

Statement for the Claimant  
Witness: Maya Forstater  
Statement: 1  
Exhibits: MF/1-MF/2  
Date: 4 July 2025

**IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION  
ADMINISTRATIVE COURT  
B E T W E E N :**

**CLAIM:AC-LON-2025-000781**

**THE KING**  
**on the application of**  
**SEX MATTERS** **Claimant**  
**and**  
**DIRECTOR OF PUBLIC PROSECUTIONS** **Defendant**

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**WITNESS STATEMENT OF MAYA FORSTATER**

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I, Maya Forstater, Chief Executive Officer of Sex Matters, 63/66 Hatton Garden, Fifth Floor Suite 23, London, EC1N 8LE will say as follows:

1. I make this statement in support of Sex Matters' application for judicial review against the Defendant. The facts stated within this statement are within my own knowledge

and belief save where otherwise stated. I have prepared this statement myself, with assistance from some Sex Matters staff and trustees.

2. In this statement I shall provide information about:
  - a) The work of Sex Matters;
  - b) The concepts and use of language on sex, the legal concepts of gender reassignment and gender recognition and ideas about gender identity;
  - c) Sex Matters' concerns about the Crown Prosecution Service's Guidance on Sex by Deception since 26th September 2022;
  - d) Sex Matters' concerns about the Crown Prosecution Service's Guidance as amended and served on 6 June 2025;
  - e) Why this case raises issues of particular importance for Sex Matters.

### **The Work of Sex Matters**

3. Sex Matters is a human rights charity (number 1207701). I am the Chief Executive Officer. I am responsible for overseeing and implementing Sex Matters' programme of activities. I act as the organisation's primary spokesperson and establish and maintain relationships with various organisations and officials in the interests of Sex Matters' work, in pursuit of our charitable objects and strategy as agreed by our board.
4. Sex Matters was founded in October 2020 and became a registered charity in April 2024. We campaign for clarity on sex in law and policy in the UK, in order to protect everyone's human rights. Our objectives are to:
  - a) promote human rights where they relate to biological sex;
  - b) advance education about sex and the law; and
  - c) promote the sound administration of the law in relation to sex and equality in the law.
5. Sex Matters is an organisation which advocates for everyone's human rights as set out in the Universal Declaration of Human Rights and subsequent United Nations Conventions and declarations, where they relate to biological sex.<sup>1</sup> Our work is

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<sup>1</sup> <https://register-of-charities.charitycommission.gov.uk/en/about-the-register-of-charities/-/charity-details/5204776/governing-document>

based on the understanding that sex is (i) real (ii) immutable and (iii) important in some contexts.<sup>2</sup> This approach is sometimes termed a “gender critical” or “sex realist”. As a philosophical viewpoint it is recognised as coming under the protected characteristic of religion and belief in the Equality Act 2010, and being “worthy of respect in a democratic society” (not incompatible with the human rights of others<sup>3</sup>).

6. It also reflects the basic scientific fact that human beings are mammals, and the recognition of the two sexes in law in the UK, as most recently confirmed by the Supreme Court in the case of *For Women Scotland Ltd v The Scottish Ministers*.
7. Our Board of Trustees comprises: Naomi Cunningham as Chair (employment and discrimination barrister); Tim Allan (communications specialist and investor); Rebecca Bull (employment law solicitor); Professor Michael Biggs (sociologist); Dr Emma Hilton (developmental biologist); Julia Casimo (accountant); Kate Owen (governance professional); Anya Palmer (employment and discrimination barrister); and Claire Weir (teacher). I lead our small core team of staff and volunteers and also draw on the expertise and experience of a broad-based Advisory Group comprising academics, clinicians, scientists, lawyers, policy analysts, business people, artists, journalists, athletes and others.
8. Our Director of Advocacy is Helen Joyce, former finance editor and international editor at *The Economist* and author of the bestselling book “Trans: When Ideology Meets Reality” (OneWorld, 2021)<sup>4</sup>. Our advisory group includes Professor Alice Sullivan, co-editor of the book ‘Sex and Gender: A Contemporary Reader’ (Routledge, 2023). Two of our board members and three of our Advisory Group members contributed chapters towards that book<sup>5</sup>. Professor Sullivan was commissioned by the Department for Science, Innovation and Technology (DSIT) to undertake a “*Review of data, statistics and research on sex and gender*”, which was published on 2 July 2025<sup>6</sup>.

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<sup>2</sup> <https://sex-matters.org/equality-statement/>

<sup>3</sup> *Forstater v CGD Europe* [2022] ICR 1

<sup>4</sup> <https://oneworld-publications.com/work/trans/>

<sup>5</sup> <https://www.routledge.com/Sex-and-Gender-A-Contemporary-Reader/Sullivan-Todd/p/book/9781032261195?>

<sup>6</sup> <https://www.gov.uk/government/publications/review-of-data-statistics-and-research-on-sex-and-gender/review-of-data-statistics-and-research-on-sex-and-gender-terms-of-reference>

9. In its first few years of operation, Sex Matters has established itself as an effective stakeholder and commentator in debates on how institutions, policy and rules should protect people against human rights breaches, discrimination and harassment based on protected characteristics, including sex and gender reassignment. Of course there are very many aspects of law and policy where sex is unimportant or wholly irrelevant. Our interest is in those areas where sex and/or sex-based rights do make a material difference: where we consider that sex does matter. To date we have published over 35 reports and research briefings<sup>7</sup> and responded to more than 30 government consultations<sup>8</sup> on a range areas of law and policy from women's sports, to data collection to the operation of coercive powers involved in policing.
10. Board members and staff have given evidence to the UK and Scottish Parliaments and have been invited meet the UN Independent Expert on sexual orientation and gender identity, the Equality and Human Rights Commission, the UN Special Rapporteur on violence against women and girls and the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence.
11. Sex Matters was one of the six NGOs to have been granted permission to intervene in *CV & MED v France*<sup>9</sup> in the European Court of Human Rights, a case concerning an application to register a male-born person as the mother of a child conceived with that person's sperm. We were also granted permission to intervene in *Higgs v Farmor's School*, a belief discrimination case in the Court of Appeal<sup>10</sup>.
12. Sex Matters intervened by way of both oral and written submissions in the recent Supreme Court case of *For Women Scotland Ltd v The Scottish Ministers*<sup>11</sup>. The Supreme Court considered the question of the definition of the word woman for the purposes of the Equality Act ('EA') 2010. The central issue as identified by the court was whether section 9 of the Gender Recognition Act 2009 changed a person's sex for the purposes of the Equality Act 2010 through acquisition of a Gender

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<sup>7</sup> Including on data collection, concern about single sex-services, the impact of gender ideology on the women's sector and harassment and discrimination against people with gender critical beliefs, and discrimination faced by lesbian associations. <https://sex-matters.org/posts/category/publications/reports/> <https://sex-matters.org/posts/category/publications/guidance/>

<sup>8</sup> Including on hate crimes, the proposed ban on conversion therapy , the NHS constitution, guidance on supporting gender questioning children in school, and on fairness and safety in sports.

