could be criticised. The appointment for the test — also known as a cervical screening test — was on September 16 last year in an NHS clinic run by the Central and North West London NHS Foundation Trust.

In a letter of complaint sent afterwards, the patient said that when she booked her appointment she had requested a female nurse or practitioner.

She added: “People who are not comfortable about this are presented as bigots and this is . . . kind of how I was made to feel about it.”

She stressed her complaint was not about the nurse’s appearance or gender status.

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It is understood the nurse self-identified as a woman but had not been employed on that basis. He saw the patient only because of a clerical error.

Central and North West London NHS Foundation Trust said: “We apologised to this patient for the recording error and because the staff member accepted they didn’t manage the situation appropriately; the patient needed to feel listened to. Trust policy is to consider seriously all requests for clinicians of a particular gender.”

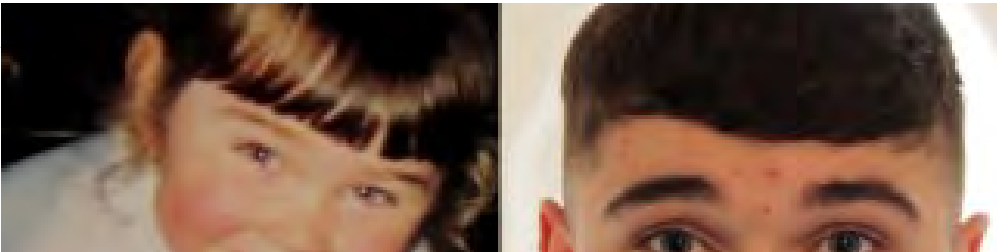
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News

Lancaster mum with 'fear of men' locked on hospital ward with transgender patient

A Lancaster mum whose bi-polar disorder left her believing men were conspiring to kill her said she was left terrified when she was locked on a women's psychiatric ward with an 'extremely male-bodied' transgender patient.

By The Newsroom  
Published 18th Jan 2018, 08:00 BST - 4 min read



Campaigner Philippa Molloy outside The Orchard mental health unit in Lancaster.

Philippa Molloy, 42, said she was “genuinely, absolutely terrified” because she had suffered a relapse in her condition that made her irrationally terrified of men – including her own husband.

When she raised her concerns with hospital staff, however, she said she was not taken seriously and her medical notes implied that she was a “transphobic bigot”.

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She said the NHS had failed to think through the implications of allowing patients to self-identify their gender.

 Philippa Molloy.

Philippa Molloy.

“The rights of that trans person to feel safe were put above the rights of me to feel safe as a natal woman,” she said.

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Mrs Molloy, who is married and has two children, was admitted to a women’s secure psychiatric ward in Burnley in February 2016, due to a bed shortage in Lancaster.

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“Part of my psychosis was that I was convinced I was being followed by men’s rights activists,” she said. “It sounds ridiculous, but that was it.


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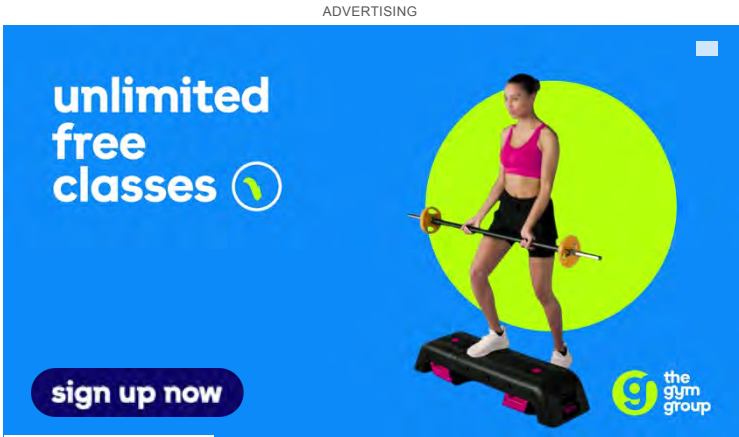
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“They wanted to kill me, they were going to come after me...and my husband was involved in everything.

 Philippa Molloy.  
Philippa Molloy.



“Because of that I was taken and placed in a female-only unit.”

She describes herself as a feminist who had previously campaigned against the closure of a women-only unit at The Orchard mental health unit in Lancaster.

She said: “If you erroneously believe that there are men wanting to infiltrate your life in order to kill you and that is on your notes and that is why you are in a female unit and you suddenly discover a male-bodied person in a six-bed bay...I was terrified. Genuinely. Absolutely.”

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Mrs Molloy said the transgender patient, who had arrived four days into her stay, was “presenting as female but was very clearly physically male, very broad shoulders, and about 6ft.

“They used to wander around in their dressing gown, not a particularly long dressing gown, all the time,” she said.

“You are on a locked ward and you have nowhere to go – in Burnley there are no private rooms and you are just separated by curtains.”

She said other women on the ward were also at risk, one being a victim of male violence and another woman experiencing hypersexuality as a symptom of bi-polar mania.

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Two days after the arrival of the trans patient, Mrs Molloy was moved to The Orchard in Lancaster, where she stayed until April.

While there, she said she was taken aback when a nurse handling her case told her she was “really surprised to read your opinion about trans people” in the case notes.

Mrs Molloy was shocked by the implication that she was a “transphobic bigot” and by the failure to recognise that her response in the secure ward was “because I was psychotic”.

“I don’t think trans people are a threat at all,” she said. “At the time I believed that men were a threat.

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“When I am well I am totally willing to accept all people, but I was struggling with reality and what seemed to be real to me wasn’t reality.

“When I was able to see something real my reaction was that there was nothing to fear.

“I don’t blame the nurses who looked after me in Lancaster. My problem has never been with anybody in Lancaster. They are excellent nurses and they can’t help what was written in my notes by nurses in Burnley. The care in Lancaster was exemplary.”

Mrs Molloy said the incident made her scared of going to hospital last October when she had suffered a relapse.

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A spokesman for Lancashire Care NHS Foundation Trust said: “We would welcome the opportunity to discuss this directly with the person that has raised it to fully understand their perspective and respond to their concerns face to face further to the written response that they have previously received.

“We are happy to discuss with them any aspects that remain to be an issue for them. It would not be appropriate to get into the detail of this in an open public forum as this could potentially compromise their confidentiality and that of other individuals.

“The Equality Act is clear and offers guidance about the admission of transgender people to NHS wards and this is something that we have also taken legal advice on to inform clinical decision making. This directs that transgender people should be able to self-identify and receive treatment on the ward that is appropriate and in line with that self-identification.

“At Lancashire Care we are committed to treating everybody equally and to ensuring the safety, privacy and dignity of everyone who is in our care.

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“This is managed on a case by case basis and in line with their individual needs. Risk assessments also form a routine part of all decisions made about any admission to take into consideration the personal and clinical needs of all patients in a ward environment so that any necessary adjustments or arrangements that need putting in place can be made.”

Mrs Molloy previously led a campaign for The Orchard to accept women after it had re-opened as a male-only unit.

The inpatient unit, in Pathfinders Drive, opened in August 2015 as mixed sex accommodation following a revamp of the former Oaklands Unit, but by October, Lancashire Care Foundation Trust had made it men-only due to a peak in demand for male beds.

Campaign group Beds in the Orchard claimed its return to mixed sex accommodation as a victory after it put pressure on the trust to provide local mental health beds for local women.

Mrs Molloy said she believed the trust breached the Equality Act in closing the Lancaster female beds.



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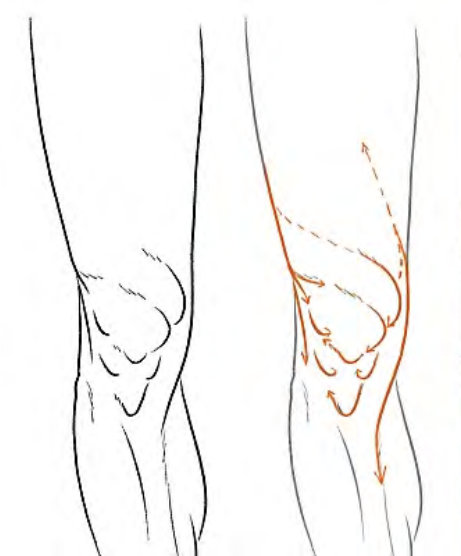
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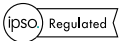
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Nurses are told to inform women who complain that “there are no men present”  
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# Objections to trans patients on women’s hospital wards ‘like racism’

David McCann  
Sunday December 11 2022, 6.00pm, The Times

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Patients who raise concerns about trans women being put on female-only hospital wards are comparable with racists and may have to be “removed”, NHS guidance suggests.

The policy in NHS Ayrshire & Arran, called Supporting Trans Service Users, puts forward a scenario where a woman patient “explains she didn’t expect to be sharing the ward with a man and points to the bed opposite”.

Nurses are told to “reiterate” to any patient who complains “that the ward is indeed female only and that there are no men present”. It adds: “Ultimately it may be the complainant who is required to be removed.”

The Ayrshire and Arran paper was obtained by [MurrayBlackburnMackenzie](#) (MBM), a policy analysis consultancy, as part of its research into rules that cover single-sex wards in NHS Scotland.

The firm includes Kath Murray, an Edinburgh University criminologist, who is critical of the [SNP government’s self-ID plans](#).

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Legislation that aims to make it easier for people in Scotland to change their legally recognised gender is set to be [passed before Christmas](#). It will simplify and speed up the process by which people can obtain a gender recognition certificate and do away with the need for a medical diagnosis of gender dysphoria.

A passage in the Ayrshire and Arran policy likens its given scenario to racism. It says: “If a white woman complained to a nurse about sharing a ward with a black patient or a heterosexual male complained about being in a ward with a gay man, we would expect our staff to act in a manner that deals with the expressed behaviour immediately.”



Trans Rights activists hold a counter protest next to a woman's rights demo in Edinburgh

JEFF J MITCHELL/GETTY

The health board document also emphasises that “patients with the protected characteristic of [gender reassignment](#) are protected by law in terms of their rights to receive care that meets their current gender identity”.

However, MBM said: “The Equality Act specifically allows for the recognition of sex in the provision of services. In the context of hospital accommodation, sex is relevant to patient privacy, dignity, modesty, and safety.”

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The firm added: “The equivalence between a female patient expressing unease at the presence of another male patient on a nominally single-sex ward and racism is not only offensive, but fails to understand the law.”

It said its research had found that “boards are either failing to guarantee single-sex accommodation (in clinical areas where this is feasible), or do not have policies in place”.

NHS Ayrshire and Arran told The Scottish Sun on Sunday: “We understand the importance of meeting the needs of all equality groups to ensure protection from discrimination. Our current policy was developed in 2018 and is under review.”

The controversial NHS policy comes after it emerged that more than half of Scotland’s health boards have reportedly failed to draw up “substantive” policies on accommodating transgender patients.

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# MailOnline

## Transgender storm as men who self-identify as women are 'routinely' put on NHS hospital wards for females

- Men do not need to have started transitioning to be put on a ward as a female
- Rules appear to go against government's policy to eliminate mixed sex wards
- Tory MP David Davies said: 'People with male bodies should be on male wards'

By [JAKE HURFURT FOR THE DAILY MAIL](#)

**PUBLISHED:** 00:47, 11 January 2019 | **UPDATED:** 00:47, 11 January 2019

**NHS** hospitals are routinely allowing men who self-identify as women to share hospital wards with female patients.

Male patients do not even need to have started transitioning to be admitted on to a ward as a female, a probe has found.

The rules, which would appear to go against Department of Health policy to eliminate mixed sex wards, apply in every NHS trust in England, [the Daily Telegraph](#) reported.



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Male patients do not even need to have started transitioning to be admitted on to a ward as a female, a probe has found. File photo

The NHS does not know how many transgender patients are accommodated on wards with the opposite sex because they are recorded in data as their preferred sex.

Staff at one trust are even advised to consult with the trans patient if a woman who has been a victim of sexual assault objects to sharing a ward with someone who is biologically and legally male. Official guidance from the Department of Health states: 'Men and women should not have to share sleeping accommodation or toilet/bathroom facilities.'

Exceptions are made, however, 'where it is in the overall best interests of the patient or reflects the patient's choice'.

This gives male patients who identify as female the right to be treated as female, and vice versa for female patients who identify as male

Conservative MP David Davies said: 'It's quite right that a Conservative government made a commitment to end mixed sex wards. People with male bodies should be on male wards.'

A nurse in one hospital reported that a patient identifying as a transgender woman appeared to become sexually aroused on a female ward, distressing elderly patients. The report, from Freedom of Information requests, creates concerns about the 'equality impact assessments' undertaken by hospitals that are supposed to examine how policy changes affect all groups.

Many of the assessments appear to consider only the needs of trans patients and not other groups who are supposed to be taken into account due to other characteristics such as sex or race.



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The rules, which would appear to go against Department of Health policy to eliminate mixed sex wards, apply in every NHS trust in England. File pic

'If you aren't even considering other groups in your equality impact assessments, your policy cannot be lawful,' said Amanda Jones, a barrister at Great James Street Chambers in London.

The NHS's interpretation of laws about the rights of transgender patients is 'a mess', she added.

Fewer than two in ten people who identify as transgender undergo reassignment surgery according to the Gender Identity Research & Education Society.

Transgender people must live as the opposite sex for two years, be assessed by doctors and diagnosed with gender dysphoria to be eligible for a gender recognition certificate.



Official estimates put the UK transgender population at around 0.7 per cent – up to 500,000 people.

However, only 5,000 certificates have ever been issued and no NHS trust requires a trans patients to have one. Oxleas NHS Foundation Trust said it would allow someone to identify as trans ‘without ever going to see a doctor’.

Fewer than ten trusts reported complaints or incidents concerning transgender patients.

A spokesman for NHS Improvement said: ‘As the guidance on mixed sex accommodation makes clear, decisions should be made in the best interests of all patients and based on the circumstances presented to NHS staff.’

**Read more:**

**[NHS trans row as men get access to women's wards if they identify as female](#)**

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# EXCLUSIVE: Hospital refuses to operate on sex attack victim after she requests all-female care because she fears mixed sex facilities are unsafe for women

- The patient - a sex assault victim - had requested all-female facilities due to concerns over mixed areas
- She was stunned when someone she believed to be a transgender woman opened door in pre-op assessment
- It prompted her to complain and make a request for all-female nursing care at Princess Grace Hospital
- The hospital then cancelled the surgery, claiming it was 'protecting staff from discrimination and harassment'
- Women's rights campaigners have savaged the hospital's act, branding it 'a movement of misogyny in heels'
- Hospital said requests for 'single sex care' were particularly challenging, citing the 'diversity of colleagues'

By [DAN SALES FOR MAILONLINE](#)

PUBLISHED: 15:18, 19 October 2022 | UPDATED: 12:00, 21 October 2022

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A hospital banned a sex assault victim from having an operation after she asked for all-female nursing care because of safety concerns over mixed facilities.

