

Michael Biggs, Rebecca Bull, Naomi
Cunningham, Maya Forstater, Emma
Hilton

From: Marcial Boo,
Chief Executive, EHRC

Our Ref: 806SexMatters

07 December 2021

By email only

Dear Sex Matters Board of Directors,

Thank you for your letter of 23 September, and for resending it. Apologies for the delay in responding. Thank you too for Helen Joyce's book which I look forward to reading.

I am very grateful to Sex Matters for your response to our strategy consultation. Like you, many respondents, from various perspectives, were keen for us to address issues of sex and gender. I can assure you that we will. We of course take the rights of those with all protected characteristics seriously. But we are clear that there is much current debate, some of it highly charged, about the inter-relationship between the protected characteristics of sex and gender reassignment. As part of our stated desire to foster good relations between groups, we intend to play an impartial, authoritative and evidence-based role to encourage consensus and to clarify the law where necessary. To that end, we will continue to meet stakeholders representing a range of views, and I would be happy to meet you at a convenient time too.

In your letter you ask that we clearly communicate what the Equality Act 2010 defines and prescribes in this contentious area. We have already attempted to do so. In May 2021, for example, we successfully challenged an application to

judicially review our Equality Act Code of Practice guidance on separate or single-sex services. In defending our guidance, we were able to clarify that trans people can be excluded from accessing such services if their exclusion can be objectively justified. The judge held that interpretations of the single-sex provisions that always banned all trans people from such services were wrong. As this area of law is commonly misunderstood, we have committed to publishing guidance in January to provide further clarity. This will enable service providers to understand and apply the law correctly, and for service users to have a clear understanding of what to expect. There will be other ways in which we can use our statutory responsibilities to ensure that the law is understood and complied with.

I must also clarify that we do not use the Equality Act to promote childhood transition. Decisions about medical treatment are for medical professionals, those representing the best interests of young people and young people themselves.

I agree entirely with our Chairwoman that our independence and impartiality is non-negotiable. We exist as the public body established by Parliament to promote and uphold equality and human rights law and to tackle discrimination against those with any of nine protected characteristics. As such, we are committed to listening to all those interested in these issues. I look forward to meeting you, as well as those with opposing views, so that we can together find ways to clarify the law and narrow the areas of potential conflict, including by our providing helpful guidance to service providers and others to protect the vulnerable and to reduce discrimination.

Arndale House, The Arndale Centre
Manchester, M4 3AQ

equalityhumanrights.com

Yours sincerely,

S40(2)

Marcial Boo

Chief Executive

Equality and Human Rights Commission

Maya Forstater and Helen Joyce
Sex Matters
Via email: info@sex-matters.org

From: Marcial Boo, CEO
Our ref: 1182ForstaterJoyce

Wednesday 08 February 2023

Dear Maya and Helen,

Subject: Your letter on our call for evidence for the Statutory Review

Thank you for your time on 31 January and for your letter of 20 January with concerns about some terminology in our call for evidence for our forthcoming Statutory Report. The purpose of this exercise is to enhance our extensive analytical programme by actively requesting input from those who may have data and evidence to fill identified gaps.

You note our reference to “gender differences” in the Call for Evidence. The term “gender differences” was used to reference the Commission’s 2017 Measurement Framework topics, which underpinned the methodology of previous statutory reports. Historically there has been some conflation of the terms ‘sex’ and ‘gender’, as you know – for example, the ‘gender pay gap’, as it is known in law, should properly be understood as a sex pay gap. We are now in the process of being clearer about which concept we are referring to, and we will do this in our Statutory Report, when it is published later this year.

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We have added a clarification to our call for evidence to make clear that we are not referring to gender identity.

Regarding the use of the term 'religion', you are right that it should have been followed by '...or belief'. This was a shorthand used in error, and which was not picked up in our proofreading processes. We have corrected the text on the website.

Thank you for bringing these issues to our attention. Regarding the call for evidence itself, if you have data or evidence that meet the criteria we have specified, please do submit it and we will gratefully review it.

Yours sincerely,

S40(2)

Marcial Boo
Chief Executive

March 21 2024

Kishwer Falkner
Chair, Equality and Human Rights Commission
50 Victoria Street
London SW1H 0TL

cc: Kemi Badenoch, Gillian Keegan, Laura Farris

Dear Kishwer Falkner

We are writing concerning the EHRC's published response to the DfE consultation on its draft guidance for schools on gender-questioning children.

