

# **FAIR PLAY FOR WOMEN:**

## **GUIDANCE FOR RESPONDING TO THE GRA CONSULTATION**

**URGENT:** The Government has just [launched](#) a [public consultation](#) on changes to the Gender Recognition Act, which will run until 19th October, and every single political party has so far utterly failed to acknowledge the negative impact this will have on women's sex based rights. This is why we are running a public awareness campaign and asking women (and men who care about women) to submit their views in the consultation. You don't have to answer all the questions in the consultation and you can save your answers as you go along so you don't have to complete it all in one go. This guide explains the key issues so you can decide what you think and how best to answer each question.

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### **What is the Gender Recognition Act and why is it being changed?**

The Government wants to dramatically expand the scope of this law. It was originally designed to allow a tiny number of medically-diagnosed transsexuals to be legally recognised as the opposite sex, and it was assumed that almost all would have had surgery. Now, many well-funded and well-connected lobby groups are pushing the Government to change that law so that any man could change the sex on his birth certificate and be legally recognised as a female. This is what is known as "self-identification" or sex self-ID. Self-ID may well make the process easier for transgender people but it will come at the expense of women's rights.

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### **How does this impact women and their sex-based rights?**

Women's sex-based rights have been hard won and enshrined in law. It is just 100 years since women won the right to vote, but it is easy to forget that a woman only won the right to have a mortgage in her own name in 1980, that girls and women only won an equal right to education and employment in 1975, and the right to refuse sex within marriage (marital rape) was only outlawed in 1991. In 2010 special rules to allow women to have male-free spaces were included in the Equality Act. All these rights are underpinned by anti-discrimination laws based on our legal sex classification: female.

Female is the legal sex category for over 30 million women and girls in the UK. The Gender Recognition Act allows someone who was born male to be included in our female sex class, [and very strict rules currently apply](#). Any changes made to the process of the GRA will therefore change who is eligible for membership of the female sex class, and the rights and protections that come from it. If the classification of female is opened up to include just anyone then women will lose the ability to describe themselves and their unique needs in law. If the category of female can include both males and females it becomes a meaningless and abstract concept.

The pressure for sex self-ID [started with a House of Commons committee](#) in 2016, which suggested that ANY man who says he is a woman should be legally recognised as one. On the back of this committee's recommendations, and amid ongoing pressure from trans lobby groups such as Stonewall, many

organisations have dropped single-sex spaces and have already introduced 'self-ID' policies, offering access to women-only spaces and services to anyone who says "I am a woman" – regardless of that person's anatomy.

It is clear that women and girls have already lost out when it comes to privacy, safety and fairness. Men who say they are women are already coming into women's changing rooms, sleeping in women-only dormitories, living in women's prisons. Boys who say they are girls are already getting changed with girls at school, are already joining clubs like Girl Guides and sleeping in tents with girls. Amending the Gender Recognition Act to allow sex self-ID would ignore and compound the problems and confusion that are already evident.

Instead of just capitulating to the wishes of the transgender lobby, we believe the Government should do its job and consider the rights and interests of ALL the people affected by this law. There is a fundamental conflict between the demands of trans lobby groups and the rights of another vulnerable group – women and girls. Ministers should use the reform of the GRA to make sure society and law can clearly define, and differentiate between, the biological sexes so women can have privacy, dignity, safety and fairness when it really matters to them.

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## **How can I speak out for women's sex-based rights?**

If we speak out together now, we can tell the Government why reform of the GRA would be bad for women. The Government has launched a [public consultation](#), so that we can all have our say.

You don't have to be an expert to take part. This article guides you through the key questions, with step-by-step guidance on how to respond.

Thousands of people responded to Scotland's consultation on the Gender Recognition Act. We expect the same in England and Wales.

Opposing voices will be loud, and backed by well funded campaign groups and major institutions. We need to make sure the voices calling for fairness and respect for the sex-based rights of women are heard too.

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## **Tips for responding to the Gender Recognition Act consultation**

Changes to the Gender Recognition Act will impact everyone in society, not just trans people. Raising concerns about the change does not mean you are anti-transgender rights. It just means you do not agree with this particular law change. Of course if someone wants to live as though they are the opposite sex, that's their choice and Fair Play for Women fully supports their right to do so. We support the right of transgender people to live safely and free from discrimination, as per protections already [enshrined in Equality Law](#) and hate crime legislation. However we do not believe it is right or fair to tell women and girls that they have to accept that fully male-bodied people are female *simply on that person's say so*– and then be compelled to act as if that were the case.