The patient - a feminist retired lawyer MailOnline is calling Emma - was told by London's Princess Grace Hospital it had to 'protect staff from unacceptable distress'.

She had been due to have complex colorectal surgery at the Marylebone premises on October 10 and had filled in a pre-admission form detailing her requirements.

Emma, who lives in north London, asked for single sex accommodation and - as per her beliefs - did not wish to 'use pronouns or engage with such manifestations of gender ideology'.

She told MailOnline: 'I was not going to agree to fill in reams of hospital paperwork about my non-existent "gender identity" or give my pronouns to anyone.'

The hospital is one of only a handful to use the Da Vinci robot, which can perform delicate and complex operations, and was selected for that reason.

But when she arrived on October 6 for her clinical pre-op assessment, which involved intimate procedures, what appeared to be a transgender woman in a blonde wig and make-up opened the door and made eye contact with



The encounter - which is now being investigated by the hospital and its parent firm HCA - prompted her to complain and to make an urgent extra request for all-female nursing care.

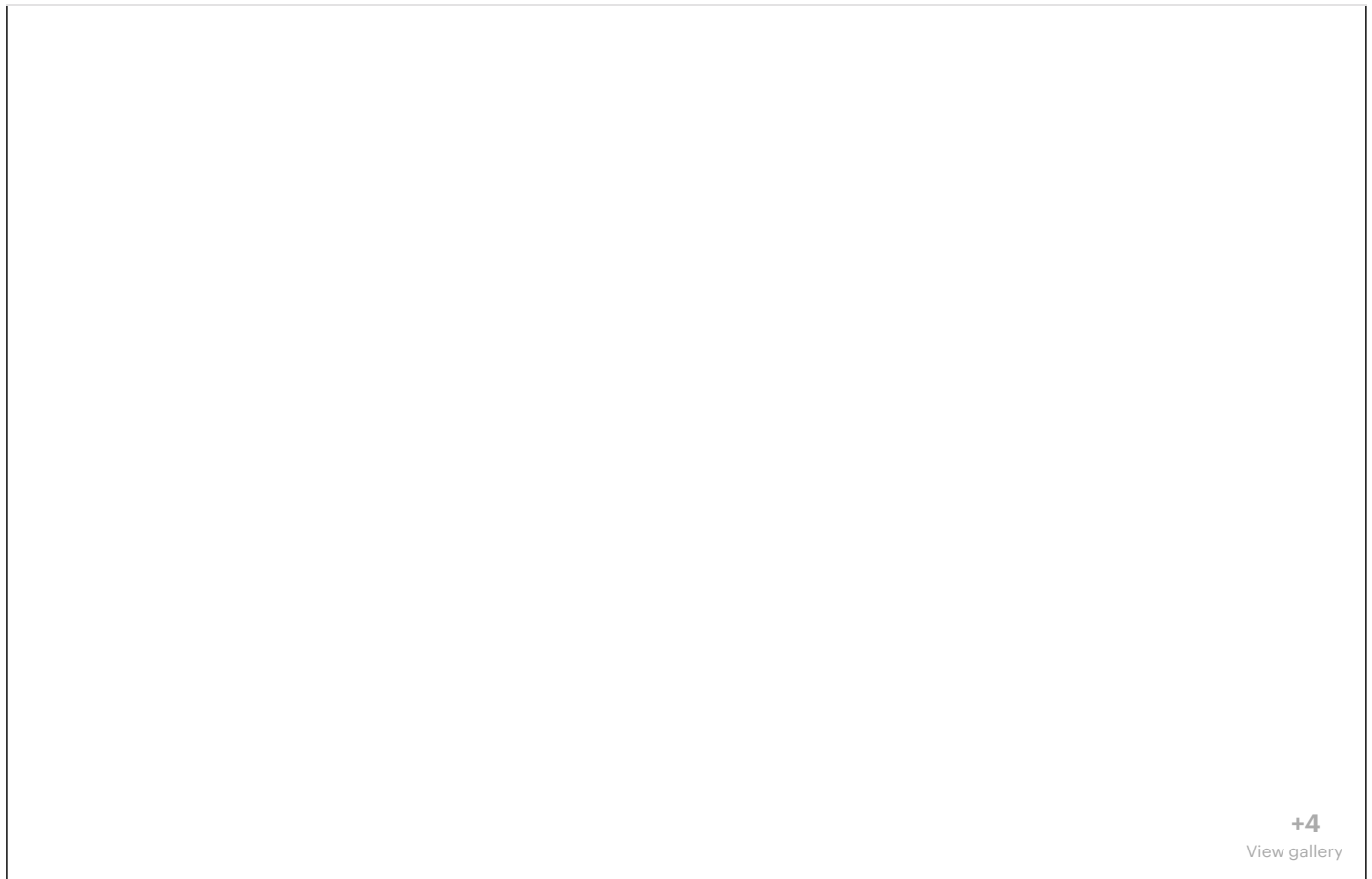
Emma told MailOnline: 'I began to wonder if it was just a coincidence that this member of staff with a "gender identity" had made their presence felt to me in such an inappropriate way during my first visit.

'I began to suspect that I had been targeted because my patient records showed that I refused to use pronouns and wanted single sex facilities, although I have no evidence of this.



The patient- who MailOnline is calling Emma - had op axed



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**The hospital is one of only a handful to use the Da Vinci robot, which can perform delicate and complex operations, and was selected for that reason**

'Then I began to panic that men would be attending to my intimate care at the hospital while I was immobilised for an entire week following major surgery.

'It was a slow, dawning realisation. I felt sick. Alarm bells were ringing in my head. I cannot describe the fear that I felt. I cannot rationalise it.'

She wrote to HCA that evening underlining her concerns and her beliefs relating to gender and women's rights.

Emma cited the landmark case involving Maya Forstater, which said gender critical beliefs were protected under the Equality Act and 'worthy of respect'.

## TRENDING



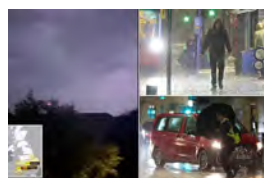
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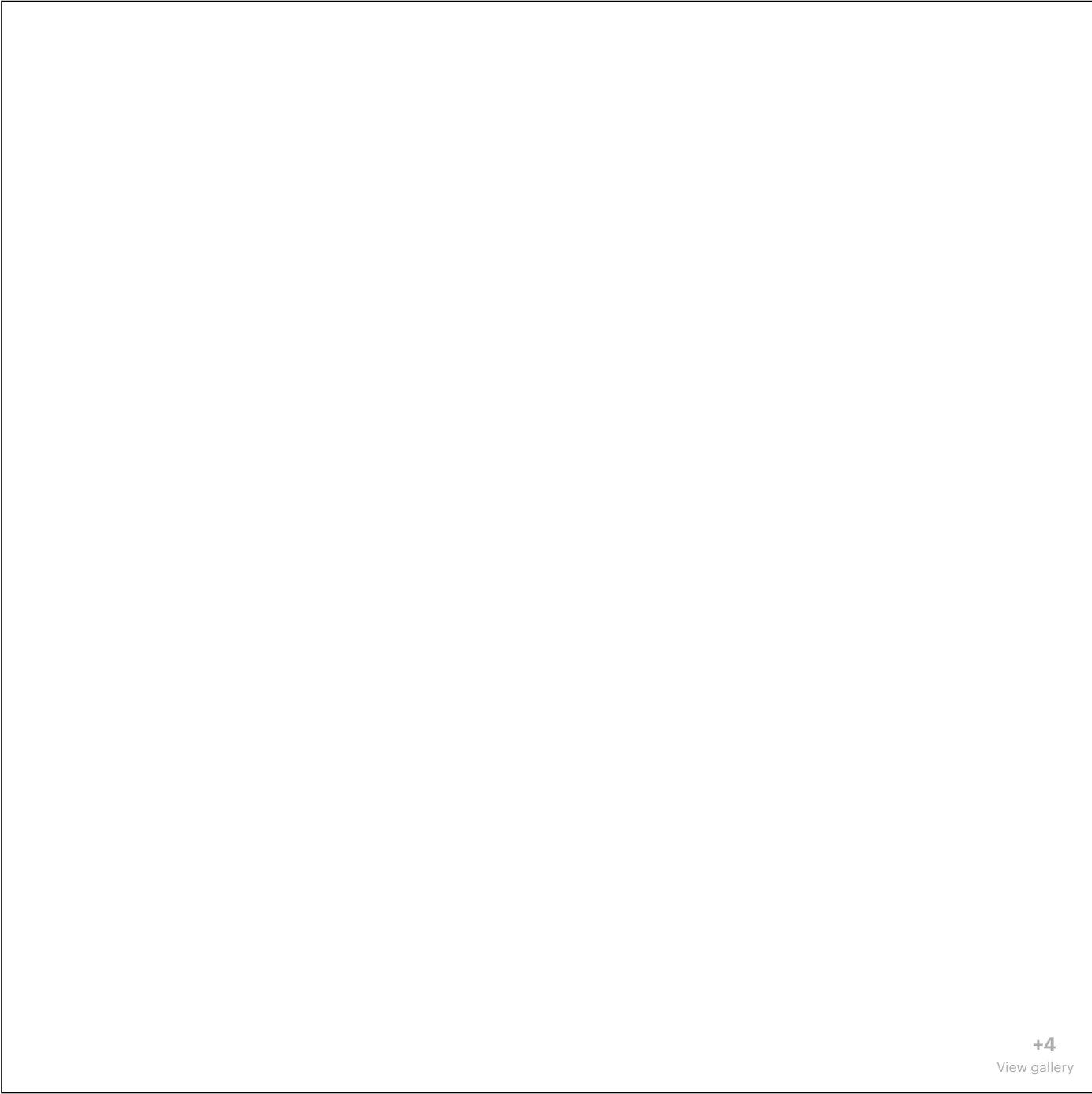
The email told them she believed that self-ID by men on to women's hospital wards had resulted in attacks on patients. For this reason, she said that 'it is a fact that mixed sex hospital facilities are unsafe for women'.

She added: 'I do feel that the hospital should follow a protocol of offering ALL women patients single-sex nursing care.'

you.'



Emma's email of complaint sent to the hospital after the encounter during the pre-assessment session before her operation



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An email from Prince Grace Hospital's Chief Executive Officer Maxine Estop Green told her that the operation was off

She was stunned then to receive an email from the hospital's chief executive Maxine Estop Green telling her the operation was off.

She told her the hospital 'did not share her beliefs' and she should make alternative arrangements for her

When toilets can be  
legally limited to men and

The message added the hospital was committed to protecting staff from what it described as 'unacceptable distress'.

Emma urged them to reconsider, adding in a further message she thought they had misunderstood her requests, which she said were entirely within the law.

The hospital said it would offer a private room but would NOT facilitate her requests for single-sex care after her operation.

It also mentioned her comment about pronouns and said it had a responsibility to protect staff from 'discrimination and harassment'.

Emma said: 'I am still in a state of shock at this punitive and discriminatory reaction by the CEO of this hospital which specialises in women's procedures. I would not have predicted this in a million years.

'Everything that has happened is so off the wall and irrational, that it makes me believe that I have been targeted by trans activists within the hospital.

'As always, this is about appeasing men who claim a gender identity. They will punish anyone who tells the truth. I will not be forced to use the language of gender ideology, that is, pronouns that don't apply to me. Women's safety, dignity and privacy continues to be sacrificed on the altar of this quasi religion.

'I cannot believe this is happening in the UK.'

The decision by the hospital comes amid an ongoing debate over women's rights and the need for female-only spaces, such as hospital wards.

There are also fears predatory sex offenders could pose as trans women to gain access to female loos and facilities.

It comes after the Equality and Human Rights Commission (EHRC) said providers wishing to limit services to a single sex are legally able to do so, provided the reasons are justified and proportionate.

The ruling means it is legal for a gym to limit communal changing rooms to a single sex, as long as a gender neutral changing room is also provided for trans people.

Rights campaigner Kellie-Jay Keen, who founded Standing For Women, called the hospital's stance 'misogyny in heels'.

She added: 'Once we are in a society whereby women are compelled to pretend men can be women, and everything must flow from such orthodoxy, there is no end to the consequences.

'Those that are hardest to bear are around issues of safeguarding for women and children. Prioritising a man's feelings over a woman's health is just another example, in this case particularly egregious, of how powerful this ideology really is.

## rights law

The guidance says that toilets can be legally limited to men and women with separate gender-neutral facilities as long as trans people are taken into account.

This is explained through two examples.

One is a small cafe with limited space and facilities for public use which has separate lockable, self-contained male and female toilets with hand basins in single units.

The EHRC says that to ensure they are fully inclusive, and to make the most effective use of the available facilities, the cafe could decide to make them all gender neutral.

A second example is a community centre which has separate male and female toilets. The centre could conduct a survey in which some service users say that they would not use the centre if the toilets were open to members of the opposite biological sex, for reasons of privacy and dignity or because of their religious belief.

It decides to introduce an additional gender-neutral toilet, and puts up signs telling all users that they may use either the toilet for their biological sex or to use the gender neutral toilet.





A spokesman for HCA said: 'At The Princess Grace Hospital we always strive to deliver the highest standards of care and we value and respect each of our patients as individuals. For reasons of confidentiality, we cannot comment on individual patient complaints.'

'The hospital's policy is always to accommodate patient requests if possible.'

'Some, such as a request for "single sex care", are particularly challenging, given the diversity of our colleagues and our need to prioritise patient safety.'

'Regrettably, in some circumstances, it might be necessary to cancel a procedure if there is insufficient time to discuss such a request ahead of the patient's admission.'

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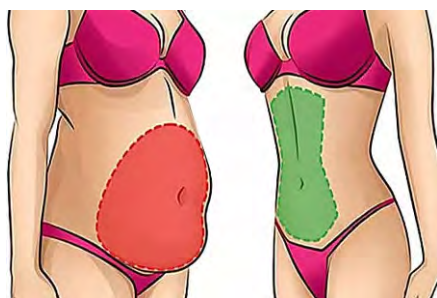
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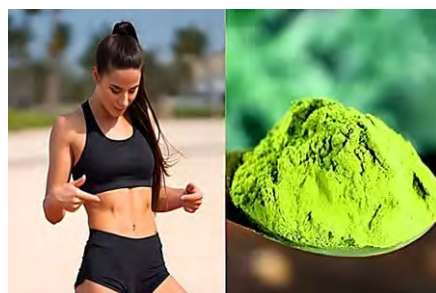


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# RISE response to BHCC briefing about contract verdict

Posted February, 2021

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> **RISE response to BHCC briefing about contract verdict**

**RISE recently announced the disappointing news that we have lost local council funding for some of our services as of the 1st of April 2021. We**



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**from the local community, and a petition started by one of our service users has reached over 21,000 signatures.**

At a recent council budget meeting, council officials committed to look into the decision that resulted in the loss of the contract to deliver refuge and case work services, which is worth £5 million over seven years.