We think the EHRC's analysis is misdirected about the application of the Equality Act. It emphasises the risk of indirect discrimination, but ignores the direct discrimination involved in exempting or excluding children from rules and policies designed to safeguard them because they have a protected characteristic.

This tendency has been identified as "adultification", a type of bias which skews the perception of certain children, leading to professionals viewing them as more "grown up", or "adult".

The EHRC response suggests that DfE should tell schools to undertake "case-by-case" assessment instead of enforcing clear sex-based rules, and that schools should be told to agree to referring to boys as girls ("she") and girls as boys ("he"). This is not required by the Equality Act or the Human Rights Act, and it undermines safeguarding for the pupil in question and for others. We have published our analysis, and it is attached.

We raised the issue of safeguarding with you in a letter sent on 17th November 2023. We noted then, and are raising again now, that it is a critical gap that the EHRC's governance manual does not mention safeguarding or include a process for due diligence concerning recommendations and guidance in this regard. The EHRC should have a published safeguarding policy, and a process, with board-level oversight for assessing the safeguarding implications of its guidance and recommendations.

Yours sincerely

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Maya Forstater
Executive Director

Helen Joyce
Director of Advocacy

Fiona McAnena
Director of Campaigns

Sex Matters is a human-rights organisation campaigning for clarity about sex in law, policy and language | sex-matters.org | info@sex-matters.org

Maya Forstater, Executive Director

Helen Joyce, Director of Advocacy

Sex Matters

Stephanie Davies Arai BEM, Director

Transgender Trend

By email only

From: Baroness Kishwer Falkner,
Chairwoman

Our ref:

20240325ForstaterJoyceDavies

Monday 25 March 2024

Dear Maya, Helen and Stephanie,

Thank you for your letter of 17 November, outlining your concerns about Recommendation One from our Equality and Human Rights Monitor 2023 (the Monitor). I apologise for the delayed response.

The Monitor is the most extensive assessment of Britain's equality and human rights landscape and uses a robust, data-driven approach to identify key challenges. The report and its recommendations aim to inform discussions and decision making, promote action and support tangible progress.

In developing the 2023 report we deliberately chose improving data collection as a main focus of our recommendations. That is because we know that high quality data is still lacking in many areas, and that improved data collection is key to strengthening the ability of policymakers and practitioners to respond to the equality and human rights challenges they face. As long as we have incomplete data, it will not be possible to fully explain or address the inequalities

we observe.

Recommendation One is directed at UK, Scottish and Welsh Governments' data producers, and concerns research and data collection on bullying in schools, including the prevalence of bullying related to protected characteristics.

Our recommendation covers all protected characteristics, but we specifically highlighted the protected characteristics of sexual orientation and gender reassignment in this recommendation as there is evidence that these are often omitted from equality data collection.

We have not specified exactly what data is gathered. Even better understanding the incidence of bullying reported as, say, homophobic or transphobic would improve the quality of the evidence base. Nor have we specified a methodology for collecting the data we recommend is gathered, as research methods must be appropriate for the context in which they are applied.

In particular, we recognise the importance of safeguarding considerations when seeking to collect data in relation to children and young people. Data owners and principal investigators are responsible for assessing the safeguarding risk and disclosure risks in their projects. This is laid out in the UK's statistical regulation system and data governance legislation; it is not for us to advise on those issues.

As part of our routine stakeholder engagement, we discuss recommendations with those who have a responsibility in delivering them, and we will draw the considerations you highlight to their attention in any such discussions. We will also add a clarification to our website to set expectations for the

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recommendations made. As always, we welcome your feedback and the time you have taken to provide it.

Yours sincerely,

S40(2)

Baroness Kishwer Falkner of Margravine
Chairwoman
Equality and Human Rights Commission |

Jan 20, 2023

Dear Marcial Boo

We have received the EHRC's request for evidence for its statutory review.

As you know there has been confusion, and continued uncertainty about the meaning of the protected characteristic of "sex", with some people and organisations conflating it with self-identified gender. This undermines women's rights. There have also been cases of belief discrimination in relation to this.