<sup>9</sup> Applications No. 13948/21 and 14333/21

<sup>10</sup> [2025] EWCA Civ 109

<sup>11</sup> [2025] UKSC 16

Recognition Certificate ('GRC'). The court reiterated that for a majority of trans people who are without a GRC, their "*sex remains in law their biological sex*" [26].

13. The written and oral interventions made on behalf of Sex Matters were marked out as of particular assistance to the court:  
*"We are grateful to the interveners for their contributions. We are particularly grateful to Ben Cooper KC for his written and oral submissions on behalf of Sex Matters, which gave focus and structure to the argument that "sex", "man" and woman" should be given a biological meaning, and who was able to effectively to address the questions posed by members of the court in the hour he had to make his submissions."* [35]
14. The focus of our intervention in the *For Women Scotland* case was on statutory construction and on the impact of confusion and ambiguity about the meaning of sex in law on women, but Sex Matters supports the universal human rights of everyone, including people who identify as transgender, people who are same sex attracted, and anyone else whose rights are adversely impacted by confusion in law or policy around concepts of sex and gender.
15. We have identified that laws and policies which conflate and confuse the concepts of sex (male and female, an immutable personal characteristic) and gender identity (a subjective idea about a person's relationship to cultural perceptions of masculine and feminine behaviour, roles and appearance) can have significant consequences that can engage a number of protected Convention rights, including those which engage Articles 3, 6, 8, 9, 10, 11, 12 and 14<sup>12</sup>.
16. Where rights and interests come into conflict, we seek to propose practical solutions which respect everyone's human rights and to be clear about the trade-offs between different interests that must be navigated in a democratic society. Sex Matters has identified areas where conflicts arise including: the effectiveness of protection against discrimination and harassment (including based on sex, sexual orientation, belief and gender reassignment); provisions for safeguarding children and vulnerable people including the duty of care towards pupils, patients and service users; provision of single-sex services which protect the dignity and privacy of everyone; fairness and safety in sport; provision of services for women and girls who

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<sup>12</sup> <https://sex-matters.org/wp-content/uploads/2022/11/Why-sex-matters-for-human-rights.pdf>

have been the victim of male violence; and data collection and protection. It is in this context that we came to have concerns about the guidance published by the Criminal Prosecution Service ('CPS') at issue in this claim, which engages directly with the state's responsibility to investigate and prosecute serious sexual offending.

17. As part of our work, Sex Matters: undertakes and commissions research and analysis; collects case studies, publishes reports and communicates findings to the public and policy makers; meets with organisations, officials, MPs, peers and Ministers; responds to public consultations; advises and encourages members of the public to understand and use their rights and to engage with local and national government and public and private service providers, and engages with international organisations in relation to relevant human rights issues in the UK.

### **Use of language and the meaning of sex**

18. I wish to confirm my use of language in my statement, because it is important to be clear what is meant. I use the terms "male", "man", "female" and "woman" to refer to people by their sex - i.e. their reproductive biology. (These terms can also encompass "boy" and "girl" though sometimes it may be necessary to make a particular distinction based on age).
19. The term "gender" is sometimes used as a synonym for sex and sometimes used to refer to the idea of internal "gender identity", or for the sex that a person wishes they were or would like to be treated as. In general, I will avoid using the term gender (other than in direct quotations or in relation to the formal legal concepts of "gender reassignment" "gender recognition certificates") to avoid ambiguity, because of these inconsistent meanings.
20. Sex Matters' concerns about this Guidance are premised on the important reality of biological sex which is by definition binary and which in human beings cannot change. When we refer to a biological interpretation of sex we draw upon the following conventionally well understood biological facts<sup>13</sup> (some of which were set out authoritatively by biologists Dr Emma Hilton and Colin Wright in their chapter "Two Sexes" in Sullivan, A. and Todd, S. (eds.) 'Sex and Gender: A Contemporary Reader', Routledge, to which I will refer).

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<sup>13</sup> Also see for example Dawkins, R (2023) "Why biological sex matters: Some argue that lived experience and personal choice trump biology – but they are wrong", New Statesman <https://www.newstatesman.com/ideas/2023/07/biological-sex-binary-debate-richard-dawkins>

21. Sex refers to reproductive role – that is whether someone has the type of body that is usually able at maturity to produce sperm (male) or the type that is usually able to produce eggs (female):

*In humans, there are two evolved anatomical body types, each corresponding to one of the two reproductive functions. In utero, females and males develop sex specific primary characteristics pertinent to reproduction, in the first instance, the differentiation of gonad type that will direct future female or male function. Gonads - ovaries or testes, determined in humans by genetic mechanisms-organise both the development of mature gametes (eggs or sperm) and the coordinated development of the corresponding reproductive anatomy (in males, external testicles, internal genital structures like the vas deferens and an external penis and scrotum; in females, internal ovaries, internal genital structures like a uterus and vagina, and an external vulva incorporating the clitoris)<sup>14</sup>.*

22. Sex is determined at conception and observed at (or before) birth by the presence of one or other set of external genitalia (penis and scrotum in males, vulva in females). It is recorded on an infant's healthcare records and their birth certificate. At puberty, hormones produced by the gonads (testes or ovaries) cause males and females to develop sex-typical secondary characteristics which shape their bodies.
23. Males are typically bigger and stronger than females. They are taller with longer bones, broad shoulders and narrow hips. They have larger muscle mass, particularly in the upper body, and their muscles attach to bones more tightly and they receive movement signals differently. They have bigger hearts, a bigger lung surface, and can carry more oxygen around their bodies. As well as differing in terms of speed, strength and power male and female populations tend to differ on behavioural traits such as aggression, risk taking and sociosexuality (an individual's interest in uncommitted sexual activity).
24. Observing sex at birth is one of the most accurate diagnostic tests in all of medicine, even though it requires no special equipment or training. There are disorders which affect sex development. These DSDs are sex specific conditions: each affects only people of one sex or the other and leads to specific presentation. In most births, including of people with DSDs the baby's sex is obvious from the genitals. In around 0.02 percent of births (two in 10,000), further investigation is needed to determine the infant's sex. People with DSDs do not belong to a third sex, or both sexes. It is

