

Response to UN Periodic Review of Human Rights 2022
4th Cycle - 41st session

This response has been written by Fair Play For Women

Fair Play For Women Ltd is a campaigning and consultancy organisation which raises awareness, provides evidence and analysis and works to protect the sex-based rights of women and girls in the UK. Founded in 2017, our work is focused on understanding when and how gender-and sex-based rights conflict in law and policy-making. Our aim is to ensure that everyone's needs are fairly balanced and that women and girls are not forgotten in good policy-making.

Abbreviations

| | |
|------|--------------------------------------|
| EA | Equality Act 2010 |
| EHRC | Equality and Human Rights Commission |
| VAWG | Violence against Women and Girls |
| UKG | United Kingdom Government |

Current situation

1. Women across the UK are campaigning to preserve their human rights to single sex spaces and freedom from discrimination and violence on the basis of their sex class for their safety, dignity and privacy as a result of conflicting rights messages from the failure to apply, misinterpretation of, or in some cases wilful misapplication of, the EA.
2. Accurate and reliable data collection on sex is being undermined by the conflation of sex, gender and gender identity. Sex is being replaced with self-identified gender when recording
 - criminal suspects and convicts
 - medical records
 - employment
 - census data in Scotland
 - organisational pay-gaps
3. The EHRC's Check on UK Government progress reports that there is *limited progress* on combatting Violence against Women and Girls (VAWG). There were 33 recommendations made to the UK Government during the third cycle on women's rights, of which 14 specify actions on VAWG and were supported by the UK Government. Five of the 33 recommendations made to the UK Government during the third cycle on women's rights also concerned trafficking of women and girls. In England and Wales, only 1.6% of rapes that are reported result in the male perpetrator being charged¹.
4. As Baroness Nicholson reported in the House of Lords², a result of the conflation of sex and gender led to a female patient being raped in an NHS hospital. She was subjected to a year-long delay before the hospital finally admitted to the police that an alleged rape took place on a purportedly women-only ward. When police were called to the hospital in England, they were allegedly told by staff that 'there was no male' on the single-sex ward, 'therefore the rape could not have happened'. The alleged rapist has a penis.
5. The EHRC's Check on UK Government progress reports that there is *regression* in policing. It is of significant concern that certain protected characteristic groups report limited confidence in the police or satisfaction with police interactions, including women

¹ HM Government. 2021. *The end-to-end rape review report on findings and actions*. Presented to Parliament by the Lord Chancellor and Secretary of State for Justice by Command of Her Majesty. [Online]. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001417/end-to-end-rape-review-report-with-correction-slip.pdf [Accessed 13 March 2022]

² Hansard, HL deb, Vol. 820, Cols 428-430 (16 March 2022)

from ethnic minorities, young women and bisexual or lesbian women³.

6. The EHRC's Check on UK Government progress reports that there is *limited progress* on just and fair conditions at work. There were 33 recommendations made to the UK Government during the third cycle on women's rights, of which six specify actions on the pay gap and discrimination in work, supported by the UK Government. The pay gap and levels of discrimination in the workplace can only be addressed with meaningful data. The lack of recording of biological sex is a concern as it reduces the likelihood that equality for women in the workplace can be achieved⁴.

7. The EHRC's Check on UK Government progress reports that there is *no progress* in access to healthcare. That women have specific healthcare needs is also recognised in the four women's rights recommendations made to the UK Government in the UPR third cycle to address women's reproductive health. These were noted rather than supported by the UK Government. The EHRC's progress report notes that a shortage of data recording protected characteristics and inconsistent data collection make it difficult to review certain disparities in access. During the Covid pandemic, the need for sex-based data was brought into sharp relief as men are at higher risk of death from Covid, yet women are more likely to be impacted by the social and economic effects of lockdowns. In addition, the Office for National Statistics found that working-aged disabled women are 11 times more likely to die from Covid than non-disabled women⁵. To tackle the effects of diseases medically and socio-economically requires that healthcare professionals and researchers consider biological sex^{6, 7}. To make this possible, standard data sets such as those in the NHS need to record birth sex. Yet, seemingly under the influence of gender identity lobbyists, the NHS has been gradually replacing sex with gender identity in data collection⁸.

³ BMG Research. 2019. *Public Perceptions of Policing in England and Wales 2018*. Prepared for Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services. [Online]. Available at: https://www.bmgresearch.co.uk/wp-content/uploads/2019/01/1578-HMICFRS-Public-Perceptions-of-Policing-2018_FINAL.pdf [Accessed 13 March 2022]

⁴ Sullivan, A., 2021. Sex and the Office for National Statistics: A Case Study in Policy Capture. *The Political Quarterly* 92, 638–651. <https://doi.org/10.1111/1467-923X.13029>

⁵ Office for National Statistics, England and Wales (ONS). 2020. *Coronavirus (COVID-19) related deaths by disability status*. [Online] Available from: <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/articles/coronaviruscovid19relateddeathsbydisabilitystatusenglandandwales/2marchto15may2020> [Accessed 19 March 2022]

⁶ Abate, B.B., et al., 2020. Sex difference in coronavirus disease (COVID-19): a systematic review and meta-analysis. *BMJ Open* 10, e040129. <https://doi.org/10.1136/bmjopen-2020-040129>

⁷ Mauvais-Jarvis, F., et al., 2020. Sex and gender: modifiers of health, disease, and medicine. *Lancet* 396, 565–582. [https://doi.org/10.1016/S0140-6736\(20\)31561-0](https://doi.org/10.1016/S0140-6736(20)31561-0)

⁸ <https://fairplayforwomen.com/how-does-the-nhs-record-data-about-sex/>

Comment on 3rd cycle UPR Recommendations

8. With reference to 34. “In November 2016, the UKG reviewed its policy on the care and management of transgender offenders and concluded that treating someone in the gender in which they identify, rather than their legally recognised gender, will be the safest and the most efficient approach to a range of decisions, including deciding initial location to male and female prisons.”. This policy has demonstrably failed women in prison, as it has enabled violent male offenders to be placed in the female prison estate, where they have caused fear and distress to many women, in addition to actual assault. There is also a negative impact on females working in prisons who are now expected to search males in women’s prisons. This policy is one-sided, created to meet the demands of transgender people without proper consideration for the effect on females. It needs to be reviewed with due regard to all those affected.

Recommendations

1. That the UKG protects the rights of women in general, and in particular women from minority ethnic groups and vulnerable women, to access same sex spaces for medical and social care, medical treatment, prisons, and social spaces; and that the UKG grants women the specific right to legally object to the presence of biological males in those environments without any fear of criminalisation or vilification.
2. That the UKG supports the EHRC in issuing and enforcing updated statutory guidance on the use of the single sex exceptions in the EA, stating clearly that these may operate on the basis of birth sex, and clarifying that the protected characteristics of sex and gender reassignment must not be conflated.
3. That the UKG ensures training provided to the police, prison staff and judges is aligned with the EA.
4. That the UKG ensures that crimes and their perpetrators are recorded on the basis of sex in order to inform responses to sex-specific crimes.
5. That the unique needs of the female prison population to be safe from male violence is recognised by the UKG. We recommend that the prison estate accommodates inmates by sex, not gender identity, and provides accommodation for transgender inmates within single-sex prison facilities or in separate sites.
6. That the UKG ensures absolute clarity of language in relation to sex, gender identity, and gender reassignment, and does not use the neutral “people” in contexts where a sex-

specific term would be clearer and more appropriate.