You don't have to answer all the questions in the consultation and you can save your answers as you go along so you don't have to complete it all in one go. This guide explains the key issues so you can decide what you think and how best to answer each question.

There are 21 questions in the full consultation. We've shared some tips for responding to 14 of the questions that are most critical to women.

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## **PART 1: What should be the eligibility criteria for changing the sex on your birth certificate?**

### Question 3: Do you think there should be a requirement in the future for a diagnosis of gender dysphoria?

WE SAY “YES” TO THIS QUESTION because removing it would have a negative impact on the rights of women and girls.

**Here's why:** The GRA was [passed in 2004](#) to accommodate a few thousand transsexuals, the majority of whom were assumed to have had surgery, and who all were suffering from “gender dysphoria”, a medically recognised condition. Only someone who had a doctor’s confirmation as suffering from this condition could be allowed to legally transition to the opposite sex. Now the Government wants to remove the safeguard provided by medical professionals. This will allow additional groups of males access to women’s legal category: the female sex.

Importantly, the medical diagnosis of gender dysphoria rules out men who present as transsexual for reasons other than gender dysphoria, such as personality disorders or sexual fetishes. These men should never be allowed to be legally recognised as female.

In contrast to the small transsexual community, for whom the original law was designed, being transgender is not considered to be a medical condition. Transgender people have an internal sense of gender identity that is different to the sex they were born. Most of these people socially transition by changing their names, appearance and pronouns to reflect their preferred gender identity. Some, [but not all](#) also medically transition to some extent by taking cross-sex hormones to change the appearance of their bodies. However, they often do not have a diagnosis of gender dysphoria nor do they desire any form of genital surgery. The transgender community is estimated to be up to 1% of the UK population, or up to half a million individuals. Currently, a medical diagnosis of gender dysphoria is used to regulate access to an NHS-funded medical transition. Legal transition should remain regulated in a similar way. If not, hundreds of thousands of male-bodied people would be eligible to join the female sex category. This would significantly dilute the membership of the female sex category making it more about having ‘female gender identity’ and less about having a female body.

Removing the need for a diagnosis of gender dysphoria also effectively allows any man to change their birth certificate for any reason. No need to be transgender. This opens up the female legal category to tens of millions of men. This is clearly ludicrous and would make a nonsense of the concept of female.

Question 4: Do you also think there should be a requirement for a report detailing treatment received?

WE SAY “YES” TO THIS QUESTION because removing it would have a negative impact on the rights of women and girls.

**Here's why:** Providing a medical history of any treatments for gender dysphoria is another useful way to assess the suitability of an applicant for a legal transition. This helps to protect women and girls and their rights by ensuring only males who belong to the clearly defined group the GRA was designed for get through the process. Removing checks and balances like this would weaken females' rights and protections.

The request for a medical report DOES NOT mean a person must have undergone or plan to have any treatment or surgery. Medical treatment is not, and has never been, a requirement for legal transition and would be in breach of a human rights ruling made by the European Courts in 2017. The need to provide some form of medical history is standard practice in other areas of life, for example health information is required by the DWP to allow them to make decisions on a benefits claim. Although arguably intrusive to the individual it is generally acknowledged that some form of assessment system is necessary to rule out fraudulent claims. Likewise, if as a society we want to restrict the legal transition process to transgender people who need it then some kind of assessment process must be in place. This strikes a fair balance between the needs of society and the individual.

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Question 5: (A) Do you agree that an applicant should have to provide evidence that they have lived in their acquired gender for a period of time before applying?

WE SAY “YES” TO THIS QUESTION because removing it would have a negative impact on the rights of women and girls.

**Here's why:** Changing legal sex on a birth certificate is a serious and profound life-long commitment that should not be taken lightly. Transgender people are already free to socially transition at any time without restriction or assessment and this would normally be the first step on their transition journey. The current requirement is to provide evidence of living in role (undergoing a social transition) for 2 years. Experiencing the reality of a social transition for a period of time before taking more permanent steps such as medical or legal transition is a sensible approach and provides the evidence needed for the assessment. It is particularly important for young people – who are in the risk-taking phase of life, and whose adult identities are still forming – that a staged process is in place. The phenomenon known as [Rapid Onset Gender Dysphoria](#) (ROGD) is still not fully understood and requires more research. Two years is reasonable period of time for reflection; it protects young people making a social transition (2/3rd of whom are born female) and it ensures that only those males who can demonstrate a commitment to their transition are given membership of the female sex class.