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<sup>14</sup> Emma Hilton and Colin Wright "Two Sexes" in Sullivan, A. and Todd, S. (eds.) ['Sex and Gender: A Contemporary Reader'](#), Routledge.

not correct to say it is “assigned”, apart from in very rare and extremely serious (life threatening) conditions.<sup>15</sup>

25. This ordinary meaning of the term “sex” is sometimes labelled “biological sex” or “sex recorded at birth” to disambiguate from other uses of the word “sex” (such as sexual intercourse).
26. Some people seek to express themselves by adopting the appearance of members of the opposite sex, or by behaving in ways typically associated with the opposite sex. This can include, for example, adopting associated clothing or hairstyles. Some people go further and undertake medical treatment which can include cross-sex hormones (masculinising testosterone for women and feminising oestrogen for men) which leads to the development of secondary sexual characteristics (such as facial hair growth, male pattern baldness and deepening voice in women and growth of breasts and deposition of body fat in men) which mimic aspects of the appearance of the opposite sex. Some go on to have surgery. This can include for men removal of the testes (orchidectomy), removal of the penis (penectomy), construction of structures that resemble a vulva, vagina or clitoris, breast implants, facial surgery, and hair transplants. For women, it may include removal of breasts (mastectomy), construction of structures resembling a penis and scrotum, removal of the womb (hysterectomy) and the ovaries and fallopian tubes (salpingo-oophorectomy).
27. None of these treatments change a person’s sex. Clinicians who provide them say the aim is to make the person more comfortable with their physical appearance and how they feel. The NHS says:

*Whether you’ve had hormone therapy alone or combined with surgery, the aim is that you no longer have gender dysphoria and feel at ease with your identity*<sup>16</sup>.

28. Only a minority of people who identify as transgender have such surgery. In particular, genital surgery is not common. According to the last censuses in England and Wales<sup>17</sup> and Scotland<sup>18</sup> there are about 100,000 people who identify as a

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<sup>15</sup> <https://can-sg.org/frequently-asked-questions/what-are-differences-disorders-of-sex-development-or-intersex-conditions>

<sup>16</sup> <https://www.nhs.uk/conditions/gender-dysphoria/treatment/>

<sup>17</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/genderidentity/articles/genderidentityageandsexenglandandwalescensus2021/2023-01-25>

<sup>18</sup> <https://www.scotlandscensus.gov.uk/2022-results/scotland-s-census-2022-sexual-orientation-and-trans-status-or-history/>

“transgender man” or a “transgender woman”<sup>19</sup> (although there are some concerns about the accuracy of this data<sup>20</sup>). It is reported that there were 355 NHS hospital admissions for any form of gender-related body modification surgery in England between 2021 and March 2022<sup>21</sup>. Over the same period there were 4,797 initial appointments at NHS Adult Gender Identity Clinics, 2,191 people changed the sex record associated with their driving licence and 400 obtained a GRC.

29. As the trans advocacy organisation Stonewall says:

*Transition can be any steps you take to express a change in your gender, such as changing your name, pronouns or the way you dress.*

*For some trans people, having surgery to relieve dysphoria is an important part of their transition ... For other trans people, surgery isn't something they want or need in order to feel happy with their body. It's the same with hormones, like testosterone and oestrogen treatments. It's important to remember that being trans isn't about having a particular appearance or particular body parts. It's something that's absolutely core to a trans person's identity and is not dependent on their outward appearance.*

*Transition means different things for each person: there is no one single 'gender reassignment operation' and no end goal to transition, beyond what the individual wants.*

### **Relevant background to the guidance issued on 13 December 2024**

30. The issue of consent to sexual activity has been of concern to us as a human rights charity from the start of our work. We became aware that certain lobby groups and charities were advocating that the concept of sexual consent should be reformed radically to remove the importance or even the concept of biological sex and replace it with the (self-declared) concept of gender. They considered reference to men as males and women as females as inherently “transphobic”. Arguments for the decriminalisation of sex by deception were framed as necessary reforms to prevent trans people being criminalised by “cisnormative ideology” (see our consultation response at **Exhibit MF/2**, below).

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<sup>19</sup> ONS (2023) Gender identity, England and Wales: Census 2021 <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/genderidentity/bulletins/genderidentityenglandandwales/census2021> and NRS (2022) Scotland's Census 2022 - Sexual orientation and trans status or history <https://www.scotlandscensus.gov.uk/2022-results/scotland-s-census-2022-sexual-orientation-and-trans-status-or-history/>

<sup>20</sup> Biggs, M. (2024). Gender Identity in the 2021 Census of England and Wales: How a Flawed Question Created Spurious Data. *Sociology*, 58(6), 1305-1323. <https://doi.org/10.1177/00380385241240441>

<sup>21</sup> <https://www.dailymail.co.uk/health/article-12140429/Number-Brits-undergoing-gender-changing-ops-doubles-decade-fascinating-stats-reveal.html>

