

The Clare Project
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Dear

To all Sussex MPs

Our credentials

We are writing as Trustees of The Clare Project, a charity formed over 20 years ago, supporting transgender, non-binary and intersex people (TNBI). Based in Brighton, we operate across Sussex. We are one of the largest trans-led orgs for adults in the country, are in receipt of commissions from NHS Sussex concerning health inequity and hold a seat and curate lived experience panels at NHS' first Trans Health Improvement Board.

We understand and know the vulnerabilities that TNBI people experience very well, in healthcare, in society and in work. Protections in law are fundamental. Being TNBI is not rare, and these are not people with 'conditions' or disabilities. However, these are people under assault by society in mainstream media, in politics and in social media.

TNBI people are targeted as following "gender ideology" – an expression devised to other them, to erase any authenticity in their lived experience, in precisely the same way that ultimately brought about Section 28 and the immense harms that followed. There is no such ideology.

TNBI people are being reduced to a simplistic notion of "biological binary sex". This simple binary is a falsehood unsupported by science and medicine which regard physiological sex as complex and nuanced. Rewording the Equalities Act 2010 in these terms is dangerous for TNBI people in society, and erases their identity for not conforming.

Intersex is physiological, varied and can be complex. Approximately 2 per cent of the population are intersex, yet intersex people have no legal recognition or protections. A definition of "biological sex" will further erase their existence. Being TNB is innate, like sexuality. It is equally biological, even if not well understood – i.e. not a behavioural or non-biological trait, nor a psychological disorder. It is the diversity of humanity and has always existed.

Motivation

The recent exchange between Kemi Badenoch, Minister of State for Women and Equalities, and Kishwer Falkner as Chair of the EHRC, is abhorrent because it feigns to address equality and comes from other motivations than protecting women from predatory men.

- Kemi Badenoch claims to be anti-woke, against self-id, same-sex marriage, gender-neutral toilets and banning conversion therapy, and made statements on transwomen being men. Her stance is unashamedly anti-gender, described often as "gender critical".
- Baroness Falkner, a Conservative appointee and other senior members of EHRC similarly have liaised with explicitly anti-transgender organisations like the LGB Alliance and Fair Play for Women, whilst refusing meetings with LGBTQ organisations. There has been no consultation with TNBI people in matters of critical importance to them in these recommendations.

Motivation matters. Senior officials have been leaving the EHRC stating that it is becoming increasingly transphobic. Whilst the letter from Ms Badenoch was not explicitly seeking policy recommendations, it clearly was seeking a means to withdraw protections from trans women in particular. The EHRC reply was clearly framed for developing policy for exclusions of trans women. Thus neither communication represents equalities as we expect them to be.

None of this is about protecting women or enhancing their rights, because it does neither. If the terms “sex” and “gender” have been so confusing since the Equalities Act 2010 was implemented, or in common parlance for 70 years (other than for typifying social roles), then we would have seen the evidence aplenty. There is none. The “confusion” is fabricated, in order to apply a rule that excludes TNBI people from equal rights to common services.

The whole argument (it is not a “debate”) is founded on the premise that transgender women are “biologically men”, may inherit all the worst traits of violent and predatory men, always bigger and stronger, and present a risk to women everywhere. Trans men, non-binary and intersex people, are largely not part of this argument. These recommendations, this push for a change in the EqA 2010, are almost entirely intentioned to exclude transgender women from “women’s spaces” without reasonable cause or reason, rather than with proportionate reason, as currently framed.

Consequences

There is no feasible way that women’s changing rooms, sports facilities, teams, toilets, refuges (even, god help us, book clubs) are going to be policed. Genital examination? Of course not. Everyone to carry a certificate of their “biological sex”? Of course not.

What will happen is that based on perception, individuals not aligning sufficiently to feminine stereotypical appearance, will be challenged, abused, refused entry, or assaulted, and subsequently have no recourse to hate-aggravated in law.

What will happen is that any predatory male could dress as a trans man (yes, absurd), claim to be a “biological woman” (uncertifiable) and on that basis be allowed to enter women’s spaces on trust, because there is no check other than perception. How would women thus be better protected?

Meanwhile a trans man on an all-women’s hospital ward may be regarded as inappropriate by the women there, but be required to be there, by this change of definition. And a trans woman in an all-male ward may similarly be in fear and stressed while sick, by being both among men and vulnerable as transgender.

The (cis) woman with PCOS and too much facial hair, rather as in some ethnic groups, facial hair on women is normal, or with too low a voice, may become scared to enter spaces where anti-gender women will constantly challenge them. (This is already a reality.)

How will TNBI young people, knowing they can never fully transition into a comfortable life, never gaining the legal identity to give them recognition of authenticity, face their futures?

As the right to live authentically in one’s felt gender is eroded and refused – whether in medical care (already in a parlous state), in education settings, in typically gendered employment, or in society in general – TNBI lives will be at stake. 2022 research reveals 82% of transgender individuals have considered killing themselves and 40% have attempted suicide, with suicidality highest among transgender youth. Framing all humans as binary “biological sexed” will cost lives. This is not what human beings solely experience.

And no women will be any safer, rather the reverse, because these communications are only about excluding trans women from women's spaces, which are already protected under the existing EqA.

We have many extreme examples of the same anti-gender movement in the USA, starting with this redefinition of words, the so-called "bathroom bills", and progressing to wide removal of LGBTQI freedoms to life, healthcare and education. We must not go there.

What we are asking of you

We represent thousands of TNBI people in real life and understand the existing challenges of this maligned and discriminated minority. Being TNBI is no more their choice than the colour of their eyes, yet the anti-gender movement spreading across this part of the world is forming opinions against them, not least via the right-wing press and among politicians. They must not be a political football, rather be protected and treated with equity.

You represent us in our democratic parliament, and we ask that you speak up and stand up for us. The Gender Recognition Act is onerous and unfair, and should be reformed. However, rewording the Equality Act 2010 as suggested by the EHRC will not just undermine what we have, but render gender recognition meaningless.

TNBI lives really are at stake here, and we are registering the deep-seated fears that we are hearing from them – from among your constituents.

with best regards

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