In your request for evidence you ask for data on "gender differences" by industry, occupation, region and sector. It would be helpful to clarify that in fact here you mean sex.

Instead of listing the protected characteristic of "religion and belief", you are only listing religion. This ignores discrimination and harassment due to non-religious belief.

As the nation's guardian of equality and human rights it is important that the EHRC sets the standard for understanding the Equality Act, and its protected characteristics, particularly where there is conflict and disagreement over their definitions.

Yours Sincerely

S40(2) S40(2)

Maya Forstater
Executive Director

Helen Joyce
Director of Advocacy

Sex Matters is a human-rights organisation campaigning for clarity about sex in law, policy and language | sex-matters.org | info@sex-matters.org

Directors: Michael Biggs, Rebecca Bull, Julia Casimo, Naomi Cunningham, Maya Forstater, Emma Hilton

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Workplace survey 2022

Early results report to the EHRC

Sex Matters is a human rights organisation campaigning
for clarity about sex in law, policy and language

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Introduction

There have been several high-profile cases of people experiencing bullying, harassment and discrimination at work for saying that sex matters – including the employment-tribunal cases of Maya Forstater¹, Allison Bailey² and Jo Phoenix³, and others that have received public attention such as Professor Kathleen Stock at Sussex University⁴ and Suzanne Moore⁵ and Hadley Freeman⁶ at the *Guardian*.

Sex Matters carried out a survey in 2022 to find out how widespread this experience is.⁷

The survey received 2,203 responses. It shows that these high-profile cases are just the tip of an iceberg. The responses show evidence of hostile workplaces, with respondents consistently expressing fear of being ostracised by colleagues, and of not being considered for promotion or even losing employment.

- **Nearly a quarter (23%) said that managers were hostile towards people with gender-critical beliefs.** Just 10% said that managers were supportive.
- **Over half (54%) of respondents said that people with gender-critical views face hostility from management or colleagues.** Only 4% said that people with gender-critical views were respected within an environment where difference is valued.
- **More than two-thirds (68%) said they did not express gender-critical views publicly (such as on social media) for fear of a backlash at work.**
- Nearly a half (44%) said they feel like their workplace is hostile to people like them.
- A third of respondents (34%) said they feel under pressure to say things they do not believe to keep their job.
- 17% said that they had been involved in clashes at work.
- **10% of respondents said that they had been bullied or harassed.**

87% female of respondents were female and most were between 35 and 64, with the 45–54 most age group most represented. Although it was not a representative survey, this suggests

¹ *M Forstater v CGD Europe and others* [2022] UKET 2200909/2019

² *Ms A Bailey v Stonewall Equality Ltd and others* [2022] UKET 2202172/2020

³ Prof Jo Phoenix (2021). 'Harassed, silenced and compared to a racist for my gender-critical views'.

⁴ George Grylls (2021). 'Kathleen Stock resigns from University of Sussex after trans rights row'. *The Times*.

⁵ Charlotte Tobitt (2020). 'Why Suzanne Moore resigned: Says Guardian editors removed views on trans issues from comment pieces'. *Press Gazette*.

⁶ Anita Singh (2022). 'Hadley Freeman: "Atmosphere of fear" governs Guardian trans coverage'. *The Telegraph*.

⁷ Responses were solicited through social media and Sex Matters' mailing list between 13th October and 13th December 2022.

that older women are particularly disadvantaged by workplaces which discriminate against people who express gender-critical views.

I have never been so afraid to hold what I believe are fair and protective views towards vulnerable women. This is a marked change.

Female, 55–64, Scotland, Social care, Local government

I find it incredible and depressing that after 36 years in this industry pushing back at all of the sexism and misogyny I have faced, it feels like I am back at square one, opinions dismissed, males prioritised over females, fearful of speaking out. As an out lesbian in the workplace I worry that it will only take one vocal trans rights activist within the wider company to discover my views and it could be a very uncomfortable or even unsafe place to work.

Female, 55–64, Property/construction, Small business

I have attended training where presenters have defined ‘transphobia’ as thinking that your ‘sex assigned at birth’ is more significant than your ‘gender identity.’ It’s absolutely hopeless – there is no discussion to be had – you either say nothing or get piled on by colleagues who have never even met you.