31. The CPS published new guidance on this aspect of sexual offending on 21 May 2021 and titled it 'Deception as to Gender'. Further amendments were made and the amended guidance was published for public consultation on the 26 September 2022. The CPS indicated that the amendments followed an internal review and a 'pre-consultation with interested groups'. Details of the groups that had been consulted were initially withheld but were released after a decision by the Information Commissioner's Office.<sup>22</sup> The groups were Women's Aid, The Survivors Trust, Nia Ending Violence, Refuge, Welsh Women's Aid, Rape Crisis, Survivors Manchester, RESPECT, IMKAAN, EAW (End Violence Against Women), Home Office, Government Equalities Office, Galop, Mermaids, Gendered Intelligence, LGBT Consortium, LGBT Foundation, Scottish Trans Alliance and Stonewall.<sup>23</sup>
32. There followed a public consultation on the changes to the guidance, which opened on 26 September 2022 and closed on 20 December 2022. The consultation document (the draft guidance) is exhibited to this statement at **Exhibit MF/1**. Sex Matters responded to the consultation by way of detailed submissions on 19 December 2022. That response is exhibited to this statement at **Exhibit MF/2**. In summary, our concerns at that time were:
- i. That unclear language and terminology adopted throughout the guidance, not least in its use of the word gender where the court had clearly intended to mean biological sex (in *R v McNally* [2013] EWCA Crim 1051), obfuscated the importance of transparency about biological sex, which had been the central issue of in almost all the relevant prosecutions (see pages 4- 7; 11-13)
  - ii. Terminology that appeared to originate in ideology rather than the statute and caselaw was adopted at the expense of clear factual or legal language, creating confusion and ambiguity that did not reflect the settled law in this area (page 7-8; 11-13)
  - iii. That it suggested that the suspect's rights pursuant to Article 8 ECHR, the Equality Act 2010 and/or the Gender Recognition Act 2004, including their right to privacy may trump those of the complainant to understand what she or he is consenting to in an act of a sexual nature (p8-11)

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<sup>22</sup> <https://ico.org.uk/media2/migrated/decision-notices/4026425/ic-231535-z0s7.pdf>

<sup>23</sup> [https://www.whatdotheyknow.com/request/which\\_bodies\\_were\\_consulted\\_for](https://www.whatdotheyknow.com/request/which_bodies_were_consulted_for)

- iv. That it suggested that those with gender dysphoria were more likely to commit a sexual crime than those without (p12) or that they were not culpable for obtaining sexual consent by deception if they did so (p14) or that a Gender Recognition Certificate may have that effect (p14-15)
  - v. A failure to consider or properly consider the rights of victims, by failing to recognise that a person seeking to live “fully in their new gender identity” does not have the right to over-ride others’ informed consent to sexual activity (p14)
  - vi. That it emphasised undefined, highly contentious and entirely subjective concepts of gender identity as evidentially important to whether a deception had taken place as a matter of fact (p15-17)
  - vii. That the CPS’s guidance contributed to a cultural atmosphere in which the blurring of important safeguarding and boundaries around consent was a harmful development, exacerbated by a context of social pressure, particularly on young people, to accept the ideological position that ‘women have penises’ for example, and/or that it is politically unacceptable to acknowledge the reality of biological sex (p 18-22)
33. Overall, the approach adopted by the CPS to this critically important policy area appeared to us to be confused and misleading and was ultimately likely to make charging decisions more prone to error with the attendant risks of under-prosecution or over-prosecution.
34. After the consultation closed in December 2022 we heard nothing further for a considerable period of time.
35. On 13 December 2024 the CPS published its response to the consultation along with new, updated guidance. We recognise that there had been some improvements as a result of the consultation process: in particular, the guidance was now titled as being concerned with “*Deception as to sex*” instead of “*Deception as to gender*”. Explicit references to the suspect’s gender identity belief as determinative of whether a deception could be established or not had been removed. However, the Guidance continued in our view to over rely on the concept of “gender identity” and over-state its relevance to a number of the factors to be considered within a charging decision and to mislead prosecutors as to the true legal position.

### **These proceedings**

36. On 21 February 2025 we sent a pre-action protocol letter to the Director of Public Prosecutions ('DPP') setting out the concerns we had about the Guidance and seeking a response. A copy of that letter is in the amended permission bundle.
37. In the course of our correspondence with the CPS it was clear both parties valued a proper exploration of the protocol process. As limitation was approaching, the parties agreed to a short post-issue stay with a timetable for the service of the protocol response. We issued this claim with an application for that stay on 12 March 2025. That order was approved by the court and is in the bundle.
38. The stay was extended by consent when the CPS learned that the *For Women Scotland v The Scottish Ministers* appeal was to be handed down by the Supreme Court on 16 April 2025. The new deadline for the DPP to respond was agreed for 9 May 2025.
39. On 7 May 2025 we wrote to the DPP setting out some of our observations about the Supreme Court's judgment as relevant to the Guidance.
40. On 9 May 2025 the DPP responded to the pre-action protocol letter, serving at the same time an amended draft of the guidance.
41. We observed that the DPP had not in fact addressed matters arising from the judgment in the pre-action protocol response. We wrote to the DPP again on 14 May 2025 pointing out the omission. A further short stay was agreed in order for the DPP to provide their final pre-action response, addressing with it the observations we made about the FWS judgment. That order was also approved by the court and is in the bundle.
42. The DPP's final protocol response was served on 6 June 2025 alongside a further copy of the guidance which had been re-amended (referred to as 'the Guidance'). My evidence below about the Guidance refers to this ultimate iteration of it, as served on 6 June 2025.

### **Guidance under challenge by this claim as served on 6 June 2025**

43. The Guidance served on 6 June 2025 contained two further amendments, from that of 9 May 2025. The DPP inserted the word 'biological' before 'sex' at numerous points in the Guidance. The explanation given for this was that the Supreme Court had adopted this language in its judgment. This addition does little to ameliorate the

points of confusion and error. While sex *is* biological (and includes the knowledge, anatomy and appearance of being that sex), adding it to the text in this way tends to suggest there is another relevant kind of sex that isn't biological (or that "biological sex" and "gender identity" are two parallel characteristics).

44. The Guidance included a new paragraph concerning the impact of the Supreme Court's judgment on the legal effect of a certificate issued under section 9 Gender Recognition Act 2004, that is it does not impose "recognition of the acquired gender for the purposes of private, non-legal contexts". Further, that "the effect of rule (*sic* section) 9 on the operation of any other statute must be considered in light of the wording, context and policy of the statute in question."
45. This amendment was welcome. It confirmed the position Sex Matters had always taken, which was unequivocal in respect of the fact that a GRC has no bearing on the meaning of the word sex for the purposes of sexual consent. That was something the Supreme Court endorsed at a number of points in its judgment: "*Read fairly, references to sex in this provision can only mean biological sex. People are not sexually oriented towards those in possession of a certificate.*" [204]
46. Having carefully considered the amendments to the Guidance since its publication on 13 December 2024, and while we acknowledge the constructive approach adopted by the DPP in this protocol exchange, regrettably we concluded that it was still so confused and misleading in key areas that it remained likely to lead prosecutors into error and that we should proceed with the claim. That is not a decision we took lightly: we have done so as the Guidance in its current iteration creates serious risks that victims of rape and other serious sexual offences will not achieve redress, and/or that trans identifying people will be placed at risk of prosecution or will be given the false impression that they are not criminally liable for serious sexual offences if they carry out a deception as to their sex.

