



*Women's Human Rights Campaign
June 2021*

WHRC Women's Health Consultation 2021

The Women's Human Rights Campaign is a grassroots international organisation based in the UK. It was set up in early 2019 to promote the Declaration on Women's Sex-Based Rights, <https://www.womensdeclaration.com> which reaffirms women's hard-won human rights, as defined by CEDAW, and argues that these rights are undermined or overturned by the admission of men who consider that they have a feminine gender identity to the category of women. The Declaration has been signed by 356 organisations, in 137 countries and 18,124 individuals and rising.

The effects of substituting 'gender identity' for sex in policies and practice are detrimental to women's health as women's rights to sex-specific services are eroded in the NHS, in prisons, in sports and in child protection. The introduction to the women's health consultation aims to address inequalities in women's health which cannot be achieved if the law is misinterpreted, and women's single sex spaces and activities include men who claim a female 'gender identity'; or if the legal exemptions for single sex facilities contained within the Equality Act (2010) are not applied.

The use of women's bodies as baby incubators in the practice of surrogacy within the UK gives rise to further health hazards, which were lightly dismissed in the recent Law Commission consultation (2019).

Single-sex facilities and services

Single-sex accommodation in the NHS

'Sex' is a protected characteristic in the Equality Act 2010. 'Gender reassignment' is also a protected characteristic, but single-sex spaces can, and must, justifiably be maintained in certain settings such as hospital wards.

In the 1970s and 1980s men and women in-patients, along with representatives of the Royal College of Nursing, Women's Institute and health care workers, opposed mixed-sex ward accommodation, particularly in relation to psychiatry, where women, both patients and nurses were found to be [at risk from sexual predators](#).

It took nearly twenty years, from 1990 to 2009/10, for the NHS to introduce the mandatory [abolition of mixed sex accommodation](#) and to bring in a national reporting system for breaches of single-sex



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accommodation (SSA) and their justification. Women are entitled to be accommodated in single-sex wards, to request a same-sex practitioner and a chaperone.

In 2019 Annex B was added to the guidance, resulting in the introduction of policies that used the term 'gender identity' rather than 'gender reassignment'. This has caused confusion for NHS managers. A recent research paper demonstrates the [need to clarify guidance](#) for the provision of single-sex accommodation in health care settings so that women are not forced to share wards with men who claim a female 'gender identity'. Namdharkhan and Cleaves found that half of the 52 trusts surveyed prioritised 'gender identity' rather than sex.

Single-sex women's shelters

Women and children forced to flee abusers need single-sex shelters for their safety, privacy and dignity.

Single-sex teams in women's and girls sport

Article 7 of the Declaration on Women's Sex-based Rights reaffirms women's rights to the same opportunities as men to participate actively in sports and physical education, based on article 10 (g) of CEDAW.

Eligibility standards for participation in female sports must be restricted to women and girls. Males who claim a female or 'trans' 'gender identity' are currently competing against women in many sports and jurisdictions, from grassroots to elite. These men and boys have an unfair anatomical advantage against women, no matter what surgery they have had or medication they have taken. They also put women in physical danger, for example, a male mixed martial artist who claims to be a woman, Fallon Fox, crushed his female opponent's eye socket during a bout. Other men competing in women's sports have broken their opponent's bones and caused further serious injuries.

Teenage [girls' enthusiasm for sports](#) is already low and contributes to a less healthy lifestyle. Allowing men and boys into their sports will further reduce their enthusiasm and participation as they are put off by images of men and boys winning women's competitions because of their superior stature and strength. One mother addressing the US congress depicted her daughter's humiliation and sense of defeatism when a [male athlete identifying as a female](#) won again and again. Women who train so hard will never be able to beat a biological male no matter how hard they work.



*Women's Human Rights Campaign
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Single-sex provision for women in the prison estate

Article 8 of the Declaration on Women's Sex-based Rights reaffirms the need for the elimination of violence against women

Women in prison are a particularly vulnerable population with a high incidence of [mental health problems](#) such as self-harming, which is four times more frequent than for women in the general population. A poorly considered policy of transferring men into women's prisons has endangered the [health and well-being](#) of this population even further. Males convicted of violent and sexual offences have been housed in women's prisons where they have harmed female prisoners. In evidence recently submitted to the Women and Equalities Committee the group '[Keep Prisons Single Sex](#)' reported incidents including sexually threatening behaviour, sexual exhibitionism, assault and sexual assault, as well as women being left frightened because they had no choice but to share their spaces with male prisoners.

Women in prison report a high incidence of abuse and sexual violence history at the hands of men and those working in the criminal justice system are advised to proceed on the assumption that female offenders are deeply traumatised. Female-only spaces and services are important in enabling women to tackle the complex issues surrounding their offending. However, the Ministry of Justice and HM Prisons and Probation Service policy is to house [all male prisoners](#) who have obtained a Gender Recognition Certificate (GRC), in women's prisons. For women in prison, this means that a male with wholly intact and fully functioning male anatomy has a GRC he must be housed with them.