However, in a briefing of 19th February, councillors were told that the bids to run the domestic violence and abuse support services have been evaluated by officials from Brighton and Hove City Council as well as representatives of Sussex Police and the Office of the Sussex Police and Crime Commissioner.

The briefing included:

- “Equalities impact assessments (EIAs) identified the need for a broader focus on inclusive service provision that caters for the needs of people with all the protected characteristics. These highlighted the need for more support for both heterosexual and gay male survivors as well as the specific barriers to service experienced by the trans community.”
- “The tender specification and questions were drafted in line with the Brighton and Hove Social Value Framework and the Social Value Act. The social value of the services provided was embedded throughout the questions.”
- “After RISE and other bidders were told the result of the tender process, there was a two-week standstill but no organisations challenged the decision.”

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number of grounds.

Our bid carefully detailed how we will support all protected characteristics, with dedicated and specialist services. We began as a service for women and children 26 years ago, then 14 years ago, in close partnership with local community organisations, initiated what became one of the country's first dedicated LGBTQ+ domestic abuse casework services. Four years ago, we co-piloted an innovative LGBTQ+ refuge. Both projects are still working effectively to safeguard LGBTQ+ people in Brighton and Hove today.

We have built trusted connections between our specialist Black and Minoritised workers and local community organisations and have specialist staff dedicated to outreach work for disabled people and older victims of domestic abuse. Our health advocate contributed to national research on older people and domestic abuse, and our child to adult violence programme has been featured at a national level.

We explained to the council in our tender how we would extend this approach to include heterosexual males, through specialised lead staff building community and national links, providing casework and extending our community refuge provision in partnership with local housing providers and the council themselves. At the same time, women remain the group most subjected to, and most severely impacted by, domestic abuse. Current research (Walby and Towers, 2018) finds that 91% of domestic violent crimes that cause injuries are against women. Women also typically experience higher rates of repeated victimisation and are much more likely to be seriously hurt or killed than male victims of domestic abuse, with 83% of domestic abuse victims who are

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women.

These figures mask further inequalities – Black and Minoritised women are less likely to see an arrest, prosecution and conviction for offences against them than their white counterparts, and disabled women are twice as likely to experience domestic abuse in their lifetime. This is why women-only space is needed. We are saddened that the council appears not to value this highly tailored, effective and proven approach, based on meeting the specific needs of different groups for specialised services, but instead wishes to commission a generic service.

We refute the position that the ‘social value of the services provided was embedded throughout the questions’ and do not feel the social value of our offer was duly considered in the tender scoring. The Brighton and Hove Council Social Value Framework states, “In considering the social value outcomes commissioners and procurement officers will need to work out the weight given to social value, which in Brighton & Hove will range from 10-30% and will be included within the broad assessment of ‘Quality.’” No scored criteria were included for the Brighton and Hove Lots in this tender.

RISE also wants to assure our service users, staff and the local community that when we received the news about the outcome of the decision we lodged a challenge on 18th January in line with the guidance provided by the Council, in the timescale required, and observing the confidentiality required.

This challenge specified our dissatisfaction with the outcome, as we maintain that we are the best organisation to deliver these services, as well as with the procurement process and its procedural unfairness.

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grounds of challenge, and stating that the statutory period had ended and they were entering into contract with the new providers. Progressing beyond this first stage challenge would cost a considerable amount in legal fees and as such we took a decision to make contact directly with the CEO of the Council and subsequently the Leader and Deputy Leader to attempt to resolve through conversation.

We wrote to the Leader and Deputy Leader of Brighton and Hove Council, Cllr MacCafferty and Cllr Clare, on 1st February, confirming that we had lodged a challenge and specifying the nature of each challenge. However, given our charitable status and the significant financial and capacity impact of mounting a legal challenge, we advised that the RISE Board and CEO had made the decision to withdraw from taking any further legal action. We emphasised that we were of the view that the points of challenge were still valid and we wished to discuss these.

[For our original statement on the news that we are losing some government funding, please see the news item here >>](#)

## Other RISE news



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## Have your say on feelings of safety in Sussex

Sussex Police & Crime Commissioner Katy Bourne wants your views on safety in Sussex



## Here's why we ask each 8K runner to raise £50 in sponsorship

500 runners, raising £50 each - that adds up to a HUGE £25,000 to support women, children and LGBTQ+ people affected by Domestic Abuse in Brighton and Hove.

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Registered office:

RISE

Community Base,

113 Queens Road,

Brighton,

BN1 3XG

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[Home \[https://survivorsnetwork.org.uk/\]](https://survivorsnetwork.org.uk/) | Updated statement on legal action against Survivors' Network

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News | 01 September 2022

## Updated statement on legal action against Survivors' Network

Updated 1st September 2022

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**Survivors' Network is a charity that has supported survivors of sexual violence and abuse for over 30 years. We support survivors of all ages and genders in Sussex and this includes Trans and Non-Binary people. We are committed to intersectionality, and trans-inclusive feminism is central to our ethos. Trans women are women and as such they are welcome into all of our women-only spaces and always have been.**

On 20th July 2022, Survivors' Network received legal papers in relation to action being taken against us in the Brighton County Court by one of our clients (the claimant).

*"We are extremely saddened by this development, and we know that this might feel unsettling for survivors in Sussex. Please be assured that our services are here for you and will continue to be here for you, just as they have been since we started out over thirty years ago."* – Jay Breslaw, CEO, Survivors' Network

The most important thing for us is the continued delivery of our services supporting survivors of sexual violence and abuse, and we want to reassure all of our current survivors and anyone seeking support that we are still here for you. We offer a wide range of support to survivors of all ages and genders across Sussex, which includes therapy, support for people reporting crimes to the police, a helpline, peer support groups, therapeutic groups, trauma sensitive mindfulness, homeopathy, yoga, emotional support and specialist workers for minoritized communities. Please see our website for resources to access now and for further details of services to refer into.

### Background information:

The claimant accessed our group work in 2021. She made a complaint to Survivors'

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The claimant alleges that by recognising trans women as women and welcoming them into our women-only spaces this has led to breaches of the Equality Act 2010.

We wholeheartedly disagree with these allegations and we will be vigorously defending them.

We are being represented on a pro bono basis by a City of London law firm, [Reed Smith](https://www.reedsmith.com/en/) [https://www.reedsmith.com/en/], and two barristers, Antony White QC and Robin White.

If you have any questions or concerns, please email [info@survivorsnetwork.org.uk](mailto:info@survivorsnetwork.org.uk)

You can read our [Trans Inclusion Statement here](https://survivorsnetwork.org.uk/trans-inclusion-statement-2021/).  
[https://survivorsnetwork.org.uk/trans-inclusion-statement-2021/]

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## FOVAS

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# Survivors Blog pieces

## Losing Trust in Rape Crisis

I want to talk about an experience that happened to me recently regarding my local rape crisis as a survivor of abuse who gets PTSD symptoms around biological males.

I was already worried about attending there due to a self ID policy that allows men who identify as women to access the service even to mix with women (I have no issue with trans identifying males accessing one to one therapy for sexual abuse). This had already broken my trust of rape crisis when they dont even have to do this by law. the fact they were choosing to do this when it is not even yet enforceable by law felt like a massive betrayal. Anyway I dont have access to any other support and went along hoping it would be just women and luckily there didnt seem to be any men there.

Then they employed a new staff member and this had a severe impact on my mental health. When I saw a picture of this person my first thoughts were: 'Is that a man?' It played on my mind a little but I went to Rape Crisis as I thought I would be able to tell for myself. Unfortunately I was not able to tell whereas usually when I meet people I can tell immediately if they are male or female biologically even when they are trans. I was glad that this person wasnt definitely a man but I found it a little unsettling and could not stop myself from looking at this woman to see if she had an adams apple or large hands and listening to see if she had a male sounding voice. This is not what I want to be focusing on when i am supposed to be in a healing environment where I am supposed to feel safe.

I returned home and I thought I was ok. I thought maybe my anti depressants were helping me not get ptsd symptoms. However I then had another unrelated issue that compounded my anxiety and I found myself waking up terrified in the night worrying if this person was really a man. I had all sorts of thoughts going through my head like should I just stop going and not have any support which I really didnt want to do. It severely impacted my mental health the next day to the point where I felt suicidal. I neglected my needs and didn't eat anything till 6pm when I have a chronic illness and neglected my 2 rest periods I need to manage my illness. I was in tears and distress and had to seek support from several friends over the phone. I ended up online all day which causes me insomnia looking online to find evidence of whether this person is male or female. I eventually found evidence that she is female and now I feel relieved but awful that I have focused on another woman in this way.

What was apparent to me was just how little trust I had in Rape Crisis to talk to them around this issue in light of their self id policy. I felt very alone and scared and like I had no where I could turn to. I did not feel I could turn to Rape Crisis for support around this issue despite how my fear of men comes from me being sexually abused as a child. Now I know she is female I did feel able to email them to tell them of my experience but if there ever was an actual man there I would be too scared of how he would react to me and probably would not be able to access the service ever again after

encountering a man there. I do not feel womens orgs are taking this issue seriously enough.<sup>159</sup> I should not be coming away from Rape Crisis feeling like this. I now realise I was paranoid but I also know that this paranoia is directly related to my fear of men and me no longer feeling safe at somewhere like Rape Crisis when they seem to prioritise the needs of trans people over the needs of women like myself.

Me having to spend all day trying to find out online myself instead of coming to them with my fears also has something to do with the fact that I requested a long time ago for them to provide biological female only space and no one bothered to follow up or to get back in touch with me which makes me feel ignored and let down. This is having a huge impact on my mental health and whilst I am relieved this staff member is in fact female and I now feel safer to go I now know how badly it would affect my mental health were I to access there and a trans person or a woman I cant tell if they are a trans person were to turn up. This made me so paranoid that when a man came to my house the other day accidentally as a plasterer I started worrying what if this staff member is a trans activist who has infiltrated rape crisis and has sent a man round to my house and worrying that men know my personal details like my address. I know these are symptoms of trauma but Rape Crisis is supposed to be helping me with those not doing things to make me feel even less safe. These are not things I should have to worry about whilst trying to access support at a service that prides itself on being women only and is founded on principles of female only space being the primary basis for women being able to heal from sexual abuse. I know these were paranoid thoughts. however, I know that these paranoid thoughts are always triggered by having men in my space or fear of having men in my space which Rape Crisis is supposed to understand.

I would like this issue to be taken seriously and addressed. I really feel like I have had to spell this out as people are just not getting in. This is massively affecting womens mental health and I am in my 30's. i dread to think how younger women who havent found their voice are feeling and how this is affecting them.

Unfortunately my complaint to Rape Crisis has been dismissed. The response just goes on and on about how discriminated against trans people are and even goes on to compare trans identified males to non gender conforming women. They are refusing to provide a biological female only space even alongside a trans inclusive one

Anon

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## Early Memories

One of my earliest memories includes sitting at the top of the stairs at the age of three, clasping my oversized teddy bear to my chest for comfort whilst peering through the rails of the bannisters to gaze down on my mother in the hall below, doubled-up in pain and lying across the floor after my father had kicked her. On the wall hung the telephone, its beige plastic casing half-missing to reveal a skeletal dial, segments held together with brown parcel tape. This low-tech method of repair was a recurrent theme throughout our home, the combined result of poverty and my father's violent rampages. There would be warring throughout the house four or five days out of seven, the lull always so cruel, giving me in my childish naivety some hope that this time it was really all over, that things were going to get better. I never understood why my mother didn't leave, but I now understand how she was isolated, as women who are abused often are, with no close friends or family to turn to for refuge. Once I hit puberty I also became the target of my father's aggression, sustaining black eyes and other injuries. At the age of fourteen, after being swung around by my hair for the crime of 'turning off the taps too tightly' I found the courage to call the police on my father for the first time. The male officer on the phone dismissed me and told me I was being a silly girl. I was devastated and put the phone down, sleeping in a nearby industrial park that night, despondently returning home the following day through a lack of any other options.

Education was my way out and I left home at eighteen for university, but following this I became<sup>180</sup> unemployed and the relationship with my cohabiting boyfriend ended. With no safe family home to return to I found myself homeless. I was allocated a place in a hostel, which had separate floors designated to men and women. Unfortunately, due to overcrowding I was placed on the men's floor. I felt incredibly vulnerable after everything I had been through in my childhood home to then be sharing this space with men whose behaviour could be unpredictable and rowdy due to alcohol and drug use, but thankfully after I requested to be moved to the women's floor a space became available for me.

Sadly, my experience with my father is not the only time I have faced male violence and intimidation. When I lived alone, the teenaged son of a neighbour embarked on a campaign of harassment against me, eventually putting a brick through my window. When the male officer came to take my statement, he told me that it was probably because the boy fancied me, shrugging off the intimidating behaviour as if the boy's feelings made it acceptable for him to trespass, harass me and vandalise my home. I lived for months in fear of what might happen next and would alter my activities to avoid his attention, trying not to put lights on in my house and staying late at work where I felt safer, until the family were finally evicted.

One day, a few days before Christmas I was walking in my neighbourhood at around four o'clock in the afternoon when I was violently sexually assaulted. I called the police immediately, and they arrived minutes later to take me in to the station. Unfortunately, there was no female officer available to take my statement, so I had to recount the details of what had happened to a man. Whilst the officer this time was more understanding and professional than those I had previously dealt with, I was nonetheless distressed by having to put into words what had happened to me to a male officer, as well as getting undressed and handing over my clothing for forensic evidence. I vomited several times whilst giving my statement (I had not drunk any alcohol). For the next few years I suffered from PTSD, experiencing flashbacks, nightmares and a fear of leaving the house. Whilst I was still waiting for this man to be brought to justice, there was another incident with a flasher who stopped me on the street, again in broad daylight and on my regular route. When my sex attacker's case came to trial, I developed a painful condition called Tietze's syndrome from the stress, which took several visits to the doctor to be diagnosed, and curtailed my activities for a number of years afterwards. I otherwise carried on with my life, studying for a Master's degree and working two jobs, but my relationship with my boyfriend suffered due to the stress.

Apart from these more brutal examples of violence, there have of course been many other times where I have been put at threat by men: the time I was coming back from a friend's wedding and a taxi driver was asking me sexually explicit questions whilst keeping me locked in his cab; the party when a man I'd never met before or shown any interest in locked me in one of the rooms, grabbing hold of me and demanding I have sex with him. I am lucky compared to some, such as the 21-year-old woman who lived on my street and was beaten to death by her partner in front of their three-year-old daughter. Like most women, I've managed by doing the same thing I learned to do as a child, trying to be as invisible and inoffensive as possible, even though my own boundaries are being transgressed, even though what they are doing is wrong, just so that I might avoid stirring up the aggressor's anger further and escape as soon as possible.