Female, 45–54, Public Administration, Central government

I would not feel safe speaking out openly about my gender-critical views or criticising the policies based on gender ideology, and would fear for my job if I did. I would also feel very uncomfortable working with anyone trans-identifying in this environment, as I would feel obliged to demonstrate agreement with their beliefs about themselves (even if I disagreed) or to risk career consequences.

Female, 45–54, Business, Central government

I feel so angry and frustrated that no one wants to hear us. They’re not interested in representing the law properly or taking advice from people who have a different view. I feel it would damage my career severely to speak up... I feel stressed about it all the time. I sometimes just feel like quitting. All the talk is of being your authentic self at work but women in particular who disagree have no scope to question, to challenge, to disagree, to be authentic to their own beliefs.

Female, 45–54, HR, Voluntary sector

A significant minority (44%) said that their belief about sex relate to their religion and 45% said that transgenderism had affected them or someone in their family personally (they have transitioned or de-transitioned; their child, spouse or other family member has transitioned or de-transitioned)

This is an early release of the survey results to input into the EHRC Statutory Review. A full report will be published in the second quarter of 2023.

Gender-critical at work

The survey was designed to collect feedback from people who identified as gender-critical.

- 95% of respondents strongly disagreed or disagreed that transwomen are women, transmen are men and non-binary people are non-binary.
- 97% of respondents strongly agreed or agreed that they instinctively feel that there are basic facts about the sexes which are common sense.
- 88% of respondents strongly agreed or agreed that they were a feminist and that being gender critical is about defending women's rights.
- 98% of respondents strongly agreed or agreed that they were concerned about children transitioning.
- 97% of respondents strongly agreed or agreed that they were concerned about the conflation of transgenderism with sexual orientation, and the impacts on LGB people.
- 99% of respondents said that they strongly agreed or agreed they are concerned about the impact of conflating sex and gender for statistics, data and science.

These are not minority beliefs but in general reflect the common, scientific and common-sense view of the two sexes.⁸

The survey respondents tend to be those who feel particularly strongly the importance of being able to articulate the truth about the material reality of sex. Some cited professional reasons for this, such as concern for child safeguarding or children's health, or work in data collection or research.

I don't talk about my views at work. One of my colleagues has a transgender child among her friends/family and firmly believes that child should be admitted to all opposite-sex spaces so I know she would be hostile. I suspect some other colleagues are likely to be gender critical but don't know how to broach the subject safely in case they aren't. My professional body uses gender instead of sex and I've recently challenged them on this but have yet to receive a reply. My work has screensavers talking about the importance of putting pronouns in emails. **Female, 45–54, Healthcare, Other public sector**

I'm Muslim. We don't believe in gender ideology. It's frustrating that I need to even say anything to defend myself and my beliefs. I don't expect people to say "inshallah" every time we set up meetings. Why on earth should I be expected to

⁸ Matthew Smith (2022). 'Where does the British public stand on transgender rights in 2022?' YouGov.

participate in rituals that go completely against my belief system?

Female, 35–44, HR, Central government

For the sake of distressed children, especially neuro-diverse children, we need to be clear sex matters. **Female, 45–54, England, Healthcare, Other public sector**

I work in data collection/analysis and have had some very carefully worded discussions about collecting data based on sex not gender. I try to be sensible about this stuff. I don't think it's personal, but it's chilling.

Female, 35–44, England, Universities, Other public sector

Hostile work environments

We asked which policies respondents had encountered at work.

- Almost two-thirds (59%) said that gender ideology is promoted through internal communications (such as allyship programmes, intranet celebration of special days or lanyards).
- Over half (55%) said their employer uses 'gender' in place of sex in equality monitoring.
- Over half (53%) said that gender ideology was promoted through training.
- Over half (51%) said that in their workplace staff are encouraged staff to state pronouns (for instance on emails or in meetings).
- 41% said that in their workplace single-sex facilities have been replaced with "gender neutral" ones (mixed sex).
- Over a third (39%) said that gender-identity policies have been adopted in their organisation's client-facing or public-facing work.

Equality training does not include gender critical beliefs, there have been several events promoting trans equality but none for women's equality. My organisation has an LGBTQ+ network but none for women. The LGBTQ+ network has a Twitter account which retweets individuals such as Michael Cashman who are hostile to gender critical women while condemning gender critical voices such as Allison Bailey. I cannot risk expressing gender critical views in the workplace.