Although the policy framework refers to 'exceptional circumstances' whereby a male with a GRC would not be housed in the female estate, it seems contradictory. Viz: all recognised genders should be considered and include those who: • are intersex or individuals with variations of sex characteristics who are content with their sex assigned at birth; • do not identify with a gender (non-binary); • have an inconsistent gender identity (gender fluid); • are cross dressers (transvestite). Presumably this is how 'Nicola Cope' a male incarcerated for rape and child sexual assault is in New Hall women's prison, Yorkshire, a prison which includes a mother and baby unit.

The rights of the child



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Article 9 of the Declaration on Women's Sex-based Rights reaffirms the need for the protection of the rights of the child.

The recent (2020) High Court judgment [against the Tavistock clinic](#) halted the use of puberty blockers on children on the basis that the information given to those under 18 by the clinic is misleading and insufficient to ensure informed consent. The government's most recent PSHE guidance forbids teachers telling children that they can be 'born in the wrong body'. Organisations that promote the ideology of transgenderism, with its attendant requirements for lifelong medication and experimental surgeries, should be banned. The NHS is already picking up the bill for those who are de-transitioning, who [regret the mutilations and medication](#) of their bodies.

Sex-disaggregated data

As mentioned in the introduction to the consultation, the 'male by default model' of health care must be changed so that differential health outcomes by sex provide valuable data. Data disaggregated by sex (not gender) and analysed to understand the differential outcomes for women, men, girls, and boys is pivotal to uncovering key sex differences in health and development, for example the different effects [on physical and mental health](#) of the Covid-19 virus on men and women.

Surrogacy

Article 3 of the Declaration on Women's Sex-based Rights reaffirms the rights of women and girls to physical and reproductive integrity. Surrogate motherhood is a violation of physical and reproductive integrity and should be eliminated as a form of sex-based discrimination against women.

The medical and psychological harms of surrogacy to women and children are many. As multiple embryos are commonly transferred, the risk of premature delivery is many times higher. Multiple-gestation pregnancies are associated with a [significantly higher risk](#) of hyperemesis, gestational hypertension, gestational diabetes, anaemia, preterm labour, haemorrhage, caesarean delivery, and caesarean hysterectomy than singleton pregnancies. Yet this multi- \$bn industry wishes to press ahead with what amounts to an experiment on women's reproductive systems. Even in 'altruistic' surrogacy where mothers do not profit, the commercial interests of fertility clinics, lawyers and agencies benefit financially.



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Egg collection particularly requires expensive drugs and risks, such as [Ovarian Hyperstimulation Syndrome \(OHSS\)](#). In a study of 339 women 14.5% needed hospital admission and 7.5% needed intravenous fluids. 1% of such cases will be severe and bring 11 different risks, 3 of them long term and potentially fatal. Many egg providers have experienced rare cancer, ovarian cysts, endometriosis, and other negative health effects as a result of high-dose hormone injections and other procedures involved in harvesting their eggs.

Sir James Munby, the president of the family division, describes the removal of a baby at birth as a drastic decision. He advocates transparency of decisions about removal of a baby at birth so that the child can later find out about [the circumstances surrounding their birth](#). The Law Commission proposal that the commissioning parent(s) of a child born to a surrogate mother becomes the parent(s) at birth erases the mother from the child's history. Even if the child of a surrogate mother finds out about their origins, they will find that the foundation of their existence is a contract involving money.

Surrogacy is banned in many countries including comparable European countries like France, Germany and Spain in recognition of scandals known all over the world. Cases such as [Baby Gammy](#), where solicitors abandoned one of two baby twins because he was born with Down's Syndrome; a Japanese billionaire who [ordered 16 children](#) à la carte; and the ["baby farms"](#) in Asia. Recently the Covid-19 pandemic caused the abandonment of dozens of [institutionalised babies of surrogacy](#) in the Ukraine, unable to be collected by their commissioners because of travel bans.

In India concern about profiteering by middlemen and commercial agencies, exploitation of surrogate mothers, abandonment of children born out of surrogacy, rackets like organ trade and embryo import led to the [banning of international surrogacy](#). Now that international surrogacy is banned in India, [Britons](#), who were the largest market, will look to other countries.

Recommendations

1. The health care strategy should recognise that the NHS policy of single-sex accommodation rests upon the EA (2010) exception that the protected characteristic of sex, and that this supports women's right to single-sex accommodation, their right to ask for a same sex practitioner and a chaperone. Similarly, in the interests of women's health, the single-sex exception should apply in women's shelters, women's sports and the prison estates.



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2. Education and care for children who are struggling with puberty should be strengthened and the promotion of the message that children can be 'born in the wrong body' banned, with any organisations advocating for this removed from education and health care settings.
3. The exploitation of women's bodies for surrogacy should be banned.