I still struggle with CPTSD, including nightmares, a fear of confrontation and the crippling inability to stand up for myself: I am standing up for myself now. I am standing up for all the women and children who have had experiences similar to mine. Vulnerable women deserve safe spaces they can go to in a crisis where they do not have to validate the feelings of men, whether these are men who identify as men, or men who identify as women. This is not anti-men, nor is it anti-trans, it is about the protection of some of the most vulnerable women and children in society; it is about supporting them where support has been lacking; it is about easing their psychological distress and providing a

place of safety when they are at their most fragile. Of course, male-bodied people are also the victims<sup>161</sup> of violence and their needs should be catered for, but it should not be expected of deeply traumatised women who have suffered physical and emotional abuse to then put their own needs last so as to tiptoe around the feelings of others. Women who have been raped, beaten and psychologically tortured by men should not then be expected to share a room and facilities with a male-bodied stranger, no matter how that stranger identifies. Sex segregated spaces exist specifically to exclude male-bodied persons – not because all are predatory, but because these women have been traumatised by those who are, and because such predators specifically target vulnerable women. Of course there are men who will abuse any loopholes they can to access vulnerable women and girls, to suggest this would never happen is naive in the extreme! Disguising themselves, gaining trust and exploiting kindness is exactly what predators do. How dare anyone who has not had to endure such violence demand that sex-segregated spaces be opened up to anyone who identifies as a woman – which under the transgender umbrella can mean anything from someone who has had reassignment surgery to a fully male-bodied heterosexual man who only occasionally cross-dresses. How dare activists tell women who have suffered horrific abuse at the hands of men that they have ‘cis-privilege’ for wishing to protect themselves from further acts of violence. Any trans person who cares about women would also see the risks involved and how callous it is to impose upon vulnerable women in such a way. Inclusion is nothing more than a futile gesture of badly thought-out virtue signalling by those far removed from what’s at stake if including one group then puts another already vulnerable group at risk. The validation of the identity of a male-bodied person should never surpass the needs for physical safety and psychological well-being of some of the most damaged women and children in society.

Anon

[Blog at WordPress.com.](https://fovas.wordpress.com/survivors-blog-pieces/)

<https://www.dailymail.co.uk/news/article-11392601/Transgender-paedophile-caught-duping-staff-71-day-stay-domestic-violence-refuge.html>

# MailOnline

## Transgender paedophile, who was born a man but identifies as female, is caught duping staff for 71-day stay at domestic violence refuge centre for vulnerable women

- Katie Dolatowski, 22, got into Leeds Women's Aid refuge under a victim alias
- Dolatowski sexually assaulted a ten-year-old girl in a supermarket toilet in 2018
- Her past came to light ten weeks after she arrived and the police were called
- A refuge guest and mum said knowing an abuser was there made her skin crawl

By [HANNAH MCDONALD FOR MAILONLINE](#)

**PUBLISHED:** 01:49, 5 November 2022 | **UPDATED:** 11:54, 5 November 2022

A paedophile duped staff into letting her stay at a **Domestic Violence** refuge for women and children for 71 days.

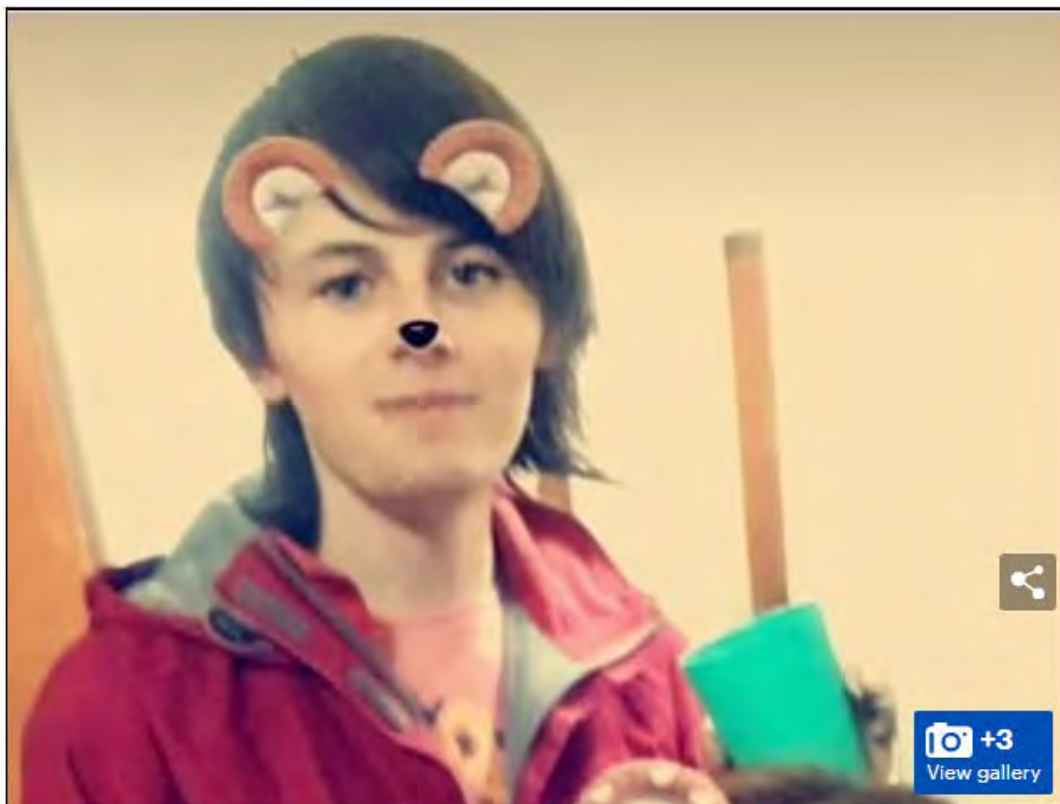
Katie Dolatowski, 22, who was born male, got into Leeds Women's Aid refuge under an alias.

Her past was uncovered ten weeks later in September and managers are thought to have contacted the police straight away.

The refuge for vulnerable women and children is frequently visited by domestic abuse campaigner and Spice Girl **Mel B**.

Dolatowski, whose offending dates back to 2018, was taken into custody, **The Sun** reported.





Katie Dolatowski, 22, who was born male, got into Leeds Women's Aid refuge under an alias



The refuge is frequently visited by domestic abuse campaigner and Spice Girl Mel B (Pictured: Mel B at the Women's Aid 'Love Should Not Hurt' NFT Art Launch, part of the Come Together to End Domestic Abuse campaign, at Blacks Club on July 26, 2022)

She sexually assaulted a ten-year-old girl in a supermarket toilet and secretly filmed another in 2018 and has been in court several times since.

A refuge guest and mum of three said that as a victim of sexual abuse, the situation was 'triggering'.

She said she came to the refuge with her children as she thought it was somewhere safe and that it was horrendous discovering a paedophile had been living there for months.

The mum added: 'I saw her several times hanging around where the prams are parked, she is tall and skinny with long brown hair and always wore a blue surgical mask. The whole thing makes my skin crawl.'

Dolatowski was said to have official papers supporting the alias she was going by which she used to convince staff she was a victim of abuse.

She stayed in the refuge's separate accommodation for trans abuse survivors. It has a shared garden.

Chief executive of Leeds Women's Aid Nik Peaswood said the centre was appalled that someone who had committed the crimes Dolatowski had would be able to gain access to the refuge.

She continued: 'We are aware a criminal using authenticated identification could access any housing provider's services and we are not unique in being manipulated in this way.'



A refuge guest and mum of three said that as a victim of sexual abuse, the situation was 'triggering' (Pictured: A Leeds Women's Aid charity shop in Horsforth)

Chief executive at Women's Aid Farah Nazeer said the situation was a priority alongside their abuse services.

She added that extra security measures were being looked into as a result of the incident.

Dolatowski was 18 years old when she threatened to stab the ten-year-old girl if she didn't remove her trousers in a Morrisons in Kircaldy, Fife, but the child punched her and ran away.

A month prior Dolatowski had secretly recorded a 12-year-old girl on the toilet in a Dunfermline Asda.

Dolatowski avoided jail.

**Read more:**

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# MailOnline

## When he was a man called Mark he was locked up after threatening to kill the mother of his child... today she's a woman called Melissa and able to roam free at a shelter for female domestic violence victims

- Men who identify as women allowed to live in refuge hostels for female victims
- Mark Addis, 44, deemed a threat to his former partner after threatened to kill her
- Bosses at St Mungo's allowed transgender ex-prisoner to make 'almost daily' visits to the hostel after he changed his name to Melissa

By [SANCHEZ MANNING](#) and [JULIE BINDEL](#) and [MICHAEL POWELL FOR THE MAIL ON SUNDAY](#)  
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Men who identify as women are being allowed to live in refuge hostels for female victims of domestic and sexual violence – even if they have not undergone sex-change treatment but simply say they want to live as a woman, The Mail on Sunday can reveal.

The move follows a radical change in policy by charities that receive millions of pounds in public money to run refuges for women fleeing abusive relationships.

In one shocking case, The Mail on Sunday discovered that a transgender ex-prisoner and convicted domestic abuser, who made chilling death threats to the mother of his child, has been allowed to come and go from a female-only refuge after he changed his name to Melissa.

Mark Addis, 44, was deemed such a threat to his former partner that he spent six months on remand in a male prison in 2014 after sending threats that he would kill her. One of his terrifying messages contained a picture of a dead body in a shroud.



Mark Addis, 44, was deemed such a threat to his former partner that he spent six months on remand in a male prison in 2014 after sending threats that he would kill her

A whistleblower has told the MoS that despite knowing about Addis's convictions, bosses at homeless charity St Mungo's still allowed her to make 'almost daily' visits to a women-only hostel.

Last night, Addis confirmed that she would come and go from the East London Women's Project, where she would visit her support worker and also attend social functions, such as summer barbecues.

One St Mungo's source claimed Addis had caused 'alarm and distress' to female residents at the women's shelter by behaving aggressively in front of them.

But managers at the charity are accused of ignoring concerns from staff because they 'slavishly' followed a politically correct agenda promoting transgender rights.

Another charity, Women's Aid, confirmed that its member services set their own policies and are already supporting trans women, in accordance with the Equality Act, in refuges and community-based services.

The charity said: 'We are committed to ensuring that trans people are treated with respect and do not experience discrimination and/or harassment on the basis of their gender identity.'

'Our member services told us they assess every survivor, including trans women, on a case-by-case basis and if they are unable to support a trans survivor they will help refer her to another service.'

A recent report by LGBT rights charity Stonewall found the majority of providers for women-only shelters now allow transgender women to stay in their hostels.

Last night, our revelations sparked fury. Erin Pizzey, who set up the world's first women's domestic violence hostel in Chiswick, West London, in 1971, said: 'The most important thing in women's hostels is their safety. If you add a male into a women's environment, it will cause havoc.'

'It's completely unacceptable to have men who have not gone through any medical transition entering women-only spaces.'

'I believe homeless charities are betraying women by introducing this new policy.'

Karen Ingala-Smith, chief executive of the domestic and sexual violence charity Nia, said: 'Homeless charities helping men who identify as transgender is a good thing but it should not be at the expense of women's safety, wellbeing and recovery.'

'Allowing a male who identifies as transgender with a history of domestic violence to enter what is supposed to be a safe space for women just shows utter contempt for women in that space.'

Our revelations are the latest in a series of controversies about transgender rights.

There was fury last summer when it emerged that transgender prisoner Karen White – who was convicted as Stephen Wood of two rapes on women – had sexually assaulted two prisoners after being transferred to a women's jail, despite not undergoing any sex-change surgery.

Further cases have included trans women being treated on women's hospital wards and being allowed into women's changing rooms.

There is a febrile debate over a proposed change in the law which would allow someone to 'self-identify' their gender without going through a medical or legal process.



**A whistleblower has told the Mail on Sunday that despite knowing about Addis's convictions, bosses at homeless charity St Mungo's still allowed her to make 'almost daily' visits to a women-only hostel**

Critics say that introducing such a legal reform would threaten women's safety and privacy because it would allow males who have not undergone any physical transition into female-only spaces.

Shelters that exclude men were first established in the 1970s to create safe havens for women who have been attacked by men. The majority of hostels have women referred to them by prison probation services and homeless charities.

The residents are helped by a support worker to sign up for housing benefit to pay for their rent.



Charity staff then help them to get into social housing, with residents typically leaving the hostel after 12 to 18 months.

The high-security refuges have strict rules banning all men from entering the premises, with their locations kept a secret.

Any male visitors, including contractors, have to be escorted by staff, who are all female. But even though the law has not been changed to allow men to self-identify as women, charities are now allowing men who live as women to visit their shelters.

St Mungo's, which operates 27 sites across London and the South of England, allowed Addis to gain 'almost daily' access to a women-only hostel in East London despite knowing about her criminal past.

Addis – then living as a man – was arrested in November 2013 for his hate campaign against Julie Lane, and spent six months on remand in a male prison before his case came to trial at Snaresbrook Crown Court.

He pleaded guilty to 'putting a person in fear of violence by harassment' and was sentenced in June 2014 to an 18-month supervision order, 40 days on an integrated domestic abuse programme, and given an indefinite restraining order to stay away from his victim.

A whistleblower told the MoS that the Stonewall Housing Association, which helps to house homeless lesbian, gay and transgender people, referred Addis to St Mungo's after he became homeless following his release from prison.

He was living in a hostel called the LGBTQ Project for trans, lesbian and gay people run by the same charity when he began to identify as a woman.