Female, 55–64, Accounting, Other public sector

Sex and gender is regularly conflated in questionnaires and reports ... Staff are disciplined if they question [trans identifying men]. Staff are captured by 'be kind' and rainbow lanyards; women and lower grades are into pronoun signatures. A few quiet rebels are gender critical.

Female, 65 and over, England, Healthcare, Other public sector

[My professional body] have recently carried out a diversity survey where sex was replaced with gender. Representatives of the profession have also blogged about the & what is a woman question suggesting it is a divisive question. It takes huge courage to say anything in opposition for fear of disciplinary sanction.

Female, 35–44, Accounting.

Since our HR dept replaced sex with gender for employee data and mandatory Stonewall-influenced training programmes, some staff now ask for sex to be replaced by gender identity, or for more categories like Intersex and Non Binary to be added to m/f in the Sex field in this data and content. I have concerns this would confuse data identifying females and males and compromise accuracy in data analysis but I do not feel I can speak up about this in work meetings.

Female, 45–54, Digital/media, Other public sector

I work in the domestic abuse sector. My immediate colleagues are all trans activists and call people with views like mine 'toxic' and 'transphobic' and they repeatedly call for us as an organisation to 'go beyond the law' and stop people with views like mine being employed in this sector. My job is data and reporting on domestic abuse statistics. We don't use data on sex. Me just mentioning the law such as PSED [Public Sector Equality Duty] and protected characteristics has caused a lot of pushback. Mentioning sex at all is considered a hostile act.

Female, 45–54, Charity

I have colleagues that won't come into the office as they feel unsafe using the toilet, they are survivors of child sexual abuse and sexual assault and also some who are concerned about sharing facilities due to their religious beliefs. The transgender allies at work are incredibly vocal, aggressive in their communication and so like all bullies no one dares to contradict them and our workplace is being pushed in their direction without any thought about the consequences on others. I spoke out and people have seen how they treated me, so no one else will openly stand up now. They're too scared. **Female, 45–54, England, Large business**

In my workplace, men use the women's toilets. They haven't been designated as gender neutral but I am afraid to challenge the men or complain to management in case I am accused of being transphobic. These are men presenting as men. We are also issued with guidance on language and terminology which tells us to use the pronoun cis, which I find extremely offensive.

Female, 35–44, England, Healthcare, Central government

The company recently introduced a "zero tolerance policy" and issued a newsletter about being supportive towards LBTQ+ folk. They highlighted a case study of a customer who is a trans-identified male. One of my first questions in a

test when I joined the company was asking what I would do if a male colleague identified as a female and started using the women's toilets. I was supposed to answer that I would embrace the transition. I did not.

Female, 35–44, Property/construction, Large business

I am very aware that the accepted view in my sector is one of respecting pronouns, trans women are women etc., gender identity is a positive thing (including for children) so do not feel able to openly express gender critical views for fear of being 'blacklisted'. **Female, 35–44, Arts, Self-employed**

We asked respondents what the attitude of managers or senior managers was towards gender-critical beliefs.

- **Nearly a quarter (23%) said that managers were hostile.**
- A quarter (26%) said attitudes were mixed.
- 22% said managers were confused.
- 13% said managers were afraid.
- Just 10% said that managers were supportive.
- One-third (33%) of respondents said they did not know.

I have challenged Diversity and Inclusion material as it was imbued with gender ideology terminology and ignored sex. It also noted that views like JKR [JK Rowling's] were hurtful and there should be no debate about this. I was met with hostility and told by two senior managers that my views were exclusionary and akin to racist views and should not be included in the literature.

Female, 45–54, Law enforcement/security/military, Central government

There's a particular group of colleagues I don't work with but still have to see their chat, and they are constantly expressing extremely hostile opinions on people with gender critical views, with comments like "back before Mumsnet decided to spearhead an anti-trans jihad" and "JK Rowling leading a hate crusade. Can't wait for the reveal that she's suffering from brain parasites ... though it's probably fairer to say the parasites are suffering from her."

