

Gender ideology and the erosion of child safeguarding principles

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Gender Equality Glossary

UN Women

Definition of sex

“the physical and biological characteristics that distinguish males from females.”

Definition of gender

“the roles, behaviors, activities, and attributes that a given society at a given time considers appropriate for men and women... These attributes, opportunities and relationships are socially constructed and are learned through socialization processes.”

Sex and gender – a medical view

“Sex has a biological basis, whereas gender is fundamentally a social expression. Thus, sex is not assigned – chromosomal sex is determined at conception and immutable. A newborn’s phenotypic sex, established in utero, merely becomes apparent after birth, with intersex being a rare exception.”

(Richard Byng, Susan Bewley, Damian Clifford, Margaret McCartney, ‘Gender-questioning children deserve better science’, (2018) *The Lancet*, Vol. 392, Issue 10163, December)

Gender ideology's concepts of sex and gender

The Yogyakarta Principles: Principles on the application of international human rights law in relation to sexual orientation and gender identity (2006)

“Gender identity is understood to refer to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the ***sex assigned at birth***, including the personal sense of the body (which may involve if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.”

(Emphasis added)

The Yogyakarta Principles Plus 10 (2017)

Principle 31: The right to legal recognition

States shall:

A. Ensure that official identity documents only include personal information that is relevant, reasonable and necessary as required by the law for a legitimate purpose, and thereby end the registration of the sex and gender of the person in identity documents such as birth certificates, identification cards, passports and driver licences, and as part of their legal personality.

C. While sex or gender continues to be registered

i. Ensure a quick, transparent, and accessible mechanism that legally recognises and affirms each person's self-defined gender identity

Women & Equalities Committee Transgender Equality Inquiry: Submissions re safeguarding risks

- In their submissions to the Inquiry both the British Association of Gender Identity Specialists and the British Psychological Society stated that some male sex offenders who claim to be transgender are doing so as a means of seeking easier access to women and children in order to make subsequent sexual offending easier.
- The British Association of Gender Identity Specialists described “an ever increasing tide of referrals of patients in prison serving long or indeterminate sentences for sexual offences”, who “vastly outnumber” prisoners referred to them who have committed non-sexual offences.

Sex offenders claiming a transgender identity

- Ministry of Justice figures published in 2018 estimated that long-term prisoners in the prison estate in England and Wales included 125 offenders who claimed a transgender identity
- 60 of the 125 were sex offenders
- Of these 60, 29 had convictions for sexual offences relating to children

(BBC News, *How many transgender inmates are there?*, BBC Reality Check team, 13 August 2018)

World Health Organisation: Research on violence against women and children

- The World Health Organisation has described violence against women as “a global health problem of epidemic proportions.”
- In 2013 it published research based on international data which suggested that 35% of women worldwide had experienced physical and or sexual violence from a male assailant.
- In 2011 it published a review of the international prevalence of the sexual abuse of children, which found that 20% of girls and 8% of boys had been sexually abused

(World Health Organisation, *Violence Against Women*, www.who.net)

Child sexual abuse in England and Wales: Sex of perpetrators

- Ministry of Justice – of 8,806 defendants in sexual offences against children cases in 2017, 98% were male
(*CJS Outcomes by Offence*, May 2018)
- Police recorded child sexual exploitation profiles published in 2017 – of 6,107 offenders, 93% were male
(National Police Chiefs' Council, *Regional CSE problem profiles*, including non-recent offences, 2017)

Sexual harassment and sexual violence in schools

House of Commons Women and Equalities Committee,
Third Report of Session 2016–17

- Data published in September 2015 showed that 5,500 sexual offences were recorded in UK schools over a three-year period, including 600 rapes
- 59% of girls and young women aged 13-21 said in 2014 that they had faced some form of sexual harassment at school or college in the past year
- 29% of 16-18 year-old girls say they have experienced unwanted sexual touching at school
- 22% of young girls aged 7-12 have experienced jokes of a sexual nature from boys
- 71% of all 16-18 year-olds (boys and girls) say they hear sexual name-calling with terms such as “slut” or “slag” used towards girls at schools on a daily basis or a few times a week
- 41% of UK girls aged 14 to 17 who reported an intimate relationship experienced some form of sexual violence from their partner
- 28% of 16-18 year-olds say they have seen sexual pictures on mobile phones at school a few times a month or more