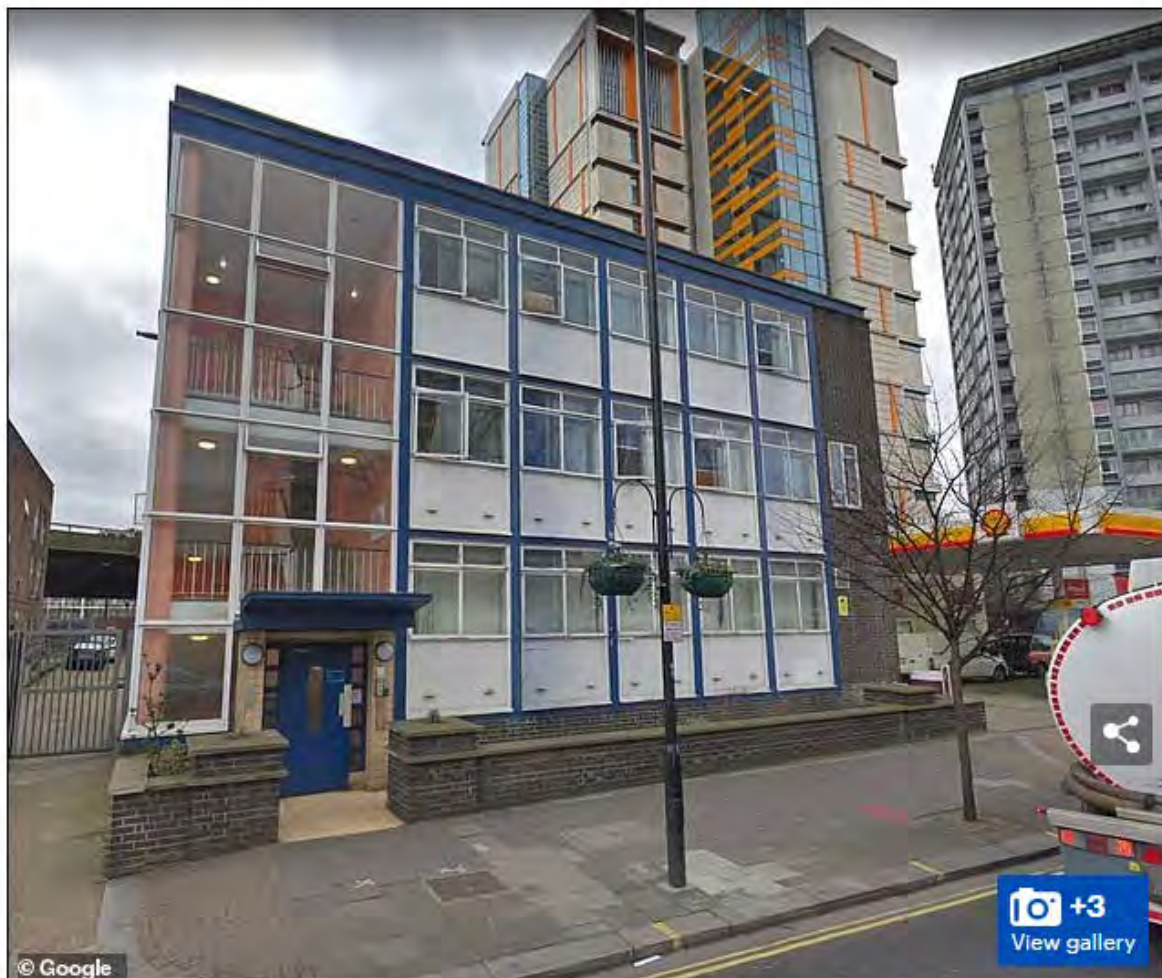
St Mungo's, which received £95 million in social housing grants from government bodies last year, then allowed Addis through the doors of its East London Women's Project, half a mile away.

A source said Addis and other transgender women were granted unfettered access to see their support worker and attend social events because the charity ran an administration office there. The whistleblower said: 'When the trans women clients came into the women's hostel and started acting aggressively, the women were absolutely terrified.'



'Addis was in our trans hostel and coming into the women's hostel almost on a daily basis. She was coming into the women's hostel shouting, crying, threatening violence against the other trans women, but doing this in front of frightened, vulnerable women.'

The source said a staff member complained about Addis's behaviour and about the policy of allowing transgender women into the female-only hostel, but their complaints were 'shut down' by senior management.



One St Mungo's source claimed Addis had caused 'alarm and distress' to female residents at the women's shelter by behaving aggressively in front of them (Stock image of a St Mungo's hostel)

According to the source, the policy of allowing transgender women into the women-only hostel started in 2016 and was driven by Simon Hughes, St Mungo's regional director for East London.

The source said: 'The mantra was that trans women are women and they are vulnerable. Even if they have a criminal record, if they are transitioning, they are not a risk any more because they are women now. There was no room for debate. To even suggest you had an issue with that, that's it – you were out. It was really unsettling and terrifying for the women living at the hostel. These are women who are traumatised.'

Last night, Addis told the MoS that she and other transgender women living at the LGBTQ Project had regularly visited the nearby women's shelter and attended social functions such as barbecues.

Addis denied any aggressive behaviour towards the women residents of the East London Women's Project, adding: 'I could have lived at the women's hostel myself if I had asked the lady who was in charge. They would have allowed me because I live as a female now.'

Addis said the manager of the women's refuge was 'very nice' and allowed her to 'watch telly with girls,' adding: 'I got on with the girls. They classed me as a female.'

She said she had moved out of St Mungo's LGBTQ hostel in May last year when her lease expired.

But a source who has known Addis for almost 20 years claimed: 'Addis got chucked out of the other hostel for violence and anti-social behaviour.'

They said her relationship with her former partner was 'volatile,' adding: 'Women [in the hostel] would not be safe with Addis there.'

Last month, St Mungo's published a three-year Women's Strategy which stated: 'Trans women are welcome to our women-only services and spaces, in accordance with the law and our values as an organisation.'

The charity refused to answer questions about Addis last night, saying it does not comment on individual cases.

Nor would it say how many transgender women were living or working at its women-only refuges, and it declined to answer questions about its government funding.

St Mungo's provided supported housing to 1,216 women in 2017-18, according to its annual report, that said four per cent of its clients (48) were transgender. However, it refused to disclose how many of those are transgender women living in female-only hostels.



A spokesman said: 'St Mungo's is a trans inclusive organisation recognised by Stonewall as a top trans employer.'

Stonewall is the leading lesbian, gay and transgender rights charity, and has championed the rights of transgender women to access women's refuges.

Last year, the organisation interviewed managers from 15 organisations that provide shelters for female victims of domestic abuse and sexual violence across UK.

Its report – Supporting Trans Women In Domestic And Sexual Violence Services – revealed the 'majority of participants have supported trans women in their women-only services before... many have been doing this for some time.'

In its anonymised report, one shelter manager stated: 'If we have a client who wants to come in that identifies as female, they can come into our refuge or any part of our service.'

Another manager said: 'We are very clear from the start that we do have transgender [women] and women of different faiths and cultures and beliefs through our door constantly.'

Another said: 'We wouldn't exclude somebody from any of our existing services based on the fact that they were transgender.'

Another interviewee added: 'We would never ask for evidence of someone's sex or gender because we're open to women on a self-identifying basis.'

Women's Aid also confirmed that transgender women are living in women-only refuges.

A spokeswoman said: 'We are of the view that we want all survivors to get the support that they need.'

Last July, its chief executive Katie Ghose said: 'Women-only spaces provide a physically and emotionally safe environment that is vital to survivors' safety and recovery after experiencing domestic and sexual abuse.

'Women's Aid member services assess every survivor, including trans women, on a case by case basis in order to best respond to their needs. Our member services tell us that they are already supporting trans women in accordance with the Equality Act in refuges.'

- *This article has been amended since publication to make clear that Women's Aid is a federation and does not set policies for its member organisations which provide the refuges for domestic abuse survivors.*





## Why single-sex services matter: privacy, dignity, safety and choice

**30-minute read**

*Full report and key findings*

*at [sex-matters.org/single-sex-services-voices](https://sex-matters.org/single-sex-services-voices)*

July 2022

**Sex Matters** is a human rights organisation campaigning  
for clarity about sex in law, policy and language

[sex-matters.org](https://sex-matters.org) | [info@sex-matters.org](mailto:info@sex-matters.org)

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## Starting points

### Hearing the missing voices

Over the past few years there has been an attack on single-sex services and spaces, and many organisations have become confused about whether they should provide them at all, or if they do whether they should allow some people to use spaces intended for the opposite sex. Without consultation, many single-sex facilities have been replaced with “gender-neutral” (mixed-sex) facilities, or facilities that are “inclusive” based on gender self-ID.

What have been absent are the voices of ordinary service users, particularly women. From 12th to 21st February 2022, Sex Matters ran an online survey, which had 7,062 responses – an extraordinary number in just over a week. This was not a representative sample of the population, but statements from people who value single-sex services – 97% of those who responded.

The respondents set out in detail the practical, emotional and safety reasons why single-sex services matter to them. Ninety percent of them were women, and nearly half shared experiences of sexual assault, exposure, voyeurism and harassment, and the lingering effects. Their stories were both shocking and commonplace. There were far too many to include them all.

The survey reveals a crisis in inclusion for women and girls as single-sex facilities and clear policies are removed, without consultation or consideration, from public toilets; facilities in pubs, clubs, theatres, cafes, restaurants and gyms; changing rooms in shops and sports centres, and facilities in schools and hospital wards. Our respondents describe how the removal of female-only services and spaces creates a hostile environment for girls and women, damaging their privacy, dignity and safety, and excluding them from public life.

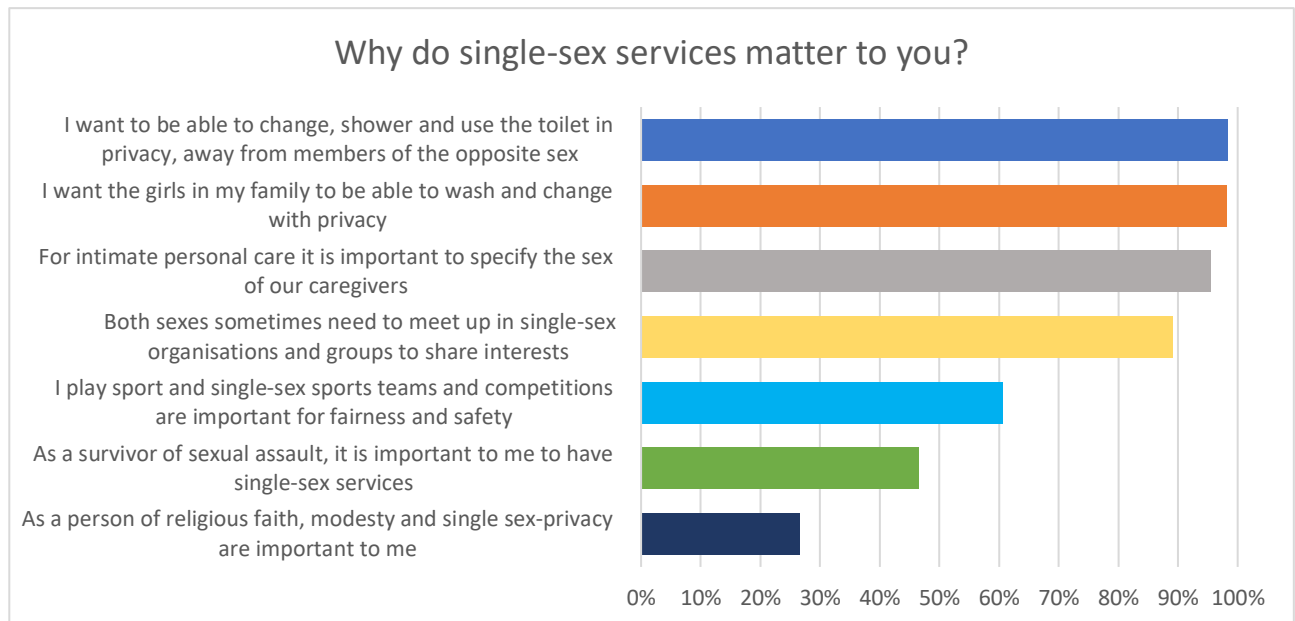
### Single-sex services matter to women

Around 10 times as many UK women (5,559) as men (554) responded to the survey to say that single-sex services are important to them. (This analysis excludes the few respondents who were outside the UK or said single-sex services were not important to them.)

The most common reasons for valuing single-sex services were everyday privacy and dignity:

- I want to be able to change, shower and use the toilet in privacy, away from members of the opposite sex (98%)
- I want the girls in my family to be able to wash and change with privacy (98%)
- If I or a member of my family needed intimate personal care it would be important that we could specify the sex of our caregivers (95%).





Many respondents also had personal reasons why they valued specific single-sex services:

- Women and girls, and men and boys, sometimes need to meet up in single-sex organisations and groups to share interests (89%)
- I play sport and single-sex sports teams and competitions are important for fairness and safety (61%)
- As a survivor of sexual assault, it is important to me to have single-sex services (46%)
- As a person of religious faith, modesty and single sex-privacy are important to me (27%).

## Single-sex services are already being lost

61% said they had already experienced male and female facilities being replaced by “gender neutral” unisex or mixed facilities. 57% had experienced only the female facilities being converted to “gender neutral”. 45% had experienced “trans inclusive” rules that allow males to use women’s services, and 35% had experienced an overall loss of support and funding for women’s services.

When we asked where people were most concerned about losing single-sex services, the top two answers were hospital wards and women’s services, followed by public toilets and schools, colleges and universities.

## Sex matters

### Sex means sex, not gender

In the course of their answers many respondents clarified that by sex – male and female, man and woman – they meant biological sex, not gender identity.

Those who mentioned “trans women” were not necessarily unsympathetic to their feelings or unsupportive of their rights, but simply and straightforwardly recognised that they are male.

Some with religious faiths mentioned that their religion states that nobody can change sex.

### Any man is a threat

Statistically, males are a threat to females. Every single female I know has a lived experience of this. Protected spaces are a moment of refuge, a place of support and they can also be a hub of community. **Female, England, 25–34**

Why trust all men? – the ones who assaulted me weren’t trustworthy. How do you tell who is not going to do so? They do not have a mark on their forehead. Trust has to be earned.

**Female, England, 55–64**

I was abused by a trans identified male. I’ve been abused by society for saying I was abused by a trans identified male. I would be afraid to seek help if I were sexually assaulted due to how I’ve been treated. **Female, 45–54**

### Many women have been victims of sexual assault

**Almost half of the women who responded said they had experienced sexual assault in their lifetime. As well as needing single-sex domestic and sexual-violence support services, they talked about the importance of everyday separate-sex facilities.**

I was raped and get very stressed in small spaces with strange men. Even a lift is scary.

**Female, Scotland, 55–64**

I have anxiety attacks, due to rape, and need somewhere to feel safe in public, away from men.

Men’s behaviour often makes me feel uncomfortable, no matter how they present. **Female, 35–44**

As a survivor, I often struggle with knowing when I am entitled to have boundaries. I really need the law to be on my side in this matter. **Female, England, 45–54**

I have been raped twice, I have been flashed too many times to count. No man has a right to expose themselves to me, I have trauma related to male genitalia as do many women.

**Female, England, 25–34**

## Why single-sex services matter

### Everyday privacy

**98% of the UK respondents who valued single-sex services agreed with the statement “I want to be able to change, shower and use the toilet in privacy, away from members of the opposite sex”.**

**More than 3,000 people wrote detailed comments on this one question.**

Changing, showering and using the toilet are things that happen in private. Most people don't want to do any of those things in front of anyone, even people we know, let alone an unknown member of the opposite sex. **Female, England, 35–44**

Men and women should have their own spaces to shower and change. This is as equally important to men as it is women. A bit of privacy from the opposite sex is not a lot to ask for.