Female, 55–64, Marketing/PR, Small business

A colleague and I had a whispered chat about gender critical beliefs. I worried for ages after that we'd been overheard and I might be disciplined.

Female, 35–44, Law

We asked respondents how they would describe the general environment for people with gender-critical views in their workplace.

- **A third (33%) of respondents said that people with gender-critical views face hostility from some colleagues.**
- A fifth (21%) said people who are public about gender-critical views experience hostility from management and colleagues.
- 16% said people with gender-critical views were seen as out of step with the prevailing culture but are tolerated.
- Only 4% of respondents said people with gender-critical views were respected within an environment where difference is valued.
- 23% said it is not an issue that had come up in their workplace.

It's all too late for me, despite 7 years of faithful service, they dismissed me prematurely in my view, and for speaking up. Even now I continue to suffer through their failure to sort out my pension now I am over 60. This is a desperate situation but my ex employer just doesn't seem to care.

Female, 55–64, England, Other public sector

[I left] and have not worked since and am reluctant to work in a school again. This experience took a heavy emotional toll on me – I felt guilty for leaving and not getting my voice heard; powerless; let down by people I thought were child-centred and evidence-led and frustrated by a system that has unquestioningly adopted 'affirmation-only' from the level of school to LEA to DfE, with neither OFSTED nor our safeguarding charity the NSPCC intervening to offer balance. And with Unions who are no use to employees in need of support to exercise freedom of belief and freedom of speech in trying to do their jobs – safeguard children. **Female, 45–54, England, Education, Other public sector**

My employer accepts the right to hold gender critical beliefs and opinions but not the right to state them. Insulting and hostile comments about those with gender critical beliefs, but we are tolerated.

Male, 35–44, Law enforcement/security/military, Central government

I fear for my job and social ostracism by colleagues (many of whom signed a petition against feminists, and supported the call on Twitter to 'out' gender critical publishers to prevent them from getting employed, and who regularly post on work social sites about sex being a spectrum etc). This restricts how well I can perform my job as I am expected to discuss these proposed changes.

Female, 45–54, Digital/media, Other public sector

The organisation takes its policy from the Civil Service with little understanding of the law or its impact. It is frustrating to have certain policies opposed in an organisation that is hierarchical and dissent is not tolerated. A transwoman was walked around the facility with a manager who asked all females if they were ok with the trans woman sharing their locker and shower rooms. All said yes as they felt that to say otherwise would incur some penalty.

Male, 35–44, Law enforcement/security/military, Central government

I would not feel safe speaking out openly about my gender-critical views or criticising the policies based on gender ideology, and would fear for my job if I did. I would also feel very uncomfortable working with anyone trans-identifying in this environment, as I would feel obliged to demonstrate agreement with their beliefs about themselves (even if I disagreed) or to risk career consequences.

Female, 45–54, Business, Central government

How is this affecting people?

We asked respondents how policies at work had affected them.

- **More than two-thirds (68%) said they did not express gender-critical views publicly (on social media, for example) for fear of a backlash at work.**
- Nearly half (44%) said they feel that their workplace is hostile to people like them.
- A third of respondents (34%) said they feel under pressure to say things they do not believe to keep their job.
- 17% said that they had been involved in clashes at work.
- **10% of respondents said that they had been bullied or harassed.**

Asked not to express my gender critical beliefs on social media or I will be disciplined. **Female, 55–64, Arts, Self-employed**

At the time of the GRA consultation I was accused on social media, by a male-to-female trans person, of transphobia via a multi-tweet tirade. This was retweeted by people I knew in person and who were my colleagues and there was a pile on in which others I knew, and had worked with, also condemned me. I stood my ground but the whole thing left me anxious, afraid, stressed and depressed and I feel quite certain I lost work as a result of the accusations.

Female, 45–54, Digital/media, Self-employed

I have spoken out about the word woman being erased from our policies and leaflets. But the view is seen to be against that of our NHS trust equality and

diversity guidance. I managed to get a compromise by having a caveat added to our clinical guidelines that says the use of the word 'woman' in this policy also refers to. I know that more will be more changes to language coming. I don't agree with using pronouns but this has become common practice. I have to pick my battles depending on the audience. If I was very vocal I would be fearful of jeopardising my position. I do not like or RT [retweet] anything on social media.