Question 6: Currently, applicants for a gender recognition certificate must make a statutory declaration as part of the process. (A) Do you think this requirement should be retained, regardless of what other changes are made to the gender recognition system?

WE SAY “YES” TO THIS QUESTION.

HOWEVER, we would also make clear we do not consider the statutory declaration stating an intention until death to be sufficient on its own. The other medical reports, diagnosis, proof of living in role for 2 years must all remain in place with no change.

**Here’s why:** A statutory declaration is an official form confirming the applicant’s intention to live permanently in their acquired gender until death. It is signed by the person wishing to change their legal sex class and by a witness (e.g. a solicitor).

Supporters of a self-declaration system say that signing this form should be the only requirement for changing the sex on a birth certificate. They say it will prevent any fraudulent applications because it is a criminal offence to knowingly and wilfully make a false statutory declaration. But how? How can a court prove that someone does not ‘feel like a woman inside’? How can an identity based solely on someone’s personal feelings be proven to be false? It can’t.

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Question 7: The Government is keen to understand more about the spousal consent provisions for married persons in the Gender Recognition Act. Do you agree with the current provisions?

WE SAY “YES” TO THIS QUESTION

**Here’s why:** The option to annul the marriage must remain available for a spouse if their partner wishes to legally transition to the opposite sex. This retains women’s (and men’s) right to consent. A marriage is an agreement between two individuals, so it is appropriate and fair that both spouses should have an equal say in the future of that contract in the event of a fundamental change like a change in the legal sex of one of the parties.

The spousal consent provisions mean if a person wanting to change their legal sex is married or in a civil partnership they must get their spouse’s consent if they want the marriage to continue. Currently, if the spouse does not consent to the marriage continuing the marriage can be legally annulled. This is different to a divorce in that the marriage itself is then considered void rather than ended. This can be important for religious reasons because some faiths do not condone divorce and an annulment means in the eyes of the church someone was never married, so they are free to marry again in the future. An annulment also avoids

one party having to cite reasons for a divorce and can be a much quicker process. Financial and child care arrangements are treated in the same way for an annulment as with a divorce.

Trans organisations, like Stonewall, want spousal consent removed. This means for example a wife will have no choice other than to issue divorce proceeding against her husband if she does not wish to be forced to remain in a marriage that will effectively become a same-sex marriage.

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## **PART 2: How does the GRA process impact on wider society?**

### Question 9: Do you think the privacy and disclosure of information provisions in section 22 of the Gender Recognition Act are adequate?

WE SAY NO TO THIS QUESTION because current privacy and disclosure of information provisions already make it difficult and often unworkable to uphold women's sex-based rights. This should be changed so that our rights can be upheld better in practice. Any expansion of the scope of the GRA or weakening of current provisions that provide checks and balances would unacceptably undermine the implementation of women's rights on a day to day basis.

**Here's why:** Legal transition not only allows someone to change the sex written on their birth certificate [but also gives them massive privacy protections](#) so almost no one can find out the sex they were born. Replacement birth certificates are indistinguishable from originals and it is illegal for an official to reveal someone has changed their legal sex class. This protected information is only available to the courts or the police. This means members of the public, including organisations which provide female-only spaces and/or activities, are unable to find out if someone with a female birth certificate was in fact male born.

These strict privacy protections make it impossible, unless someone offers the information voluntarily, for an organisation to use the Equality Act's lawful single sex exemptions and maintain a space for biological females only. If all the paperwork says 'born female' how do we expect an organisation to confidentially and lawfully exclude all male born people (and in particular those who retain their penis), without fear of being taken to court for getting it wrong? With the number of legal transitions potentially increasing from less than 5000 to half a million or more, we face a situation where single-sex exemptions will become totally unusable. Laws on paper are no use to women if they can't be used in practice.