**Female, England, 35–44**

Being able to walk into a space and know there will only be other women in there, I can breathe out and get on with what I need to do – be it have a shower, change my clothes or do my female business – in peace and privacy. **Female, England, 25–34**

To be able to focus on what I need to do without needing to read the room for potential danger is extremely important to me. **Female, Scotland, 45–54**

I don't like sharing a toilet with a person of the other sex even when there is more than one cubicle. **Female, England, 65 and over**

I work in a male dominated field, I would absolutely hate to be using the toilets at the same time as male co-workers/my bosses etc. **Female, England 35-45**

### Inclusion

Without being able to change, shower and use the toilet away from the opposite sex it would stop me wanting to exercise, go out and try new things. **Female, Scotland, 45–54**

I'm a Muslim woman and the thought of sharing female only spaces with the opposite sex just further alienates me and ensures that I spend less time in public spaces. It's unfair that the idea of inclusivity centres marginalised men feelings and safety over women. **Female, England, 25–34**

I'm an older woman. I just wouldn't be able to go anywhere where there was the possibility of a male person using the same bathing or toilet facilities. This would mean I'd be unable to go swimming or to a gym or even out to a pub if males were allowed in the ladies.

**Female, Scotland, 55–64**

## Urinals and hygiene

**Removing urinals makes toilet seats and floors unhygienic. Making toilets with urinals mixed-sex is humiliating for both men and women.**

Speaking as a man, I miss the urinal. I doubt very much females enjoy sitting on a urine soaked toilet seat. **Male, England, 45–54**

Urine everywhere. **Female, England, 25–34**

I don't want to stand with my penis in my hand in the same space as women I don't know any more than they would want to share that space with me. **Male, England, 55–64**

It's not commonly discussed, but as a man I can't stand "gender neutral" toilets. Most of the time I want to go in, urinate, wash my hands, and be on my way. Men's toilets have urinals for a reason. It's grossly inefficient to have to go in, find a stall, more likely than not urinate all over everything, and then go out and wash in a crowd. **Male, England, 45–54**

## Particular needs

I have had my first period in a public toilet, had to go to toilets to cry, had to go to toilets when pregnant and hormonal at work and needed space. I have helped a young girl who had her first period in a public toilet. Women support one another in these spaces. **Female, England, 35–44**

I have had two miscarriages at work and single sex provision was crucial. **Female, England, 35–44**

I have had a miscarriage a public toilet, had to breastfeed a baby in a public toilet, had to pump my breastmilk in a public toilet. **Female, England, 55–64**

I need to feel safe – I have had surgery after breast cancer. I feel vulnerable and unhappy to change with men. **Female, Wales, 45–54**

I have two small children. I have at times left the toilet door open to accommodate a toddler and a pram so we all have room to use the toilet. I do not want to leave my children unattended in a public toilet facility. **Female, Wales, 35–44**

My 21 year old daughter has learning disabilities and needs to have single sex spaces to keep her safe from predatory males. **Female, Scotland, 45–54**

Once I was in a community building and was standing near the female toilets. A woman came out, who was visually impaired and she was very distressed, because she heard male voices and thought she had entered the male toilets instead. I went in to and two trans-identified males were just coming out looking "sheepish" and a bit bemused, and I may add did not try to allay her concerns. **Female, England, 55–64**

I have IBD [*inflammatory bowel disease*] and have had some embarrassing public toilet incidents. Women treated me with understanding and sympathy. Men who followed me into single stall toilets (for one) would often make rude comments about noises/odours. It made me feel more horrible than I already did. **Female, England, 55–64**

## A place of safety

As a survivor of childhood sexual assault and rape, I never feel safe in changing rooms, showers, or toilets when men enter those spaces. Having endured extreme male violence I have every right to male free spaces. **Female, Wales, 55–64**

When I have had to use gender neutral facilities I feel more on guard, I scan the surroundings more and check for access, exit and points of visibility. I feel more inhibited. When I was younger and went to pubs and clubs more, the female toilets were able to be a place of refuge from men if necessary. **Female, England, 35–44**

I was sexually assaulted by a man at a club in my late teens, my place to run was a women's bathroom – please don't take them away. **Female, England, 25–34**

When women see a man in their single sex space we know immediately that he is there for nefarious reasons and we are probably the victim. We must be able to say 'No' to this without being labelled bigots or transphobes. **Female, England, 45–54**

My niece was followed into the ladies toilets of a nightclub by a man when she was 19, he tried to grab hold of her, luckily he was seen following her in by staff who ejected him as he should not have been in there. With self ID the risks to girls and women are increased.

**Female, Scotland, 45–54**

As a man I would not want to put any female in the position of having to share an intimate facility with males mainly for reasons of safety, privacy and peace of mind. **Male, Scotland, 35–44**

## Fears are justified

I have been followed into a women's toilet by a man who went into the cubicle next to me. As I opened my door he stood just inside his cubicle and orgasmed over the floor looking at me.

**Female, England, 35–44**

I was assaulted by a man in a swimming changing room when I was 11 years old. He was entitled to be in the mixed sex changing room. He followed me in and there wasn't another person around to help me or question why he was there. **Female, England, 35–44**

I was assaulted by a male co-worker, He also tried to enter the woman's toilet when women were in there. I don't want to feel threatened and scared again. **Female, England, 55–64**

I was attacked by a 6 foot 2 drag queen in high heels and his friend in a female toilet. They were both gay so just interested in intimidating me but can't say that helped much at the time.

**Female, England, 55–64**

The one and only time I ever used a mixed sex "changing village" a man lay on the floor and put his head under the side of my cubicle to watch me undress. By the time I had dressed enough to alert the staff and they had called the police, he was long gone. **Female, England, 45–54**

I have experienced men looking over loo cubicle walls, under doors and through ill-fitting changing room curtains with mixed facilities. **Female, Scotland, 55–64**

## Health and personal care

**95% agreed "If I or a member of my family needed intimate personal care it would be important that we could specify the sex of our caregivers". Professionals also recognised this need.**

Every single person has the right to decide who looks and who touches their body, it is the first thing I have taught my young children! **Female, England, 35–44**

I want to see a female GP. **Female, Scotland, 45–54**

My sister who passed away recently was forced to accept intimate care from a male career. She was unable to verbalise, but we discovered that he was actually sexually assaulting and humiliating her. He still works in the care system because we have no video proof.

**Female, Scotland, 45–54**

A male nurse cared for my mother in hospital when she was close to death and it made her uncomfortable. She didn't have the strength to ask for a female nurse. **Female, England, 55–64**

I could never have a cervical smear test from a man. I just would rather risk cancer.

**Female, England, 55–64**

As a nurse I can say patients do not want intimate care from males, they just don't. They want dignity and privacy when they are vulnerable. **Female, England, 45–54**

As a doctor I know how important it is for women to be able to request women doctors or nurses for consultations and intimate procedures if they wish, for example gynaecological examination, smear tests, or even just discussions about deeply personal issues. Women should be able to ask for a woman professional to attend them without being labelled transphobic or bigoted.

**Female, England, 55–64**

As a social worker with many years' experience of working with older people and people with disabilities I can say that it is vital, to ensure safeguarding and dignity. **Female, Scotland, 55–64**

## Hospital wards and intimate care

My 93 year old Nana was put on a mixed sex hospital ward and couldn't understand why she had to be in her nightie and have a catheter whilst men were in the ward in beds across from her.

**Female, Scotland, 45–54**

I spent time as an inpatient on a mixed sex psychiatric ward. I was uncomfortable at night and found it difficult to sleep as there were men wandering the ward and not many staff around. This had a direct impact on my mental health. **Female, Scotland, 35–44**

My mother in law was in a mixed sex ward in a geriatric hospital. A male dementia patient tried to get into bed with her, twice. She was terrified. **Female, Scotland, 55–64**

I have experienced an intimate exam from a member of the opposite sex and found it traumatically reminiscent of the sexual assaults I've been subject to. **Female, Scotland, 45–54**

Recently I had a hospital procedure and was placed in a room with a man. I was so scared that my vital signs caused concern and a nurse came to sit with me. **Female, England, 45–54**

It is taboo in my culture to receive personal care across sexes. **Female, England, 35–44**

As a deafblind Asperger I do need help and specify that help is female. **Female, England, 45–54**

## Recovering from male violence

**Nearly half of female respondents to our survey said they had experienced sexual assault in their lifetime. While recognising that not all men mean them harm, women cannot identify which men are dangerous.**

I was sexually assaulted, from age 11 to 15, by a close family friend. I am still fearful of unknown men. **Female, England, 65 and over**

I was sexually assaulted in a hotel in Kings Cross by my manager. I was only 21 didn't speak English and was alone in this country. I tried to report it to general managers and they silenced me until 3 months later, when I could speak English, and reported it officially. **Female, England, 35–44**

I was sexually assaulted by a doctor while I was in hospital with pneumonia. The idea of a doctor 'presenting' as female while actually and obviously being male is liable to bring me out in a panic attack. **Female, Scotland, 65 and over**

I was raped by a male who regarded himself as gender fluid and who liked to wear woman's clothes. **Female, England, 55–64**



## The police

After a traumatic experience I was lucky enough to speak to a female officer. Having to be questioned on the incident was humiliating, I would have struggled had I had to repeat this to a male. **Female, England, 45–54**

I was interviewed by 2 male policemen after I made a complaint about an assault. I got up and left as I felt humiliated. They did nothing really wrong it was just too much to discuss what had happened with men. **Female, Scotland, 45–54**

I felt traumatised and did not trust or want to be around men or have to talk through what happened with them. **Female, England, 35–44**

## Counselling

I was assaulted at 16, the female only services gave me the confidence and time to process and heal and rebuild my confidence. **Female, England, 25–34**

I would not have called the rape crisis line I eventually got courage to call if I'd thought there was the slightest risk of a biological male answering the phone. That one phone call I did make was key to my ability to carry on living. **Female, England, 55–64**

I visited rape crisis – I would NOT have gone if men had been there – I was suicidal, this makes the situation life threatening for women and girls. **Female, England, 45–54**

I received counselling for the rape from a female trauma counsellor, through the NHS: I saw the counsellor one-to-one. [...] You cannot recover from trauma in a setting where your trauma-response is being reactivated. You need to know you are in a place of complete physical safety. That means a female-only space. **Female, Scotland, 45–54**

I would not have felt able to discuss what happened to me had my counsellor been male, or had there been a male in my support group. Without that support group, I would not have been able to recover. **Female, England, 65 and over**

## Refuge

After experiencing domestic violence I did not want a strange biological man in my house. I had a panic attack when the plumber came round. I felt panic I cannot imagine it is never right to allow biological males into refuges or women's prisons. **Female, England, 35–44**

I used to work as a volunteer for Women's Aid. Women fleeing from domestic abuse are particularly vulnerable and need specialist care where they feel safe. Men in those spaces increases their trauma. **Female, England, 55–64**

As both a survivor myself and someone who works with survivors it is impossible to provide trauma-informed care to women who have experienced male violence if males are present.

**Female, England, 45–54**

I am a retired Detective Sergeant who worked in Sapphire units investigating rape / serious sexual assaults. I also worked extensively with domestic violence victims. Even I was not permitted to enter female only refuges – we had to meet refuge workers off site. If I'd ever told a female victim that intact males identifying as female were present in these locations they simply would not have entered – something that is happening today. The simple act of convincing a victim to reside in a refuge was a massive achievement. **Female, England, 55–64**

I was a police officer who dealt with the survivors; women and girls of sexual assault. At close proximity it was very clear that the last thing these people wanted to be exposed to were men. Even to the extent that exposure to a male doctor was not an appropriate response. **Female, England, 55–64**

## Support and friendship

**89% of respondents agreed with the statement “Women and girls, and men and boys, sometimes need to meet up in single-sex organisations and groups to share interests”.**

### Our bodies, our lives

I work in a secondary school. Every time we survey pupils about sex education they request single-sex assemblies and lessons as this is an issue where they are most comfortable amongst single-sex peers with a teacher who matches their sex. **Female, England, 25–34**

As a middle aged women, I have accessed menopause support groups as well as social events for women. The atmosphere and feeling of openness is very different from that of normal social situations in a very positive way. **Female, England, 45–54**

As a breastfeeding counsellor, I have seen the difference in mother to mother support and discussion in a female only space compared to mixed. Women open up more, share more and make themselves vulnerable when not in a male presence. This enables so much support and healing and this is lost in a mixed sex space. **Female, England, 35–44**

### Support groups

As a survivor of an abusive relationship with a male I have found it incredibly helpful to discuss the issue with other women, many of whom have experienced the same. I would have felt uncomfortable discussing this if a male was present. **Female, Scotland, 35–44**

I volunteer in a migrant charity where I noticed migrant women often talked about things like domestic violence, Immigration issues, childbirth, abuse exploitation, reproductive health when we were doing a women only event or activity. **Female, England, 35–44**

I am in recovery from alcohol misuse and attend some women’s recovery groups. These are safe spaces where women can relax without worries about predatory behaviour which can be dangerous for women in early recovery, risking relapse. **Female, England, 45–54**

I run groups for Muslim women who would not be able to participate in mixed groups it would be culturally unacceptable for them and these groups are crucial for their health education and mental health and are a critical route into spreading health information through isolated communities. **Female, England, 65 and over**

I was a rape crisis volunteer in the 80s. Women wouldn’t have come to us for help if they thought men were present. **Female, England, 55–64**

I work as a social worker in MH [mental health] and having single sex groups to do some group work is important. Both sexes may have the experience of being traumatised by the opposite sex

leading them to have a fear of all members of that sex. This fear can be so intense that they would avoid a group offering treatment that they needed if it were mixed sex. **Female, England, 35–44**

I work for a refuge service, this is the bare minimum of safeguarding and care we can provide to our women. I have seen women scream on sight of a male builder in a refuge, it is totally unreasonable for a woman who has faced cycles of abuse to facilitate the needs of a man.

**Female, England, 25–34**

## Girl guides and other youth groups

Girl guides was a safe haven for me growing up, a place away from boys and men who sexualised me. A place just to be a girl away from male judgement. **Female, England, 35–44**

Girl Guides was a very important organisation for my daughter at a sensitive and sometimes difficult time during her teens at a mixed school. She needed and greatly benefitted from what was then a single sex group. **Female, England, 65 and over**

## Women at work

Being in women-only societies at university or at work has made a difference to me professionally – when the training is targeted for women and addressed specific sex-based barriers – it really helps to be in a single sex environment. **Female, England, 45–54**

I am active in all-female groups in my industry (film) which is male dominated and notorious for predatory behaviour, sexism and exclusion. **Female, England, 45–54**

I work in a male dominated industry and have been discriminated against on the basis of my sex. The support of other women has been crucial for me. **Female, England, 35–44**

## Lesbians

In the 70s I went to many women's liberation meetings, there were always men outside demanding 'the right' to come in. Lesbians also get harassment from men falsely claiming to be lesbians.