De-facto self-declaration of 'gender identity' in the UK

In recent years, *de facto* self-declaration of “gender identity” has been introduced in many public and voluntary sector services, who now allow boys and men with a female “gender identity” access to female single-sex services and spaces. Those which particularly affect girls include:

- schools
- hospitals
- some refuges for women and children fleeing domestic abuse
- some rape advice and counselling services
- Girl Guides

Policy capture: OECD definition

“...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. The capture of public decisions can be achieved through a wide variety of illegal instruments, such as bribery, but also through legal channels, such as lobbying and financial support to political parties and political campaigns. Undue influence can also be exercised without the direct involvement of public decision-makers, by manipulating the information provided to them, or establishing close social or emotional ties with them.”

(Organisation for Economic Co-operation and Development (OECD), ‘Preventing Policy Capture: Integrity in Public Decision-making’, (2017), 9 https://read.oecd-ilibrary.org/governance/preventing-policy-capture_9789264065239-en#page9)

Case of Re J (a minor)[2016] - an “emerging orthodoxy”

- This case involved High Court family proceedings relating to a seven year old boy who was, in effect, having an identity as a “transgender girl” imposed on him
- The judge stated that the local authority Children’s Services had consistently failed to take appropriate action where there were strong grounds for believing that the child was at risk of serious emotional harm
- He suggested that this was because the social workers “did not wish to appear to be challenging an emerging orthodoxy in such a high profile issue”

School policies on the use of toilets, showers, changing rooms, and sleeping facilities

Trans Inclusion Toolkit, Brighton & Hove City Council & All Sorts Youth Project (2019)

Pupils and students are supported through the Equality Act to access the toilet that corresponds to their gender identity; so trans girls because they are girls, can use the girls' toilets and trans boys the boys' toilets.

In all cases, trans pupils or students should have access to the changing room that corresponds to their gender identity.

As far as possible, trans pupils and students should be able to sleep in dorms appropriate to their gender identity. Some trans and young people may not feel comfortable doing this and in such cases alternative sleeping and living arrangements should be made.

Trans pupils: guidance for schools in Scotland on the Equality Act 2010, ECHR, Confidential Draft

If a school adopts a policy that all pupils must use the facilities (toilets, showers and changing rooms) of the sex that was recorded at birth, they should be aware that this could amount to indirect discrimination against a trans pupil so they must show in each case that the decision is a proportionate means of achieving a legitimate aim.

Schools can lawfully take an inclusive approach to generally accommodate trans pupils in single-sex communal accommodation that aligns with their gender identity... before deciding on sleeping arrangements schools must consider whether the exclusion or separation of a trans pupil is justified as being a proportionate means of achieving a legitimate aim.

The EHRC draft guidance's approach to child safeguarding

“In view of the EHRC’s statutory remit, this guidance does not and cannot deal with all considerations that schools need to take into account, such as safeguarding...” (p.4)

Trans Inclusion Schools Toolkit: Advice on responding to parents' concerns

Parent to school: 'All this talk about gender identity is confusing for children. They are too young to understand.'

A small minority of children have a very clear understanding that their assigned sex does not align with their gender identity at a young age. Work in educational settings to challenge gender stereotyping and to explore a range of gender identities makes school safer and more inclusive for all genders, not just those who are trans. For children who are comfortable in their gender assigned at birth there is no confusion.

Parent to school: 'My daughter doesn't want a boy changing next to her – what if he looks at her body?'

- Underpinning this scenario is the idea that a trans girl is not a 'real girl' and this would be something that a whole setting approach would challenge through training and awareness raising. A Human Rights response would be to state that the child is a girl and as such has the right under the Equality Act to change with the girls and to be treated fairly as such.
- In response to this parental concern, it would not be appropriate to remove the trans pupil from the changing rooms, but to work together with the parent raising a concern and their child to find a different solution.

Drag Queen Story Time



LGBT Consortium:

- The premise is simple: Local Drag Queens providing a fun, inclusive, reading time for local schools, children and hospitals.
- The aim of DQST is to capture the imagination and fun of the gender fluidity of childhood, while giving children a glamorous, positive, and unabashedly queer role model.