

# WOMEN'S DECLARATION INTERNATIONAL- UK

## RESTORE SAFEGUARDING – END SEX FALSIFICATION

Remove the category of 'gender' from law, policy and practice

### CAMPAIGN BRIEFING

Women's Declaration International-UK (WDI-UK) is a non-governmental organisation which promotes the [Declaration on Women's Sex-Based Rights](#). The Declaration reaffirms that the rights of women and girls which are set out in the Convention on the Elimination of all Forms of Discrimination against Women (the CEDAW) are sex-based; and challenges the discrimination and harms women and girls experience when the category of sex is replaced with the category of 'gender identity' in law, policy and practice. The Declaration has 37,251 individual signatories from 160 countries and has 518 organisational signatories.

This year is the twentieth anniversary of the introduction of the Gender Recognition Act 2004, which first formalised in law the idea that individuals can acquire a new 'gender'. This legislation, and legislation and policy which have built on it, have had widespread detrimental effects, especially in relation to society's ability to safeguard women, children and vulnerable adults from harm. WDI-UK therefore calls for its repeal and for the removal of other law and policy which are built on its foundations.

Sex is biological and cannot be changed. The concept of 'gender' can be used either as a synonym for sex, or to refer to an identity based on subjective perceptions. It has no basis in material reality but is used in current legislation. The idea embedded in current law, policy and practice that men can become women, at least for some purposes, is a fiction which undermines our ability to safeguard women, children and other vulnerable groups from harm. This idea that men can become women is supported by the operation of the Gender Recognition Act 2004, the concept of 'gender reassignment' contained in the Equality Act 2010 and the Sex Discrimination (Northern Ireland) Order 1976, and by the practice of *de facto* self-declaration of 'gender identity' which is now widely accepted in the public and private sectors. To fully restore safeguarding, we need to change law and policy to end this fiction.

Sex is the most significant factor shaping patterns of criminality. The overwhelming majority of those who commit criminal offences are males. This is particularly the case in relation to sexual offending and offences involving violence. Ministry of Justice [figures](#) published in 2020 show that 98% of those prosecuted for sexual offences in 2019 were male. Criminal justice [data](#) shows that men who claim to be women often retain male patterns of criminality. [Information](#) about the prison population indicates that the proportion of male prisoners claiming to be women who have been convicted of sexual offences is higher than the proportion of convicted sex offenders in the general male prison population.

Law and policy which enables men to falsify their sex is eroding the provision of single-sex spaces and services and putting the safety, dignity and privacy of women, children and vulnerable adults at risk. Men are gaining access to provisions designated as female only, such as domestic abuse refuges, rape crisis centres, hospital wards, prisons, and public toilets and changing rooms. Male participation in female sports is putting girls and women at physical risk and forcing them to change and shower in the presence of males who claim to be women.

**Within the criminal justice system**, men are being placed in women's prisons and police and prison searching policies are based on 'gender identity' rather than sex, which allows men to search women and requires female police and prison officers to search men, some of some of whom are sex offenders. Data recording about suspects and offenders is often based on 'gender identity' rather than sex, which leads to inaccurate criminal justice statistics. The use of the preferred pronouns of suspects and offenders by the police, lawyers, and the courts undermines those giving evidence about their experiences of sexual and physical violence, who are disorientated and distressed when lawyers and judges refer to their male attackers as 'she'.

Anyone can change their name and sex marker on documents commonly used to establish identity, such as passports and driving licences. These documents can then be presented for the purposes of criminal records checks by the Disclosure and Barring Service (DBS checks).

**Within the national health service**, where recognition of sex is crucial to many aspects of medical diagnosis and treatment, data collection is undermined by recording patients and clinicians on the basis of their claimed 'gender' rather than their sex. Male clinicians are claiming to be women in NHS settings; and NHS guidance on 'same sex' accommodation requires men who claim to be women to be placed in women's wards and be allowed to use women's toilets and bathing facilities. A Women's Rights Network [report](#) published in 2023 shows that these policies operate in a context of high levels of sexual assault in NHS settings. They put women, children and vulnerable adults, such as those with physical disabilities, learning disabilities and mental ill-health, at risk. The physical and mental health of children and young people who are labelled 'transgender' has been put at risk by the use of puberty blockers, which usually lead on to the use of cross-sex hormones. This is changing with the implementation of the Cass Review's recommendations, but the widespread influence of gender identity ideology within public institutions is still creating safeguarding risks for children and young people.