**Female, England, 65 and over**

As a lesbian the single sex spaces, that allowed me to meet with my women friends and lovers, was a safe space for me. There should still be single sex spaces where women aren't threatened by men in any shape or form. **Female, England, 55–64**

## Religion

**A significant minority said that single-sex spaces were important to them because of their faith. 27% agreed “As a person of religious faith, modesty and single sex-privacy are important to me”.**

As a religious person, my beliefs are protected. My faith requires that I would NOT undress in front of males. Including men who say they are women. **Muslim, Female, England, 35–44**

My faith is fundamental to who I am, it has become my nature to respect my body as a Temple and treat it with respect and this involves giving it the privacy it deserves.

**Sikh, Female, England, 35–44**

My Christian faith teaches me that my modesty is important and that nakedness is something revealed to only very few people. I feel uncomfortable being forced into situations of intimacy with strangers of the opposite sex. **Christian, Female, England, 45–54**

I am Jewish and I do not expose myself to any other male except my husband.

**Jewish, Female, England, 35–44**

If my abusive ex-husband had known I was going out to places where there were men, he would have completely banned me from ever leaving my house at all. **Muslim, Female, England, 45–54**

Religious rules proscribe physical contact with the opposite sex. **Buddhist, Male, England, 45–54**

## Losing single-sex services

More than 2,000 people gave detailed comments about their experience of loss of clear single-sex services and how this was affecting their quality of life. These are just a fraction of them.

### Going gender neutral

#### Public toilets

Toilets that are gender “neutral” i.e. unisex, are generally filthy. **Female, England, 55–64**

I won't use a public toilet that is mixed sex. So I have had to hold myself because I cannot use dual sex toilets. Which is painful and difficult particularly because I have chronic health issues which affects my toilet needs. **Female, England, 55–64**

In the mixed facilities at a club, men were queue jumping to pee in the sinks as they are totally unused to queueing. **Female, England, 45–54**

Male and female toilets replaced with unisex facilities. Men lose urinals and women lose the ability to come out of the stall confident that there isn't a man 'adjusting' himself in the communal area. **Male, England, 35–44**

#### Hospitals and healthcare

My local NHS mental health trust cannot keep women safe in hospital. Men are admitted to women's wards because they are trans-identified. A mental health nurse tells me that she and other colleagues put their jobs at risk if they complain. Women patients have been assaulted and feel unsafe. This is not reported to the board or the police. **Female, England, 55–64**

Working in a hospital where a trans-ID male was admitted to a stroke ward where elderly, cognitively impaired and religiously-observant women were housed. Nobody asked or informed the women and staff were not permitted to talk about it. **Female, England, 35–44**

My worst experience has been in a mixed hospital ward in Scotland where an elderly man exposed himself through the night. Not much chance of a peaceful recovery! **Female, Scotland, 65 and over**

I work in mental health. When working in England, I have seen a high risk trans woman admitted to a female ward, creating risk for staff and other patients. I have also seen a very vulnerable trans man being “trialled” on a male acute ward, which is extremely risky. **Female, Scotland, 25–34**

## Schools

I'm a teacher. I see it first hand and young girls aren't happy but are scared to speak up because they are told they are transphobic. **Female, Scotland, 25–34**

My daughter is forced to share her bathroom at school with a boy who identifies as a trans girl. She came home and asked me about the boy's penis and things that no child should have to confront at that age. **Female, Scotland, 25–34**

This has had a devastating impact on many women and girls. My nieces are going to a school where the toilets are now gender neutral. They hold their wee in all day as boys are going around shaming girls, shouting out, shitter, pisser or bleeder. Some boys wait for specific girls to go to the toilet, intimidating them. **Female, England, 45–54**

My son's school has replaced the toilets with one large mixed sex toilet block. The girls often avoid going in there and some parents have reported their child getting uti [urinary tract infections]. **Female, England, 35–44**

## Universities

The women's toilets in the University have largely become gender neutral and are used almost exclusively by young men. Women avoid them. There are no urinals and quite a lot of urine on the seats. I pity the cleaners (almost all women) too. **Female, England, 55–64**

Northampton University changed the disability toilet to a free for all mixed gender space. There is a shortage of disabled facilities, this was an appalling decision. **Female, England, 45–54**

My son attends university in London and when he uses the loo, he has to travel a long distance to avoid the gender neutral loos as he feels embarrassed in there. **Female, England, 55–64**

## Sports and exercise

Man in mixed sex (gender neutral) changing area was taking photographs of girls getting changed in the next cubicle by holding this phone under the gap at the bottom of the cubicle partition. **Female, England, 55–64**

My Muslim friend no longer comes swimming at the women's session as transwomen also use the pool and changing room which is contrary to her religious beliefs. **Female, England, 45–54**

My local swimming pool is threatening to stop the one night a week of women-only swimming and sauna, that is relied on by me and many other local women, including some very religious Jewish and Muslim women, so we would have to stop going to swim and sauna. **Female, England, 25–34**



One male teenager saying he self identifies as female at our canoe club and has a semi erect penis when in our female changing rooms. He has mental health issues but his social worker has not accepted the club offer of a separate changing room for him/her although there is one on offer.

**Female, England, 55–64**

I can no longer go swimming because the changing rooms and pools are mixed sex (ladies night session cancelled) so me (a victim of SA [sexual assault]) and my friend (a Muslim woman) can no longer attend. **Female, Scotland, 25–34**

## Workplaces

Work female cubicles now mixed. Men's toilet still remains. No female only toilets now. The disabled toilet is now used more by women as a result. **Female, England, 45–54**

As Scottish Government workers, the vast majority of women chose to go up or downstairs to a remaining women's loo, rather than use the female loo that became neutral gender loo on our floor. This loo became, in effect, a male loo as women didn't like using it. **Female, Scotland, 55–64**

I am a teacher in a girls' school. I've stopped using the staff toilets at work now male visitors can go in. It's embarrassing for them and women staff. I use the sixth form female toilets instead.

**Female, England, 45–54**

I recently visited number 11 Downing Street and had to change my underwear and menstrual cup in a gender neutral facility with two men taking right outside the cubicle door. My heart was racing, I was afraid the cubicle door would be opened. **Female, England, 35–44**

## Shopping

I stopped shopping for clothes at M&S when they changed their ladies changing rooms to gender neutral. **Female, England, 55–64**

I need to get my 13 year old daughter measured for a bra but I can't take her to John Lewis or M&S any more. I don't want her to be trying on bras next to adult males. **Female, England, 45–54**

I no longer visit some places such as shops and bars where the changing rooms or toilets are mixed sex. **Female, England, 45–54**

## Going out

I now have a long list of bars and restaurants I cannot use due to gender neutral loos that do not follow the floor to ceiling' enclosed space with sink rules. These facilities are not suitable for me due to being the victim of voyeurism. **Female, England, 45–54**

I was in a pub on holiday where there was one toilet for males & females – I felt too vulnerable to use it so left the pub rather than put myself at risk. **Female, Scotland, 55–64**

Everyman Cinema (the irony is not lost on me) moved to mixed sex loos. I visited them and a man in front of me looked back and smirked, on my way there. No way was I going in an enclosed space with him after that. I have never used that cinema again. **Female, England, 45–54**

My local Town Hall is being refurbished and is removing single sex toilets and replacing them with gender neutral toilets. This was decided with no consultation with any faith groups or women's groups. There was also no consultation with the Police regarding the possibility of an increase in sexual assault and crimes such as voyeurism. **Female, Scotland, 65 and over**

## Shared accommodation

We previously used Youth Hostels for much of our travel but their policy of allowing males in female dorms (with the possibility – but not the guarantee – of a private room if you are willing to disclose details of your sexual trauma to the desk clerk, who does not get paid or trained to deal with it) is unacceptable. **Female, England, 45–54**

My teenage daughter will be sharing a bedroom with a trans girl on a forthcoming school trip. While we have been offered the opportunity to veto the arrangement, in practice this is pretty much impossible: the children have agreed to the arrangement, and it is clear we would be pilloried across the school and community as transphobes. **Female, Wales, 45–54**

My daughter was 16 and went to work for YHA [the Youth Hostel Association] – they had changed the dormitories to “same gender” rather than same sex so worried for a week she could be sharing with a male. **Female, England, 45–54**

## “Trans inclusion”

Workplace allows self id. We now have a male using the previously female toilets. I have been told it is against the law and discrimination to stop them. **Female, England, 25–34**

My 14 year old daughter is made to change in open changing room with a boy who says he is a girl. He is on the netball team. Two boys are using the girls' toilets in her year group. They no longer have single sex spaces. **Female, England, 45–54**

I have encountered a man of about 23 wearing a swimsuit at our gym in the women's changing room. I complained to management. He was clearly a man. He was over 6 ft tall with male genitals. **Female, England, 45–54**

Yesterday, I was confronted by a man in Female toilets in a hospital. His behaviour towards me was peculiar and hostile. It shocked and distressed me. **Female, England, 55–64**

I was in Marks and Spencer changing rooms in my underwear. A man walked in carrying 3 bras and demanded the shop assistant helped him with the fitting. The whole area went silent. You could feel the fear of the woman who had no choice due to company policy. **Female, England, 45–54**

During a recent hospital stay there was a transwoman on the ward. They were surrounded by elderly vulnerable female patients. They all expressed their discomfort privately and felt their privacy was denied. **Female, England, 55–64**

Even if a space has not been designated trans inclusive, it is no longer possible to feel safe in single sex spaces because men are already entering those spaces. It only has to happen once for the concept of single sex spaces to be null and void. **Female, England, 55–64**

## Inappropriate behaviour

My daughter when she was in her late teens was confronted by a male bodied trans woman or transvestite who insisted on lifting her skirt by the washbasins in a female-only toilets. This was at a restaurant. **Female, England, 65 and over**

The last time I was in a ladies changing room with my niece, a transwoman was in there who walked up to my teenaged niece, grabbed her breast and squeezed it saying “My boobies are better than yours” then kicked off calling us terfs and transphobes for objecting to ‘normal girlie stuff’. **Female, England, 45–54**

I worked at a helpline for men & women suffering DV – a male colleague decided to “identify” as a woman, and started going into the female toilets, and just sitting in a stall and listening and spying on the women, and I suspect, masturbating, so I left that job, I was very scared by him. **Female, England, 65 and over**

My autistic daughter (13 at the time) walked into the toilet at the cinema to find a man in a dress and lipstick, and she was terrified, she ran out visibly and audibly distressed, shouting that there was a man in the toilet and that she wouldn’t go in until he was gone. I ran in to see what was going on, to find the trans person in there who was huge, over 6ft and did not look anything like a woman. **Female, England, 35–44**

I received abuse from a trans women for my involuntary reaction (as a survivor of male sexual violence) when seeing them in the toilet. **Female, England, 25–34**

## Services for abused women

I work with migrant women, most of whom have no interest in or understanding of transgenderism. They just want safe, supportive services and for them, that means female-only

spaces. These women are engaged in transactional sex to get food and housing. Most are survivors of sexual violence. **Female, Wales, 55–64**

I work in a women's therapy service. Trans women frighten many clients due to their history of physical and sexual abuse from men. **Female, England, 45–54**

I was unable to access 'by women for women' support locally when needed a few years ago as it included trans identified males. The female manager of one of the 2 services I was referred to by police told me she would not employ any staff who did not believe men are women if they say so. This excluded me and other women like me. **Female, Scotland, 45–54**

I stayed in an abusive situation until it was resolved in another way because there are no single-sex services left in my county. **Female, England, 45–54**

Not only am I a survivor but I have worked with survivors in a Rape Crisis Centre, I remember having to walk around the centre with women to prove there were no men there it was hard to watch these women in such distress and not believe there were no men until they could see it with their own eyes. The same would happen when women called, we had to promise them no men would be around and they would ask lots of questions and ask for proof before coming for their first appointment. **Female, England, 45–54**

I self-exclude from my local rape crisis service as the women's groups welcome any males who identify as women. In practice the women's groups are centred around trans women and female rape survivors are expected to make sure any males feel especially welcome, comfortable, validated and included. This doesn't help me and my recovery so I don't go. There are no single sex alternatives. **Female, England, 35–44**

## Specialist women's services

My local rape crisis centre (Edinburgh) is run by a man and so feel anxious and upset for any woman who will need to use such a service. **Female, Scotland, 55–64**

I would not go to a rape crisis centre headed up by a man, who lied about his sex to get a woman-only position, who tells rape victims that they're 'bigots' and need to "reframe their trauma" if women rape victims legally request a female person to counsel them. **Female, Scotland, 55–64**

## Pressure to be trans-inclusive

Our local, hugely respected, women's domestic abuse service lost council funding last year. They are continuing but greatly reduced. Lost the contract to giant, non-specialist, gender neutral orgs. Service locally from those orgs is substandard and understaffed. **Female, England, 45–54**

My local rape survivors service offers specialist LGBT groups, a men's group but the women's service is open to all who 'identify as women'. Women who have been raped have no dedicated single sex service. **Female, England, 45–54**

Working in a large LGBT organisation, I can say that services exclusively for women do not exist. **Female, England, 35–44**

I worked in a Women's Centre for 25yrs and eventually funding was withdrawn because it was not deemed inclusive. The funding went to a Centre that included men. Women from South Wales lost a successful, vital, well established service that cannot be found anywhere. **Female, Wales, 55–64**

The amazing domestic violence service in my city lost its funding for not offering services for men (they were already trans-inclusive). **Female, England, 55–64**

Rape crisis centres and women's refuges have often lost funding because they don't include trans identified men. I worked in a women's refuge for 23 years and lost my job because I argued against men in refuges. **Female, England, 65 and over**

## Losing a place of our own

**As well as services and facilities, many people wrote about the loss of single-sex groups and associations.**

### Lesbians

I used to go to women only groups and lesbian only groups for my social life but now I daren't go because I am too scared to go. I feel threatened and harassed by men saying they are women. I have nothing in common with these aggressive people. **Female, England, 45–54**

As a homosexual female, I've found groups for women like myself have been taken over by trans identified males who then divert any and all conversations to being centred around trans issues, trans identity and often conversations demanding you validate "women with penises".

**Female, England, 25–34**

I attended an event supposedly for Lesbians, i.e. women only, but there were multiple men there who made me feel very uncomfortable, who made sexual comments and were very vocal about the fact that we should sleep with them to avoid being transphobic. **Female, Scotland, 16–24**

I have been removed from lesbian groups for saying that a male who identifies as a woman and lesbian (the latter, same sex attracted not same gender attracted) is not a lesbian. Lesbian venues and events are no longer same sex because they've been called transphobic. As a lesbian – I feel VERY UNSAFE. **Female, England, 55–64**

## Workplace groups

Women's networking group (workplace) being changed to be inclusive of anyone.