#### **The meaning of gender identity, gender reassignment and gender recognition**

47. It is Sex Matters' overarching concern for clarity and for the stable and predictable use of important terms in law and policy that underpins this challenge.
48. There is no definition in law of the concept of 'gender identity', still less a fixed one. It is circular, incoherent and ambiguous. It has no fixed or definable use and may shift from time to time and person to person (and within the same sentence). It is variously presented as innate and a matter of choice, fixed and fluid, something that

must be respected and affirmed by others and something which can only be determined by the person involved, something that justifies and requires bodily and modification, and something which is completely independent of appearances.

49. I note that the Guidance itself does not attempt to offer a definition of 'gender identity', simply saying that it is "not the same as sexual orientation" and suggesting it is commonly used to refer to "the way a person is perceived or experiences themselves". This description is so wide and formless that it fails entirely as a functional definition. On its face it encompasses innumerable properties such as intelligence, greed, athleticism, sociability, skin colour, kindness, failure and spiritual charisma which are probably not intended. It treats as equivalent a person's internal world and the common recognition of the verifiable characteristics of being male or female.
50. Professor Alice Sullivan's "Independent review of data, statistics and research on sex and gender" sets out how the distinct concepts sex, gender, and gender identity have become confused. Based on a review of data collection, she documents how the term 'gender' gained traction as a polite synonym for the two sexes in the 1990s and was then reframed as a synonym for the idea of fluid and variable gender identity. A legal opinion in her report summarises the shifting terms:

*"in ordinary usage, the term "gender" is used in a variety of ways. Sometimes it is used as a synonym for biological sex. Sometimes it is used to denote the social expectations that are applied to those who are biologically male or female: "gender" in this sense is about "gender roles", or "gender stereotypes", or "gender norms". Sometimes it is used to denote "gender identity", understood as a person's innate sense of being a man, a woman, or neither...And sometimes it refers to a person's "gender expression": whether they dress, behave, etc., in a manner that reflects the social norms that are currently applied to the male or female sex."*<sup>24</sup>

51. "Gender identity" can be an entirely subjective idea about a person's relationship to cultural ideas of masculine and feminine behaviour, roles and appearance. It has been expressed by some as a metaphysical concept akin to a gendered soul. For instance, the widely-cited Yogyakarta Principles (a document published following a meeting of international human rights groups in Yogyakarta, Indonesia in November

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<sup>24</sup> Tim Pitt Payne KC in Sullivan, A (2025) [Independent review of data, statistics and research on sex and gender](#)

2006) defines “gender identity” as follows: *Gender identity is understood to refer to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.*<sup>25</sup>

52. The idea of an innate “gender identity” is then used to explain quite different groups and behaviours including erotic cross-dressing and cross-sex identification by older men, and the feelings of alienation from their sex which are felt by increasing numbers of children and young people (with growing numbers of girls). These have been recognised as different phenomena by clinicians and policymakers. The reification of the concept of gender identity enables the suggestion that they are the same thing and that feelings of unhappiness about being male or female, or a desire to be treated or perceived as the opposite sex, indicate a misalignment between a person’s sexed body and their “true self”.
53. “Gender identity” erases as a concept the previously well-understood category of transvestite, as stated in *Bellinger v Bellinger* [2003] UKHL 21 at paragraph 10: “A transvestite is a person who, usually for the purpose of his or her sexual gratification, enjoys dressing in the clothes of the opposite sex.”
54. The idea of gender identity also enables repurposing of the words man/woman and male/female as disembodied concepts, providing a basis for erasing sex. For example, the LGBT Foundation says “A woman is someone who identifies as a woman. Many women are cisgender (often written as cis), and this means the gender they were assigned at birth matches their gender identity. Some women are transgender (often written as trans), and this means that the gender they were assigned at birth didn’t match their gender identity. CIS WOMEN AND TRANS WOMEN ARE WOMEN – IT’S AS SIMPLE AS THAT.”<sup>26</sup>
55. The UK’s largest LGBTQ+ charity, Stonewall adopts this definition of gender identity: “A person’s innate sense of their own gender, whether male or female or something else (see non-binary, below), which may or may not correspond to the sex assigned at birth”.

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<sup>25</sup> <https://yogyakartaprinciples.org/preamble/>

<sup>26</sup> <https://lgbt.foundation/wp-content/uploads/2023/08/What-is-a-woman-guide.pdf>

56. It defines gender as: *“A person’s innate sense of being a man, woman, non-binary or another gender. Gendered norms, roles and behaviours exist, which are typically associated with being a woman, man, girl or boy. These are often expressed in terms of masculinity and femininity, and vary across cultures. A person’s gender is typically assumed from the sex they were assigned at birth.”*
57. Stonewall defines the term “trans” as: *“A term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Stonewall uses ‘trans’ as an umbrella term including (but not limited to) transgender, transsexual, genderqueer, genderfluid, non-binary, agender, trans man, trans woman, trans masculine and trans feminine.”*
58. The CPS adopted some of Stonewall’s terminology and ideology in its consultation document published in September 2022, observing that there exists a “range” of gender identities. The document recorded that no fixed definitions are agreed or even possible to ascertain on anything other than a subjective basis: *“There are no universally agreed definitions, the use of specific words can be contested, and it is therefore important that information is obtained to understand the preferred terminology of each individual”.*
59. It explains “Transgender or trans” not in terms of the protected characteristic defined in law or in practical behaviours but in terms of metaphysical gender identity *“an overarching term used to describe people who have a gender identity that is different to their biological sex. For example, a trans man is someone whose sex was recorded as female at birth but lives and identifies as a man.”*
60. This sits in contrast with the clear and stable definition of sex, meaning the biological category of being male or female, which is recognised in common law and well summarised in *Bellinger v Bellinger* [2003] UKHL 21 at paragraph 28: *“The distinction between male and female exists throughout the animal world. It corresponds to the different roles played in the reproductive process. A male produces sperm which fertilise the female’s eggs. In this country, as elsewhere, classification of a person as male or female has long conferred a legal status. It confers a legal status, in that legal as well as practical consequences follow from the recognition of a person as male or female. The legal consequences affect many*