The unintended consequences that have arisen since the original GRA was passed in 2004 are clearly unacceptable for women and girls and this must be addressed. Privacy protections must be changed so it is clear someone has changed their sex class. More organisations must have access to this information so they can use the single-sex exemptions that women want, need and deserve.

Question 11: Is there anything you want to tell us about how the current process of applying for a GRC (Gender Recognition Certificate) affects those who have a protected characteristic?

WE SAY YES TO THIS QUESTION. This question allows anyone to explain how the current gender recognition process could impact on someone because of other aspects of their identity. There are two issues we would raise here.

**AGE:** Stonewall and Mermaids are urging people to use this question to complain that trans people aged under 18 cannot apply for a Gender Recognition Certificate. The government has said it will not consider reducing the age limit to allow children to change their legal sex but is asking for opinions on this in the consultation. **If you disagree that the age of legal transition should be lowered it is important to say so here.**

Fair Play for Women will be saying NO to reducing the age limit. This is because gender specialists do not yet fully understand the reasons for the [sudden and unprecedented rise in childhood referrals](#) to Gender Identity Development Services. Many young people, particularly pre-pubertal children, do not persist as 'transgender' into adulthood. As yet, it is also unclear why the number of girls being referred is far higher than boys, suggesting social and cultural factors are at play. With so little known about this phenomenon in children it would be highly irresponsible to encourage and legitimise legal transition at an age when they cannot be expected to understand the profound significance of this legal change.

**DISABILITY:** There is evidence that up to half of children referred to gender identity clinics have autistic traits. The reason for this phenomenon is currently unclear. The current process protects vulnerable people by ensuring they have a proper professional diagnosis of gender dysphoria and time to reflect before making a life-changing decision to legally transition. This is another important reason why the checks and balances in the GRA should not be removed, they serve a useful protective purpose.

## **Questions about GRA reform and the impact on single-sex exemptions in the Equality Act:**

Questions 12-15 ask questions about how changes to the GRA will impact the use of the single-sex exemptions set out in the Equality Act 2010. Single-sex exemptions make it lawful for women to have spaces, services and sports free from people born male. More information on the rights of women in the Equality Act can be found [here](#).

[The government has stated](#) it will not amend the Equality Act in any way, so the single-sex exemptions will remain untouched in law. Some people say women are therefore making a fuss about nothing. HOWEVER, this is not true, GRA reforms WILL reduce the availability of male-free spaces for women and this is what matters.



**The availability of male-free spaces for women will be reduced because:**

**1.Reforms will rubber stamp ‘self-ID’ as the gold standard in society for ‘changing sex’. If the Government says any man is a woman simply because he says so why would other organisations risk the litigation and administrative hassle of attempting to use any legal exemptions in the Equality Act to exclude him?**

**2.Once someone has a GRC and a birth certificate with their new ‘sex’ on it, their birth sex becomes strictly confidential. It won’t be possible for an organisation to find out if they were born male, so they won’t know if they can legally exclude them.**

**3.Reforms will encourage more people to legally transition. More men will actually be seen as woman ‘for all purposes’ in the eyes of the law, rather than just having the right to ‘present’ and ‘live as’ a woman. It will be harder for organisations to justify why these men should all be excluded.**

For all these reasons, it will simply be the path of least resistance for an organisation to change all their policies to self-ID. Male-free spaces will simply no longer exist for women despite their [provision being set out in law](#) just eight years ago. Nothing has changed in those eight years. Females are still physically weaker than males making them vulnerable to physical and sexual attack. Male physical and sexual violence is still a fact. Women still want the privacy, dignity and peace of mind of undressing, washing and sleeping without males present. Women still want to be able to compete fairly and safely in sports. Nothing has changed for women. We still need, want and deserve male-free spaces.

This consultation is the only opportunity women have to tell the Government how our sex-based legal rights already have been adversely affected by the introduction of self-ID policies, and why we oppose any changes to the GRA that will negatively impact our sex-based rights even further.

We must also use the consultation to demand a STRENGTHENING of women’s existing legal rights to single-sex provision. The Government must send a clear message to organisations that they are important and should be used when needed. Guidance should be made much clearer to stop public bodies imposing [blanket bans](#) on the use the exemptions and to stop service commissioners making funding decisions on the proviso that all services are trans-inclusive.

