

PRESS RELEASE
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Fair Play For Women wins High Court challenge and judge orders sex must not be self-identified in the Census

Fair Play For Women have today won their High Court challenge against the Office for National Statistics. The ONS has conceded that the proper meaning of Sex in the Census means sex as recognised by law.

The High Court has now ordered "What is your sex" means sex "as recorded on a birth certificate or Gender Recognition Certificate". The substantive hearing listed for 18 March is vacated and ONS must pay costs of both sides.

The Guidance accompanying the question "What is your sex?" is now published, on a final basis, and directs everyone to answer according to their legal sex for the remainder of the Census.

Jason Coppel QC for Fair Play For Women argued that the sex question in the Census is "a straightforward binary question, not a choice" at the initial hearing on 9 March.

Sir James Eadie QC for the ONS had argued that sex was an 'umbrella term' that includes a range of concepts such as 'lived' and 'self-identified' sex. He also claimed that asking about a person's sex as recognised by law risks a breach of Article 8 of the Human Rights Act, which relates to privacy. The judge Mr Justice Swift disagreed. He stated that Fair Play For Women had a "strongly arguable case" and granted an interim order that forced ONS to immediately change its Guidance.

This case establishes that sex is a distinct concept in law, not something shaped by how a person feels, and that organisations need not worry about asking people their sex when they need to do so.

Dr Nicola Williams, director of Fair Play For Women, said

"Being male or female is a biological reality that affects all our lives. That's why it's important to collect accurate data on sex in the Census. Sex data gets corrupted if the ONS conflates sex with the idea of a feeling, called gender identity, under the question 'What is your sex?'"

"It is also wholly unnecessary because a new question has been added to this census specifically about gender identity. We welcome this separate question on gender identity. We

simply want accurate data on sex to be collected too. ONS plans would have seen gender identity recorded twice and sex getting muddled"

"Against the advice of data experts and concerns raised by feminists and lawyers the ONS pushed on with this hare-brained idea. It should not be necessary to publicly crowdfund over £100,000 to launch an emergency legal challenge just weeks before Census Day. The public needs to trust that our National Statistician will always prioritise good data over political correctness".

"Wider questions must now be asked about how this was allowed to happen. This is not a problem confined to the ONS. The idea that sex isn't just a matter of being born female or male, and that we all have a gender identity, has become embedded within organisations. As a result, sex is being overridden by gender identity in a whole range of public policies without proper scrutiny. It's women and girls who pay the price"

Both parties signed an order set out in the following terms and now sealed by the High Court:

IT IS HEREBY DECLARED THAT "sex", in paragraph 1 of the Schedule to the Census Act 1920 (as amended by the Census (Return Particulars and Removal of Penalties) Act 2019)), paragraph 8 of Schedule 2 to the Census (England and Wales) Order 2020, and the "What is your sex" question in Schedule 2 to the Census (England) Regulations 2020 means **sex as recorded on a birth certificate or Gender Recognition Certificate.**

Dr Williams said "It's great that ONS has been ordered to pay our legal costs. The money we raised for this action can now be used to protect our sex-based rights in other areas, including paying for legal advice and action where necessary."

"This court declaration has implications for the planned guidance for the Scottish census in 2022. Fair Play For Women will be writing to the Scottish government and the National Records of Scotland imminently".

Notes for Editors:

Fair Play For Women is a campaigning and consultancy organisation which works to protect the sex-based rights of women and girls in the UK.

Our work is focused on understanding when and how gender- and sex-based rights conflict in law and policy making.

We believe in compassion and fairness for all. We support the rights of trans people to live in safety and to be treated fairly. We also support the rights of women and girls, and this is our focus. Protecting these rights in law requires that sex is not conflated with gender identity.

Dr Nicola Williams is available for interview and comment and can be contacted on nicolawilliams@fairplayforwomen.com.

Read more: <https://fairplayforwomen.com/why-are-women-fighting-back-against-the-census/>

<https://fairplayforwomen.com/whos-behind-the-government-losing-sight-of-reality/>

Crowdfunder link: <https://www.crowdfunder.co.uk/sexinthecensus2021/>