*areas of life, from marriage and family law to gender-specific crime and competitive sport. It is not surprising, therefore, that society through its laws decides what objective biological criteria should be applied when categorising a person as male or female. Individuals cannot choose for themselves whether they wish to be known or treated as male or female. Self-definition is not acceptable. That would make nonsense of the underlying biological basis of the distinction."*

61. This meaning is also reflected in the definition of the protected characteristic of sex in the Equality Act 2010 and about which the Supreme Court made the following observations in its reasoning in the *FWS* judgment: *"The definition of sex in the EA 2010 makes clear that the concept of sex is binary, a person is either a woman or a man...Although the word "biological" does not appear in this definition, the ordinary meaning of those plain and unambiguous words corresponds with the biological characteristics that make an individual a man or a woman. These are assumed to be self-explanatory and to require no further explanation. Men and women are on the face of the definition only differentiated as a grouping by the biology they share with their group."* [171] *Moreover, it makes no sense for conduct under the EA 2010 in relation to sex-based rights and protections to be regulated on a practical day-to-day basis by reference to categories that can only be ascertained by knowledge of who possesses a (confidential) certificate.* [173] *Indeed, it would offend against the principle of legal certainty and the need for a meaning which is constant and predictable, especially in the context of an Act with the purposes we have identified, and which has such practical everyday consequences for so many individuals and organisations in society. By its nature a variable definition is neither clear, constant nor predictable. It is the opposite in fact. It is also contradicted by the single definition of sex that fixes its meaning in the EA 2010. As Lord Nicholls explained in *Spath Holme*, p 397: "Citizens, with the assistance of their advisers, are intended to be able to understand parliamentary enactments, so that they can regulate their conduct accordingly. They should be able to rely upon what they read in an Act of Parliament".* [191-192]
62. The legal framework of course rightly provides for protection from discrimination and harassment for trans people by way of the protected characteristic of gender reassignment pursuant to the Equality Act 2010. The definition of a person with that

protected characteristic is statutory and can be found in section 7 of the EA 2010: “*the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex.*”

63. The law also provides for a certification process pursuant to section 1 of the Gender Recognition Act 2004. The requirements for a GRC are that a person must be aged 18 or over, must have a diagnosis of “gender dysphoria”, must have been “living in their affirmed gender” for at least 2 years and must intend to live in this gender for the rest of their life. Evidence of living in the acquired gender means having documents like bills, bank statements or payslips which show a name change or a title, like ‘Mr’ or ‘Miss’ or a marker like ‘male’ or ‘female’ (individuals can change these markers on their passport and driving licence on request). The government website makes clear that: “*You can apply even if you have not had any gender affirming surgery or treatments, or you do not plan to have any*”.
64. The application needs to be backed by two reports written by either two different medical doctors registered in the UK or a medical doctor and a clinical psychologist, both registered in the UK. At least one of the reports must include details of any “gender affirmation” treatment such as surgery or hormones or reason why the person does not plan to have treatment”. The first report must confirm the applicant’s gender dysphoria diagnosis and the clinical history this was based on, including who made the diagnosis, when the diagnosis was made and what evidence was used to make the diagnosis<sup>27</sup>.
65. The requirements for demonstrating “*living in the acquired gender*” are a question about paperwork. They do not include any assessment of the person’s appearance, lifestyle or behaviour.
66. The legal effect of such certification was the subject of the Supreme Court’s judgment in *For Women Scotland*. As noted above, we do not take issue with the way in which the Guidance expresses the legal effect of section 9 GRA, which is in our view consistent with the findings of the Supreme Court.

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<sup>27</sup> UK Government. ‘Apply for a Gender Recognition Certificate’ <https://www.gov.uk/apply-gender-recognition-certificate/what-documents-you-need>.

## **Widespread confusion and misinformation about the interplay of rights**

67. The response to the judgment of the Supreme Court in *For Women Scotland* from some civil and lobbying groups, private institutions and even public authorities has been one of shock and at times even defiance, as many organisations had promoted a misinterpretation of the law. Many vocalised the view that the judgment, by recognising that sex is immutable, recognised in law and sometimes important, undermined the rights of people who identify as trans. The organisations who have made legally inaccurate statements or policy announcements in response to the judgment include a number of the pre-consultation consultees.<sup>28</sup>
68. However, the issues in the appeal were restricted to the legal effect of a GRC on the Equality Act 2010, specifically whether it operated to widen the definition of sex to include those whose sex had been certified by s.9 GRA 2004. The Court was clear in recording that no party, including The Scottish Ministers and Amnesty International, sought to argue that the protected characteristic of gender reassignment alone affords the right to be treated as if the person's sex had changed for any legal purpose<sup>29</sup>. In other words, the reason the appeal was narrowly focussed on the impact of the small number of those who hold GRCs, was that it was accepted by the Court and the parties that 'self-identification' was not and never had been the law for the purposes of the Equality Act 2010.
69. Further, the Court was careful to outline the robust protections available to both those with GRCs and the broader group of persons with the protected characteristic of gender reassignment were preserved by the protection from discrimination and harassment they enjoyed within the Equality Act 2010. Further, the court recorded that men who identify as trans ("trans women") may also be able to bring a claim for sex discrimination where sex has been imputed by the offending party. Certification under the GRA 2004 remained available to them, in order that they can access entitlements to benefits, pensions and so on.
70. Nevertheless, the response following this careful judgment was extreme. One of our observations about the shock and distress expressed is that the misinformation and

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<sup>28</sup> Galop, Gendered Intelligence, LGBT Foundation, LGBT Consortium, Stonewall, Refuge and Scottish Trans Alliance.

<sup>29</sup> Section 9(1) of the GRA 2004 only applies where a full GRC has been obtained. Nobody suggests that a person with a protected characteristic of gender reassignment is entitled on that basis alone to be treated as if their sex has changed for any legal purposes. Without a GRC a trans woman protected by section 7 of the EA 2010 is male for legal purposes and so too a trans man is female for legal purposes. [201]

misunderstanding of what the law of the UK actually is in respect of self-identification is widespread and entrenched, even in some of our institutions. It was a salutary reminder for us as a human rights charity just how important it is in this policy area to challenge unclear language, to be explicit about any necessary balancing of rights and to communicate with precision about the legal basis for guidance such as that which is at issue.