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**Question 12: Do you think that the participation of trans people in sport, as governed by the Equality Act 2010, will be affected by changing the Gender Recognition Act?**

WE SAY YES TO THIS QUESTION – self-ID policies will have an unacceptable negative impact on the rights of women and girls to participate in sport, and to do so fairly and safely. We urge the Government to consider other ways of encouraging trans people to participate in sport that do not come at the cost of women’s participation.

International and national competitive sports have their [own rules](#) outlining who is allowed to play in women's teams and compete in women's sports based on hormone levels. However, it is at amateur levels and in leisure competitions that the law changes will impact women's sports most keenly. Local clubs are not able to test hormone levels, they will have to rely on policy decisions made by volunteer organisers. For the reasons explained in the introduction, self-ID policies will become the norm, allowing any man to play against women if he says he's a woman. It is important to remember that the vast majority of these men will have made no medical transition whatsoever.

Under Self-ID policies, participation of biological females will inevitably decrease due to unfairness and lack of safety when competing against people with male bodies. We see this happening already around the world in cycling, athletics, MMA, football etc with women sometimes sustaining serious injuries. Take this example in the US with adolescent males winning girls' athletic competitions. The same will happen here unless we use this consultation to say NO. Amateur sports will be ruined for women, and self-ID will mean fewer grass-roots opportunities – over time this will reduce numbers of biological women reaching national and international levels in sport.

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**Question 13: (A) Do you think that the operation of the single-sex and separate-sex service exceptions in relation to gender reassignment in the Equality Act 2010 will be affected by changing the Gender Recognition Act?**

WE SAY YES TO THIS QUESTION – Self-ID policies are already common place and any changes that reduce the availability of male-free spaces even further are bad for women.

Self-ID policies have already been implemented in NHS wards, police crime records, BBC news reporting, many women's refuges, changing rooms, swimming pools, toilets. If you think this has already gone too far we must send a clear message from the public that GRA reforms are widely opposed.

In order to preserve female rights to single sex services in any meaningful way, the current checks and balances of the GRA – including a diagnosis of gender dysphoria – must all remain. Making it quicker and easier for transgender people to legally transition will have the knock on effect of reducing the number of truly male-free spaces for women for the reasons already explained in the introduction. This is unfair and unacceptable.

Question 13 (C) goes on to ask for the opinion of trans people who have experienced domestic abuse or sexual assault. However, shockingly, the consultation does NOT also ask for the opinion of FEMALE SURVIVORS OF MALE VIOLENCE about the impact on them of having male-born people present in women-only refuges. The voices of female survivors must be heard in this consultation and Fair Play for Women recommends you tell the government how you feel and what YOU need in this section, despite the fact they have failed to ask.

Question 14: Do you think that the operation of the occupational requirement exception in relation to gender reassignment in the Equality Act 2010 will be affected by changing the Gender Recognition Act?

WE SAY YES TO THIS QUESTION – Self-ID policies are already common place and any changes to this requirement is bad for women as it will reduce the availability of a female staff member when women really need one.

Many organisations and businesses already have self-ID policies that allow men who say they are women to work in female-only roles. M&S already has a male-born person who identifies as a woman employed as a bra fitter. Girl guides already allow men who identify as women to become Brown Owls and Guide leaders. Next time you request a female medical professional to perform your cervical smear test you have no guarantee it won't be a male-born 'woman' who appears. You may ask for a female carer to look after, and perform intimate care for, your elderly mother or father, but that carer may be a male-born 'woman'. You may ask for a female therapist to discuss a painful history of sexual abuse only to discover you are booked in to see a male-born 'woman'. You may pluck up the courage to report a rape, and request a female police officer only to discover you are expected to discuss harrowing details with a male who says he's a woman. If you, like us, think this has already gone too far we must send a clear message from the public that GRA reforms are widely opposed.

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Question 15: Do you think that the operation of the communal accommodation exception in relation to gender reassignment in the Equality Act 2010 will be affected by changing the Gender Recognition Act?

WE SAY YES TO THIS QUESTION – Self-ID policies are already being used in situations where women will be asleep and vulnerable. This is clearly extremely dangerous – it must be stopped, not made worse by GRA reform.