**Female, England, 45–54**

The menopause group at work has let trans identified men join. Women complained and were told to be kind. **Female, England, 45–54**

I work in a heavily male dominated academic field. We have historically had many campaigns, opportunities, and support groups to encourage and help women to engage in the field. These are now almost exclusively open to "those who identify as women". **Female, England, 45–54**

My work union says women are not allowed to organise politically in any way in the interests of women without including any men (who identify as women). It prohibits women's meetings and discussions if men (who identify as women) are excluded. **Female, Northern Ireland, 55–64**

## Women's groups

Feminist Library, trans inclusive, refuses to accommodate women-only groups that might once have met there. **Female, England, 65 and over**

I work in a university and there is an alarming trend in universities across the UK of single sex interest or support groups being replaced by unisex or disappearing entirely. Female staff or students who attempt to meet to discuss sex-specific issues such as male violence against women are often publicly vilified, harassed or driven out of the university altogether.

**Female, Scotland, 55–64**

There used to be women's bars, discos, clubs and festivals etc. And women's centres. Now there are almost none which don't include trans identified males. And any which remain are criticised or attacked. This means lots of women are missing out on having the experience and support of women only space – so they don't know what they're missing. **Female, England, 55–64**

Women's Institute is important to me. We occasionally have speakers on delicate matters. I think our members would be intimidated from participating if male-bodied people were allowed in those sessions. **Female, England, 65 and over**

## Support groups

Our local women's drug rehabilitation group is now 'inclusive' i.e. allows men who say they are women to join. One man (who says he is a woman) has definitely joined. So now it is no longer single-sex. **Female, England, 55–64**

Many women's 12 step recovery meetings are now mixed sex. Profoundly vulnerable and traumatized women are excluding themselves. **Female, England, 45–54**

I was a member of a local menopause help group but discontinued using the service when trans women were allowed to attend. **Female, Scotland, 45–54**

## Online groups

Online menopause group of all places! Stifled genuine sharing of experiences and normal conversation. Became ridiculous. Most women left. **Female, England, 55–64**

I was in an online Facebook breastfeeding support group that changed to allow males in if they identified as female. Before that it was a strictly female private group. It was an intimate group, people shared photos of themselves breastfeeding, of their anatomy to ask for advice.

**Female, Scotland, 35–44**

At this point it is basically impossible to find single sex online groups for women. Even if people would like them, the minute a group is deemed not “inclusive” of biological men, it is subject to vicious and persistent harassment, malicious reporting, etc. **Female, England, 25–34**

## A hostile environment for women

That there has been no thinking, discussion or understanding of the impact and potentially unintended consequences of these decisions is extremely sad and depressing. Why are women so unimportant? I support trans rights but not at the expense of the safety and rights of women.

**Female, England, 35–44**

I feel immense anger at raped or abused women not allowed any private healing space away from men. It is as if they are being punished for being victims. To call a rapist she is a travesty of justice adding to the victim’s trauma. **Female, England, 55–64**

I know women opting out of using facilities because they are now mixed sex, I’ve spoken to women running charities who hate this but daren’t speak out because their services will lose funding and it is all placing women at increased risk of male violence. It’s intolerable. **Female, England, 25–34**

It gives the message that females are not important. Most sexual crimes are committed by males against females. We females have many untold stories of sexual assault. I don’t want males in single sex facilities. I believe most men would prefer single sex facilities also.

**Female, Northern Ireland, 55–64**

It makes me furious. Especially when it is brushed aside as “inclusive” It is not. It excludes me and many others. **Female, Scotland, 45–54**

It is genuinely frightening and disempowering to have single sex spaces removed on the basis of an unscientific, culturally tone deaf and ideologically driven phenomenon. **Female, England, 45–54**



## No consultation

My workplace has opened up the showers and toilets to anyone who claims to feel like that gender. There were no risk assessments and nobody was asked if they were concerned. It was not advertised and people would only find out if they read the trans policy. **Female, England, 55–64**

I had an email to say that the women's public toilets in the woods where I walk in London were going to be open to anyone who identifies as a woman – they're run by the City of London. There was a consultation of sorts and I objected but I found out that most of the objections were ignored. I'm sorry to say I burst into tears when I read the first email as walking in these woods are my exercise and key to my wellbeing. **Female, England, 55–64**

## Speaking up or staying silent

Locally women campaigned against male and female toilets being replaced with gender neutral by the City Council and were berated for being "transphobic". Their campaign was condemned as being about "hate". **Female, England, 65 and over**

Our daughter's special school changed their same sex intimate care policy to a "cross gender one" to support the diversity in the staff workforce'. It took a lawyer to get the policy changed back to being same sex. **Female, England, 45–54**

My previous employer made the toilets gender neutral. Many women, for religious, modesty, or other reasons avoided using the toilets at all, or would go in groups. The toilets had to be segregated after approx a year due to complaints from both sexes. **Female, England, 45–54**

I was not consulted, and I felt intimidated by the "equality and diversity" group to the extent that I felt unsafe speaking up about this. **Female, England, 45–54**

Any employee unhappy with opposite sex colleagues sharing the facilities, will get a chat with their manager and be told to find alternative facilities. **Female, Scotland, 35–44**

Not only losing access to Survivor Network but being monstered BY them for speaking up for other rape survivors with female specific rape trauma.

**Female, England, 55–64**

I work for a chain that has mixed sex fitting rooms but doesn't announce this to customers. However if a customer knows and objects, it is them who have to be removed.

**Female, England, 55–64**

I can't say anything or I will lose my job. **Female, England, 55–64**

## Messages to the EHRC

95% of respondents agreed with the statement “The EHRC, the UK’s official equality watchdog, should provide guidance for service providers to help them follow the law”.

1,723 people wrote individual messages to the Equality and Human Rights Commission (this was before the EHRC released its new guidance on single-sex services).

### Guidance is needed

#### Provide clarity

Service providers need reassurance that it is legal to provide and enforce single-sex services. Many have been poorly advised in recent years. **Female, England, 35–44**

I worked in the NHS and witnessed frequently the erosion of women’s rights because of poor understanding of the law coupled with nervousness from managers about causing offence. **Female, Scotland, 55–64**

This guidance is so overdue. A vacuum where it should have been has been filled by lobby groups pushing their own political agendas. We need clear instruction on the actual law. **Female, England, 35–44**

Since the law is not being interpreted correctly by service providers at the moment, the EHRC should give clear unambiguous guidance. **Female, England, 55–64**

#### Recognise women’s needs

I want it to base its guidance on **\*\*why\*\*** the law has picked out sex as something that matters, not just the fact that it has. **Female, Scotland, 55–64**

Women’s rights are human rights. Women and especially girls are among the most vulnerable members of society and our rights to single sex spaces should be respected. **Female, England, 35–44**

Women need their rights protecting and it seems that only the EHRC care enough to fight for them or at least get our voices heard. **Female, England, 55–64**

#### Balance competing rights

There are 9 protected characteristics. They should all be respected. **Female, England, 45–54**

The new chair is listening to ALL those who have a protected characteristic, which is a refreshing change, after a few years where the EHRC appeared to have a hierarchy, with sex at the bottom,

and 'gender reassignment' (far too vague a term) at the top. Hardly surprising that the previous chair was from Stonewall. Equality feels like oppression when you are used to privilege.

**Female, England, 55–64**

Trans rights have been privileged over those of women, older people and children, those with a religious faith and people with a disability. **Female, Scotland, 55–64**

Where there is an apparent conflict of rights (as in this case) there should be open and robust discussion about how this can be best resolved. **Female, England, 45–54**

We cannot allow the rights of one group to erode the rights of another. **Female, Scotland, 45–54**

## No “case by case”

Guidance needs to be practical and not let policing access to services fall to the case by case judgement of front-line staff. It's unfair on staff as they will bear the brunt of objections, and is unfair on service users who will not know whether a service is available. **Female, England, 45–54**

Sex seems to have morphed into gender in so many areas by stealth. I would like to see a total ban on males entering female only spaces. None of this case by case malarkey. The EHRC needs to be firm. **Female, Scotland, 55–64**

## Emphasise single-sex requirements

The EHRC should be actively encouraging service providers to provide single sex provision otherwise they are failing in their duty to protect the sex class of women from discrimination and putting them at risk of harm. **Female, England, 35–44**

The EHRC simply permitting single-sex spaces is not enough. Single-sex spaces need to be legally mandated in all public services. Such a declaration would restore equity to funding opportunities for these single-sex services. **Male, England, 25–34**

The EHRC needs to right the wrongs of the past in relation to advice given to organisations by corrupt lobby groups. It needs to reiterate that single sex provision is essential for women and girls and that mixed facilities are detrimental for women and girls. The EHRC needs to be very clear that biological men are not and can never be female and that sex matters. **Female, England, 45–54**

## Take up legal cases

It's outrageous that women like me have had to pay to support legal action to enforce our existing legal rights. Our public services have the time and the expertise to give guidance and support on matters of public services and they should be using their power to help the groups recognised in law as needing help or specific provision. **Female, England, 55–64**

I would go further. EHRC should take up the legal challenge. It is so unfair that ordinary women are having to fund legal challenges while Scottish Government or Scottish Government funded organisations have access to unlimited public funds. **Female, Scotland, 65 and over**

There need to be consequences for discriminating against women that don't rely on each individual case being funded to go through the courts – most women don't have the money, time or public profile to be able to push for their legal rights, and so are mostly just doing without. It's impacting our ability to participate in public life, having a negative effect on accessing basic healthcare and education. **Female, England, 45–54**

## Provide guidance to schools

The guidance for schools must be informed by safeguarding. It needs to be made clear to schools and the public at large that inclusion, diversity, equality must never ever be allowed to undermine safeguarding. All children have a right to be kept safe. No child or their parent should be able to opt them out of safeguarding. **Female, England, 35–44**

There is widespread misunderstanding of the Equality Act 2010 in school settings, and what the implications of it should be for school policies. Clear, explicit guidance on single sex spaces is very much needed. Also teaching materials to counter the inaccurate resources peddled by unregulated external providers like Stonewall and No Outsiders are crucial. **Female, England, 45–54**

## Set the agenda

### Dispel misinformation

Without clearly worded guidance organisations will continue to be influenced by the deliberate misinformation produced by organisations such as Stonewall. **Male, England, 45–54**

With even police forces issuing guidance which is wrong about the protected characteristics it's clear that the EHRC needs to be more proactive in dispelling the misinformation from the likes of Stonewall and their satellite lobbying groups in the rest of the UK. **Female, Northern Ireland, 45–54**

### Counter the bullying

The EHRC needs to do more to safeguard women's rights, and also stamp out this idea that anyone who wants to protect single-sex spaces is 'transphobic'. **Female, England, 45–54**

Who else is standing against the erosion of rights to free speech, being able to rightly express your belief in biology and scientific fact, to demand the right to be safe, have privacy?

**Female, Scotland, 55–64**

They need to uphold the law, especially the exemption for single-sex services, and not bow down to misogynistic bullying. **Female, England, 25–34**

The EHRC needs to continue working to win back women's trust after spending several years prioritising and advocating for groups which privilege men. **Female, England, 35–44**

## Take the lead

We need independent, sensible oversight of life changing political policies.

**Female, England, 45–54**

The whole purpose of the EHRC is to address areas where the rights of one group clash with those of another. Gender reassignment is a protected characteristic not gender identity. Sex is a protected characteristic not gender. Organisations who behave as though the law protects gender identity must be held to account and prevented from doing this. **Female, England, 55–64**

The issue is that we shouldn't be allowing those with these or any other anti-science, anti-reality belief to make the law and rules that apply to society as a whole. **Female, England, 45–54**

## Be brave

The fact that the EHRC has taken a position and the group that don't like that position are trying to undermine the body itself is terrifying and also demonstrable of the power and entitlement of this group. **Female, England, 35–44**

They have been late in coming forward but I pray they hold their nerve and uphold single-sex services. **Female, England, 45–54**

The EHRC have been subjected to abuse which highlights even more how needed they are now. **Female, England, 65 and over**

## Annexes

### Other research

Our research provides rich qualitative data: thousands of individual perspectives about the impact of the loss of single-sex services, from those who value them. It confirms what representative surveys also show: that many people value separate facilities for women and men, and expect them to be provided on the basis of sex, not gender identity.

For example, a YouGov poll on 27th January 2022<sup>1</sup> showed that 52% of people wanted separate toilets for men and women, and 35% of people wanted gender-neutral toilets in addition to separate toilets for men and women.

Only 7% wanted gender-neutral only. 45% of people say they generally feel uncomfortable using a gender-neutral toilet in a public place.

A recent survey by More in Common<sup>2</sup> found that while 43% of people were willing to agree with the statement that “A transgender woman is a woman”, only 29% thought that someone who identifies as a transgender woman should be allowed to use women’s toilets, and only 19% thought they should be allowed to compete in women’s sports.

Research by the Equality and Human Rights Commission<sup>3</sup> showed that 95% of women using women’s services preferred to receive them from a female only-organisation. A survey by the sexual violence counselling organisation Aurora New Dawn of 629 of their service users<sup>4</sup> found that 100% of them wanted to retain single-sex peer support groups and 95% of female victims prefer a female member of staff for one-to-one counselling.

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<sup>1</sup> YouGov (2022). [Support for separate toilets for men and women, and gender neutral toilets in public spaces.](#)

<sup>2</sup> More in Common (2022). [Britons and Gender Identity: Navigating Common Ground and Division.](#)

<sup>3</sup> Hirst, A. and Rinne, S. (2012). [The Impact of Changes in Commissioning of Women-only Services. Equality and Human Rights Commission.](#)

<sup>4</sup> Aurora New Dawn (2022) [By and for women.](#)

## Analysis of respondents

Respondents covered the full age range but were commonly over 35:

- 16–24: 1%
- 25–34: 7%
- 35–44: 19%
- 45–54: 32%
- 55–64: 26%
- 65 and over: 14%.

90% of respondents were female.

Of those who voted, those in England mostly supported the Labour Party (56%), followed by the Conservatives (21%), Liberal Democrats 11%, Green Party 6%, Others 6%.

In Wales, Labour was also the most strongly represented party with 50%; then Conservatives 17%, Plaid Cymru 17%, Liberal Democrats 5%, Green Party 3%, Others 8%.

In Scotland, the SNP had the most support at 58%, followed by Labour 17%, Alba 7%, Liberal Democrat 3%, Green Party 1%, Others 4%.

71% of respondents said they were not religious or that religion was not important to them. 10% said their religion was very important to them and 19% said it was somewhat important to them.

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