**Within education**, many schools are teaching children that it is possible to change sex and have been 'socially transitioning' children without their parents' knowledge. Children are permitted to use the toilets and changing rooms of the other sex, and to share accommodation with children of the other sex on residential trips. This undermines the safety, privacy and dignity of other students. Requiring girls to participate in the fiction that someone they know to be a boy is really a girl encourages them to suppress their natural self-protective responses to the presence of males in what are supposed to be female only spaces, and thereby undermines their ability to keep themselves safe. Undermining children's sense of reality in this way has effects which extend beyond their experiences in school.

All of these safeguarding failures have come about because of the fiction that people can change sex. To fully restore safeguarding we are calling for the complete removal of this fiction from law and policy.

This would require the following:

### **The repeal of the Gender Recognition Act 2004**

This Act enables individuals who meet the criteria set out in the Act to be granted a Gender Recognition Certificate (GRC), which means they will become their 'acquired gender' for most legal purposes. The Act has led to considerable confusion about the boundaries between sex and 'acquired gender'.

One effect of this Act is that a male prisoner who holds a GRC and is therefore treated as a woman for most legal purposes, can generally only be intimately searched by a female prison officer. Males who hold a GRC include sex offenders, and many retain male genitalia. This practice undermines the safety, privacy and dignity of female officers.

### **The removal of the protected characteristic of 'gender re-assignment' from the Equality Act 2010 and Sex Discrimination (Northern Ireland) Order 1976**

The Equality Act is designed to protect people with certain 'protected characteristics' from discrimination and harassment. One of the protected characteristics is 'gender reassignment', which applies to a person who 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." In Northern Ireland, the Sex Discrimination (Gender Reassignment) Regulations 1999 amended the Sex Discrimination (Northern Ireland) Order 1976 to include 'gender reassignment'. It is not necessary to have obtained a GRC to be seen as coming within this protected characteristic in either jurisdiction.

We propose that this protected characteristic be removed from both pieces of legislation, and that other means are used to protect those who subjectively believe that they are undergoing 'gender reassignment' from discrimination and harassment. The legal academic Alessandra Asteriti [argues](#) that they could be protected by being included within the other protected characteristics. Asteriti suggests that those who are, or who are perceived to be, homosexual, could be protected under the characteristic of sexual orientation, that diagnoses of 'gender dysphoria' could come within the characteristic of disability, and that gender expression or gender belief could come within the protection of religion or belief. That would accurately frame 'gender reassignment' and 'gender identity' as rooted in an individual's subjective belief. Other people would then be protected from the possibility of being compelled to share, or pretend to share, that belief.

Whatever method is used for protecting those who claim a 'gender identity' which differs from their sex, careful consideration would need to be given to the ways in which the manifestation of some individuals' subjective 'gender identities' may harm others and undermine safeguarding. Many men who say they identify as women do so due to their autogynephilia. This is a paraphilia which was first described by Professor Ray Blanchard, who [defined](#) it as,

"a male's propensity to be erotically aroused by the thought or image of himself as a woman."

A man who acts out his paraphilia in the presence of other people is a safeguarding risk, particularly in relation to children and vulnerable adults. Restoring safeguarding requires an honest examination of the safeguarding implications of autogynephilia, and the development of recruitment and employment practices which take these implications into account.

### **The ending of *de facto* self-declaration of 'gender identity' in public and private institutions and in identity documents**

Self-declaration of 'gender identity' is not aligned with the current law and the Westminster government has rejected the proposal that it should be introduced into law. However, *de facto* self-declaration of 'gender identity' has been operating within most public sector institutions and within much of the private sector in the UK for many years. This has happened without democratic scrutiny in the absence of any established political consensus, and without any risk assessment of the impact on women, children, and vulnerable adults. This suggests a process of policy capture. The Organisation for Economic Co-operation and Development (OECD) has [defined](#) policy capture as,

“...the process of consistently or repeatedly directing public policy decisions away from the public interest towards the interest of a specific interest group or person. Capture is the opposite of inclusive and fair policy-making, and always undermines core democratic values.”

Even before *de facto* self-declaration became widespread, individuals were able to change the sex recorded on their identity documents on request.

To restore safeguarding, all forms of *de facto* self-declaration of 'gender identity' need to be brought to an end, and all identity documents should accurately record the sex of the individual concerned.

### **The need for a public inquiry**

WDI-UK is calling for a national public inquiry into how the widespread adoption of *de facto* self-declaration of 'gender identity' came about within the UK, and into the effects of all forms of sex falsification on the safeguarding of women, children and vulnerable adults.

### **More information about the campaign**

More information about WDI-UK's campaign to restore safeguarding and end sex falsification can be found at [womensdeclaration.uk](https://womensdeclaration.uk)

### **References**

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