For reasons of safety, dignity and privacy women want to know if there will be a male-born person sleeping in a shared room with them. A woman does not want to wake up in the night or the next morning to find a male-born person in the room or using the shared washing facilities. Women need to know that women-only accommodation really is male free. Self-ID policies are already creeping into use. Youth Hostelling now allow men who say they are women sleep in female shared rooms, despite advertising their rooms as single-sex. Even more concerning, Girlguiding now allows boys who identify as girls to sleep unsupervised in the same tents as girls, [without even informing parents](#). These self-ID policies applied to communal accommodation contravene normal safeguarding practice and put women and girls at serious risk. If you, like us, think this has already gone too far we must send a clear message from the public that GRA reforms are widely opposed.

Question 19: Do you think that changes to the Gender Recognition Act will impact on areas of law and public services other than the Equality Act 2010?

WE SAY YES TO THIS QUESTION and would describe two important areas; Prisons and Statistics

**(A) Any changes that make it easier for male prisoners to get a GRC (Gender Recognition Certificate) will lead to more males living in female prisons, putting female prisoners at unacceptable risk of male violence and sexual assault. This is totally unacceptable and must not be allowed to happen.**

The UK prison system is separated by sex into male and female prisons. A 2016 prison policy states that if a male prisoner has a GRC, and has a female birth certificate, he is eligible to live in a women's prison. A male prisoner with a GRC can only be refused a place in a women's prison if they are considered so dangerous that they cannot be safely contained within (the lower security) facilities that make up the female estate. However, prison policy also states any refusal would be only in 'exceptionally rare' cases. We do not know how many male-born prisoners with a GRC are currently in UK prisons because the Ministry of Justice does not count these prisoners. But since there have only ever been about 4000 GRCs granted since 2004, the number of prisoners who have one is likely to be very small.

If GRA reforms make it easier to get a GRC then this will apply to prisoners too. If a system of self-declaration of sex is introduced then any male prisoner will be able to change his legal sex on demand, and become eligible to live in a women's prison. The prison service then will be faced with potentially hundreds if not thousands of demands for transfer. It is unacceptable that an inadequate risk assessment process will be the only remaining mechanism by which prison bosses will be able to prevent the move. Most female prisoners are extremely vulnerable and already have a history of domestic violence and sexual abuse at the hands of males. GRA reforms will put women prisoners at an unacceptable risk of physical and sexual violence – this simply must not be allowed to happen.

Under the existing rules some male prisoners without a GRC are already allowed to live in women's prison at the discretion of a special prison assessment panel. We already know that the risk assessments designed to keep women safe have failed and there have been several reports of male prisoners sexually assaulting women. The most recent case happened this summer where a male-bodied prisoner was charged with sexually assaulting 4 female inmates, the first within days of arriving at New Hall women's prison. One alleged victim is quoted as saying the [male-born] prisoner stood close to her and touched her arm while 'her' erect penis was sticking out from the top of 'her' trousers.

Prison experts have already warned that male prisoners are likely to exploit the system to gain access to women. These warnings have so far been ignored. It is imperative the public use this consultation to tell the Government that self-ID is bad law and must not be introduced.

*Frances Crook of the Howard League, a prison reform campaign, has [said that](#) she is worried that 'some men with a history of extreme violence and sexual violence against women have found a new way of exercising aggression towards women'.*

The British Psychological Society [has said](#) “**psychologists working with forensic patients are aware of a number of cases where men convicted of sex crimes have falsely claimed to be transgender females for a number of reasons**”

Dr James Barrett of the British Association of Gender Identity Specialists has said: “**It has been rather naïvely suggested that nobody would seek to pretend transsexual status in prison if this were not actually the case. There are, to those of us who actually interview the prisoners, in fact very many reasons why people might pretend this**”

Fair Play for Women has written extensively on the topic of transgender prisoners, including the submission of written evidence to the Justice Select Committee Inquiry on Prison Planning.

### **(B) The impact on data collection and statistics.**

Accurate records of sex, of who is male and female, is important for policy making. There is already a worrying trend whereby officials are recording someone’s ‘self-declared gender’ instead of someone’s actual sex. If the law changes to legitimise the concept that anyone can self declare not just their gender identity, but also their legal sex class, then sex-based statistics will become meaningless.

For example, the police now record crimes based on someone’s ‘self-declared gender’ rather than their biological sex. Violent and sexual crimes are overwhelmingly perpetrated by biological males. If a biological male says he is a woman his crime is recorded in the female crime statistics. Given that by any measure male violence against women, including sexual violence, is at ‘epidemic’ levels, how on earth can we advocate for women, and for funding for women’s services, if we can’t actually count who is doing what to whom?