71. While it may not be important for the purposes of this claim to ascertain how the law on sex and gender identity has come to be so widely misunderstood and misapplied, I set out these points to illustrate the validity of Sex Matters' concerns to ensure that important state bodies such as the CPS are not subject to the undue influence of organisations which do not promote an accurate exposition of the law, and that prosecutors' discharge of statutory and human rights duties are not skewed by reference to concepts and language which have no mandate in law.

#### **Misinformation about the law in this area**

72. Specifically in relation to the law on sexual consent, as we noted in our consultation response, we have been concerned to note the promotion of fallacious statements by organisations which purport to advocate for people who identify as trans, who in fact may be putting vulnerable people (including trans people) at risk of prosecution by their unlawful advice on the issue of sexual consent.
73. Young people growing up in the current climate who are experimenting with sexual relationships for the first time, and who are particularly likely to get their information from online sources, as well as from groups at school, are particularly at risk of misunderstanding the importance of sex to the validity of consent in a world where sexual partners may identify as trans or non-binary and/or adopt the terminology of lobby groups and those who may promote how they would wish the law to be, rather than how it is. This is likely to be particularly true for children growing up in the cohort where significant numbers of children have taken puberty blockers and/or cross sex hormones.
74. The debate on the parameters of 'self identification' is such that the straightforward point that human beings cannot change sex is taboo and has even resulted in the bullying and hounding of people who make this statement in a work context and in schools. On the internet, in the workplace and in schools, universities, hospitals and other services, women labelled as "TERFs" (trans exclusionary radical feminists) are

sent sexual and violent threats. They may be pressurised to recant and apologise. In this context it is vital that young people are empowered to understand and maintain clear boundaries about sexual consent with each other and to be able to speak out when those boundaries have been violated. The culture is a complex and difficult one for young people exploring their sexuality for the first time to navigate, particularly if they are also coming to terms with same sex attraction and/or neurodivergence.

75. One example of this can be seen where lesbians who maintain that they are only sexually attracted to women (i.e. people who are biologically female) are accused of being transphobic, genital fetishists, and “terfs”.<sup>30</sup>
76. Young people are also particularly vulnerable to online crimes of “catfishing” via sexual deception.<sup>31</sup> Teaching them that it is rude, or inappropriate or transphobic to be concerned about the sex of someone who is seeking a sexual or romantic relationship with them puts them at risk.
77. The Guidance does not exist in a vacuum, but operates in a cultural context that does not always recognise when biological sex may matter and in which the right to privacy is being set against the fundamental importance of informed consent. It is imperative in this context that the CPS itself as the principal authority responsible for prosecutions is unequivocal, precise and clear as to the centrality of biological sex to the concept of sexual orientation and therefore to consent to sexual activity, just as the law itself is clear on this point. If the Guidance on prosecuting serious sexual crime is muddled or inconsistent, as we believe it is, there is a considerable risk that this will contribute to the misunderstandings or misinformation about the law in this area, not least by those who need to understand and apply it namely prosecutors or police, but also for those who may look to the Guidance for clarity on what does and does not constitute an offence. We do not suggest of course that young people are necessarily likely to consult the CPS’s guidance on sexual offending, but the interest groups and influencers they listen to may do so.
78. That is particularly apposite given that the profile of offenders that emerges from the authorities to date, that is, young same sex attracted women who impersonated men in order to obtain consent to sexual activity, which is mirrored by the demographic

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<sup>30</sup> <https://www.bbc.co.uk/news/uk-england-57853385>

<sup>31</sup> <https://sex-matters.org/posts/updates/digital-identities-risk-enabling-catfishing-crimes/>

which has seen a recent rapid rise in referrals to specialised services for gender dysphoria.<sup>32</sup> Young women who are confused or distressed about their sex are inherently vulnerable. As noted above many of them are same sex attracted.<sup>33</sup> A sizeable proportion are autistic.<sup>34</sup> If they engage in sexual activity with another girl or woman while holding themselves out to be a boy or man, it is vitally important that they understand, and that the relevant authorities are clear in the published guidance, that they will be committing a serious criminal offence unless it can be established that the victim either knew or did not care that they were female.

79. While we consider that this is a claim that requires the court's scrutiny for the reasons above, it is important to note that we accept that the rise in people, particularly people under the age of 25, who identify as transgender is a cultural shift which is relevant in some aspects of policy, including within some areas of this Guidance. For example, we recognise also that whilst biological sex is likely to be a qualifying condition of consent for the overwhelming majority of people, there may be some who say that they are indifferent to the biological sex of a potential partner.
80. We understand that there may be evidence of shared beliefs in the personal importance of gender identity and sex as conditions for consent, for example, where a complainant expresses the view that it is unacceptable bigotry to choose a partner on the basis of their sex, instead of their gender identity. We do not advance a claim that those matters are never factually relevant to the question of reasonable belief in consent, which the Guidance addresses as the third stage of the consent analysis. However, this cannot alter the nature of what can constitute a relevant deception (i.e. as to biological sex but not gender identity), but a suspect may be able to rely on such matters to say that they had a reasonable belief that - say - a failure to make clear their biological sex to the complainant did not affect the complainant's consent in that context. We accept that prosecutors may need to understand that in order to make a proper charging decision.

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<sup>32</sup> Cass, H (2024) Independent review of gender identity services for children and young people <https://cass.independent-review.uk/home/publications/final-report/>

<sup>33</sup> Holt, Vicky & Skagerberg, Elin & Dunsford, Michael. (2014). Young people with features of gender dysphoria: Demographics and associated difficulties. *Clinical child psychology and psychiatry*. 21. 10.1177/1359104514558431.