To give another example, prison authorities do not actually know how many male-born prisoners are in women’s prisons. Once they legally transition they are counted as female, and lost in the female statistics.

If sex is recorded based on someone’s ‘self-declared gender’ then how can we monitor sexism in the work place? If sex is self-declared how will opportunities aimed at supporting women who are under-represented in the workplace or in parliament be effective? The Labour party are already using the definition of ‘self-identified woman’ to allocate spaces on all women election shortlists and for roles such as Women’s officers – roles and spaces designed to address the historical inequality women have faced. There are already examples of male-born people taking these roles and places designed for women.

### **PART 3: Should birth certificates include more sexes other than just male or female?**

Question 20: Do you think that there need to be changes to the Gender Recognition Act to accommodate individuals who identify as non-binary?

WE SAY NO TO THIS QUESTION – There are only two biological sexes.

Currently you can only be legally recognised as male or female. This reflects the biological reality that there are only two reproductive sexes. (See [here](#) for why intersex conditions do not prove there are more than two sexes).

Non-binary people identify as neither male nor female, however this reflects their subjective 'inner sense of gender'. It does not change the fact that they were born, and always will be, biologically male or female. Non-binary is not a third biological sex option. Therefore allowing someone to change their birth certificate to say they are a third sex called non-binary, or X to denote no sex would serve no useful purpose in wider society.

## **PART 4: What has the government NOT asked you about?**

### Question 22: Do you have any further comments about the GRA 2004?

WE SAY YES TO THIS QUESTION – This consultation has (a) failed to ask what women need from any GRA reform to ensure their existing rights are protected. It has also (b) failed to ask what impact changes would have on all the other groups with protected characteristics.

**(a) The government has promised that trans rights will not be advanced at the expense of women's rights, in order to ensure they stand by this promise, women require the following as a minimum:**

**We must retain and use a workable legal and social category that is exclusive to biological women.**

Without this, women and girls' rights are meaningless and cannot be practically implemented or upheld. Males must only legally transition into the female sex category in **VERY EXCEPTIONAL CIRCUMSTANCES**.

**Biological women's interests must be fairly represented and women must play an active role in the design of any new gender recognition law.**

Currently, there is a dire political failure to ensure women's representation on this issue. The Commons Select Committee's [transgender inquiry](#) consulted with trans lobby organisations like Stonewall, Gendered Intelligence and Scottish Trans Alliance – who openly lobbied to remove women's legal rights – but no women's organisations were consulted. Fifteen trans organisations were called to give oral evidence but NO women's organisations were called. Unsurprisingly, the inquiry recommended the removal of women's legal rights.

Trans organisations like Stonewall, who want to remove and weaken sex-based rights, have advised Government, trained Government and even written guidance on behalf of the Government. The cumulative impact of this has been the weakening of policy, practice and guidelines that are supposed to ensure women and girls are protected.

Equal footing in consultation, design and implementation of law and policy regarding sex-based exemptions that have a profound effect on women and girls rights MUST be given to organisations who are lobbying for biological women's and girls' rights. Groups, such as Fair Play For Women, should have as much of a say as groups like Stonewall or Gendered Intelligence, who lobby for transwomen, and lobby to have female's legal rights removed.

**The right to speak freely to describe the differences between the two biological sexes must be protected, upheld and allowed.**

Essential words and distinctions, and their meanings, are under threat simply because the Government and parliament have been discussing Self-ID policies. People have been [banned from social media](#) for quoting statistics on male pattern violence, and for simple factual statements such as ‘a transwoman is a man with gender dysphoria’. Amid widespread [threats and intimidation](#) on social media and in real-world meetings and conversations, many women with concerns about this law are afraid to speak out publicly.

Biological facts – such as saying ‘women give birth’ or ‘women need cervical smear tests’ or ‘women do not have penises’ – that have a material impact on women’s lives, services and protected spaces are being labelled ‘hate speech’. Women’s right to name and discuss material facts that impact them must be protected, in law and in practice.

**The Government must take the opportunity to use GRA reform to clarify both terminology and the purpose of the law.**

We need a clear definition of ‘transwoman’, ‘transgender’ and ‘transsexual’: Without a clear definition of the group for whom GRA reform is designed, how can the process include and meet the needs of that group YET necessarily exclude those who pose a risk to women and girls’ safety, fairness, privacy or dignity? This clarity and the related definitions are sorely needed, and should be used to inform the Equality Act as well as the GRA.

The Government and the law must clarify that the GRA enables a legal fiction for a small number of people with gender dysphoria, for medical reasons and does NOT mean that the government, the UK, international law or science believes a male can actually – literally – change biological sex to become a female. We need clear definitions of sex (biology) and gender (cultural ideas of masculinity and femininity). Lack of clarity on the difference between gender identity (how a man feels) and biological sex (a man’s physical body which does not change to become female, especially given the majority of transwomen retain their penis) is already causing serious issues and confusion in ‘self-id’ policies such as those outlined above, and in what children are being taught at schools about ‘gender identity’.



**(b) Impact of GRA reform on groups with other protected characteristics.**

The loss of male-free spaces in society does not just impact women on the grounds of their sex, but also impacts other groups in society who are also protected under Equality legislation. The government is obliged to perform an Equality Impact Assessment in advance of any policy changes to fully understand the implications in wider society and to make sure other groups are not being unfairly discriminated against. They have not used this consultation to gather this evidence from stakeholders so it is important these views are submitted here in this open section.

**Religion**

The lack of male-free spaces in society will impact some women for religious reasons. Some religious groups, for example within Islam and Judaism, have strict rules that sometimes prevent females mixing with males, and for females to remain covered in the presence of males. Although places of religion will still in theory be able to use the single-and separate-sex exemptions, the lack of male-free spaces in wider society will limit participation in public life for some women. For example, some Muslim women would be unable to access sports and swimming sessions, or healthcare appointments, unless they were strictly male-free. This group of women will be disproportionately impacted by any changes to the law that leads, directly or indirectly, to a reduction in availability of male-free spaces.

**Disability**

Disabled people could be disproportionately impacted by changes to the law. Disabled people may be more likely to require intimate care and wish that to be performed by a female-born carer. Changes to the GRA may increase the likelihood of disabled people being assigned a male-born carer who identifies as a woman. Although a disabled person can refuse any individual carer they may not want (or in the case of learning disabilities, be able) to voice their discomfort or there may be no one else available. The same issues apply to elderly people, perhaps with dementia, residing in care homes.

Some disabled women may also be more at risk from physical or sexual attack. This may be due to physical vulnerabilities or in the case of people with learning disabilities it may a lack of awareness or disinhibition in the presence of males.

People with learning difficulties may also be adversely impacted if they cannot recognise someone as being transgender. This could lead to confusion and distress if they encountered them when using public toilets for example. This may limit their unsupervised access to some places.

### **Sexual orientation**

Changes to the membership of the protected characteristic of sex will also impact the membership of the protected characteristic of sexual orientation. Sexual orientation is defined as sexual attraction to the opposite sex (heterosexual), the same sex (homosexual) or both sexes (bisexual). This means that a male person could legally become not only female, but a homosexual female if he is attracted to women. Lesbian only clubs, who admit members based on their sexual orientation as a lesbian, may be reluctant, or find it extremely difficult, to exclude a male-born 'lesbian' from joining. Most on-line lesbian dating sites now include male-bodied 'lesbians' and there is increasing – and often hostile – pressure on lesbian women to consider male-bodied lesbians as part of their sexual dating pool. Lesbians have fought long and hard for it to be socially acceptable for women to reject males as sexual partners. **This is currently being undermined.**

### **Age (children)**

We are already seeing many organisations implementing self-identification policies ahead of the law. This is particularly concerning when these organisations are responsible for the safeguarding and care of children. For example, Girl Guiding now allows boys who identify as girls to join and to sleep in tents with the other girls. This is unsupervised and parents are not informed. Allowing a male child to sleep, undress and wash with females, without parents having the opportunity to decide if this is safe or appropriate for their daughter, breaks basic safeguarding principles. Boys and girls are separated for obvious reasons, and these reasons do not change just because the boy identifies as a girl. He remains legally and physically male. Legalising the concept of self-identification of sex will further encourage this trend towards organisations implementing self-identification policies and making poor safeguarding decisions based on gender identity rather than sex.