<sup>34</sup> Jarvis SW, Fraser LK, Langton T, et al Epidemiology of gender dysphoria and gender incongruence in children and young people attending primary care practices in England: retrospective cohort study *Archives of Disease in Childhood* Published Online First: 24 January 2025. doi: 10.1136/archdischild-2024-327992

81. This Guidance is not the first instance of the CPS's adoption of a contested ideological approach at the expense of legal clarity and accuracy. In 2020, the CPS issued Schools Guidance in conjunction with the National Police Chiefs' Council, NASUWT as well as Stonewall, Gendered Intelligence and other organisations. It directed teachers to the websites of Stonewall, Gendered Intelligence, and other organisations which actively promote or support gender identity theory. The Schools Guidance conflated 'hate crimes' with 'noncrime hate incidents', which are not criminal offences, and included a list of "categories of anti-LGBT+ hate crime or LGBT+ hate incidents" without clearly distinguishing between them. The types of behaviour listed included "ostracising and excluding" others from friendship groups because of actual or perceived sexual orientation or trans identity, as well as rejecting someone or not wanting to work with them for these reasons. In April 2020 a 14-year-old girl supported by her mother, who acted as her litigation friend, threatened a judicial review of the CPS in relation to the Schools Guidance. Following the pre-action letter, the CPS withdrew the Schools Guidance and said it would be reviewed.<sup>35</sup>
82. The CPS withdrew from the Stonewall Diversity Champions programme in September 2021. A number of police forces have received training from Stonewall, Gendered Intelligence and Mermaids both as members of the same programme and otherwise. We are concerned that officers who have received this training will be more prone to read the Guidance as being exculpatory of trans-identified suspects, and that this will negatively impact on how and whether an allegation is investigated, and any decision to refer the matter to the CPS for a charging decision.

### **Over prosecution and under prosecution**

83. As the grounds of the claim outline, there are a number of ways in which we say the Guidance paints a confusing and internally inconsistent picture as to the way in which expressions of gender identity may be relevant to the prosecutorial decision. Those errors could lead to both over prosecution and under prosecution.

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<sup>35</sup> <https://www.telegraph.co.uk/news/2020/04/30/cpspulls-hate-crime-guidance-schools-14-year-old-girl-mounted/>

84. Under prosecution of rape and sexual offending is already an intractable issue. The latest publicly available figures show that prosecution rates currently stand at 2.6 % (according to Home Office statistics to the end of March 2024<sup>36</sup>).
85. Women’s organisations have spent years campaigning for better outcomes which has met with some limited success, including the introduction of section 41 of the Youth Justice and Criminal Evidence Act 1999 which restricts when the sexual history of a victim can be use in court and section 34 of the same Act which banned perpetrators from being able to cross-examine the victim in court, for example. The UK introduced obligations into the domestic law with a view to ratifying the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention) by the passing of the Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act 2017. The Istanbul Convention was finally ratified on 31 July 2022. However, overall progress is extremely slow.
86. The recently published Council of Europe report on the UK’s compliance with the Istanbul Convention (GREVIO 2025<sup>37</sup>) recorded with “grave concern” that rape remains severely under-reported, the number of prosecutions in rape cases has plummeted since 2016-17 and prosecutions are still at a very low level despite the government’s End-to-End review (with only 6% of police investigations resulting in a charge between October – December 2023).
87. Even when charges are brought, cases may take years to get to trial. Many victims find the process too stressful and traumatic and desist, leading to a collapsed prosecution. The GREVIO report found that 59% of adult rape investigations were closed because the victim did not support police action, 19% of cases were stopped after the defendant was charged because the victim no longer supported the prosecution. GREVIO found that reports of rape myths, victim-blaming language demonstrated that a culture change was required within the CPS.
88. Sex Matters are of the view that the guidance for prosecutors in this important area must be particularly scrupulous to avoid confusion, ambiguity or any lack of clarity

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<sup>36</sup> <https://lordslibrary.parliament.uk/rape-levels-of-prosecutions/#:~:text=ending%20March%202014.-,1.2%20Rape%20prosecutions,July%202023%20and%20July%202024.>

<sup>37</sup> Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Istanbul Convention, United Kingdom, 18 June 2025 at 1680b66579, para 378-379 (p 96-97)

where possible as those matters are only likely to compound an entrenched pattern of low rates of charging and/or may result in the wrong suspects being investigated or charged. If further obstacles are placed in the path of effective and successful prosecutions, for example by obfuscating the nature of the conditions of consent, the existing significant protection deficit faced by women victims of sexual crime is only likely to be exacerbated.

89. As for over prosecution, if it assists the court, we provide some hypothetical examples below:

(i) For example, deception as to sex and/or gender identity is said to be relevant to the first part of the legal test - namely was there a condition of the complainant's choice or consent sufficiently closely connected with the sexual nature of the relevant act to be able to deprive them of the freedom to choose. If that were the case, a young woman who was in fact lesbian but who felt that was not interesting or attractive enough to a potential sexual partner, may hold herself out to be non-binary. If she has sex with another woman who later learns that she is not, in fact, non-binary identifying and who makes a report to the police, this Guidance suggests that that could be sufficient to vitiate consent. She could find herself wrongly under investigation or even charged. As set out above at paragraph 77, the exponential rise in girls and young women wanting to identify as trans or non-binary may be young lesbians who may be vulnerable and/or autistic.

(ii) A young man who privately believes he has a female gender identity has sex with a woman who believes in gender identity but considers herself to be straight. She makes these views clear to him, and he leads her to believe that his gender identity is male. The young man subsequently makes his gender identity public, and the woman is distressed as she believes that he has deceived her into an act of lesbianism. His deliberate deceit about his gender identity has breached a condition of her consent. He could find himself wrongly under investigation and possibly charged.

90. The flip side to the risk of under prosecution is that unclear or misleading guidance could lead vulnerable groups to misunderstand how the law on consent applies to them, finding themselves criminalised, or they could end up subject to an investigation or prosecution which is in fact contrary to the criminal law. For those

reasons, too, the charging guidance needs to be clear and consistent so as to avoid any obfuscation or confusion about the components of the serious sexual offences it describes.

## Conclusion

91. The issues in this claim are far-reaching and substantial. They concern protected ECHR rights including the absolute right protected by Article 3, as well as rights guaranteed by Article 8. Given that the purpose of the Guidance is to ensure the consistent and accurate operation of the criminal law in regulating conduct in the most private sphere of life, errors as a result of misleading or unclear guidance are likely to have grave consequences for all those involved.
92. Sex Matters' strenuous attempts to resolve those concerns through the consultation process and thereafter via the protocol exchange have met with some success, in that the parties have managed to resolve some of the issues via the amendments made to date by the Defendant. However, regrettably those which remain are sufficiently grave and serious such as to warrant the scrutiny of the court. We request that the court grant this application for permission to claim judicial review.

### Statement of truth:

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:



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(MAYA FORSTATER)

Dated: 4 July 2025  
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