Female, 45–54, Healthcare, Central government

I know I can't be open – no-one is. I suspect there are more like me who don't know who else is gender critical. I would love to be able to challenge and express myself but I have been disciplined 3 times in my career for whistle blowing and it's stressful. **Female, 65 and over, Healthcare, Other public sector**

It is a very hostile environment within my government department. The "diversity" lead has openly equated gender critical beliefs with anti gay sentiment shutting down any discussion. Another senior civil servant has openly tweeted a picture of bug spray with "terf" and called gender critical colleagues "bigoted" on staff message boards. I feel unable to do my job appropriately – building systems to collect HR data including sex – for fear of reprisals.

Female, 45–54, Law enforcement/security/military, Central government

I raised some considerations (not even concerns, just very diplomatically phrased considerations) about a policy proposal around pronouns and was then contacted by my manager and asked to justify my response and asked to apologise for it. It was evident from the conversation with my manager that I had been "reported", and that someone had felt upset by the considerations I had raised. I was then excluded from a project I had been working on, on the grounds that I apparently did not have sufficient understanding of the issues and that they needed a "different approach" to other types of work we do. This is despite the fact that I had done far more consultation than anyone else in the business on this topic. **Female, 35–44, England, Universities, Other public sector**

We asked respondents how they feel about how the policies at work affect them.

- 51% of respondents said they were frustrated.
- 50% said that they were angry.
- 35% of respondents were anxious.
- 34% of respondents are worried.
- 30% feel fearful.
- 16% of respondents feel distressed.

I have lost sleep over this and as I don't have any support, I feel like I am going mad, being gaslighted. However, I'm determined to carry on challenging it where I can. I want to do this informally because I don't want to put in discrimination complaints as that would up the stress levels considerably.

Female, 45–54, Law enforcement/security/military, Central government

In the civil service the awful a:gender training has to go – it's homophobic and distressing. **Female, 45–54, England, Social care, Central government**

Sometimes I get so angry – I write considered and researched letters and get waffle back. It's the gaslighting I can't stand. I am lucky to work for a nice company but it's been totally captured. **Female, 55–64, Retail, Large business**

- 39% of respondents said they had complained or commented on their workplace policies.

We asked respondents who had not, why not.

- **68% of them said they fear being victimised if they if they speak up.**
- Another 14% said they did not think it would make a difference.

I felt if I complained, I would be ostracised further. I decided to leave.

Female, 55–64, England, Arts, Self-employed

I would never openly complain to HR about mixed sex toilets for instance for fear of being at risk of losing my job. Flags fly outside our main buildings that make us clear if I were open about this I'd be in trouble.

Female, 35–44, Energy/utilities, Small business

I haven't expressed my views fully for fear of reprisals and I believe that it won't make a difference. There was a trans woman at my workplace and they were allowed to use the female toilets, when the female staff complained to the people's forum where workers are told to take their issues, they were told there was no legal way to keep the trans woman from using the female toilets.

Female, 35–44, Engineering, Large business

I'm on a fixed term contract and am silent because I fear that if I express my annoyance at the word 'woman' being replaced with 'people with a uterus' publicly, my contract will not be renewed. I might compose a complaint to be sent anonymously to HR. **Female, 45–54, Science, Large business**

We asked those respondents who said they had complained or commented what had happened.

- Over a third (35%) said that their comments were dismissed.
- 17% said that they experienced hostility because they spoke up.
- 19% said that their comments were considered constructively.

I complained about the allowing of 'transitioning' people being able to use any facilities they wish. We have at least 1 'gender fluid' person who claims to feel differently each day and will decide daily which facilities they use. I have complained about the safety and privacy of women and men forced to share toilets and showers with the opposite sex. I was told by our equalities manager that our sex was 'assigned' at birth and we can change that later. Our policies are Stonewall policies along with the veiled threats typical of them.

Female, 55–64, Law, Large business

I complained vocally about identity-driven language and in particular to intersex being considered an identity. The head of EDI told my line manager to ask me to apologise. **Female, 55–64, England, Education, Other public sector**

During trans remembrance week a D&I team send around a memo how to be an "ally" to trans and non binaries. In it there was a terminology dictionary describing TERFS as gender critical people that weren't real Feminists and transphobic. I filed an anonymous complaint in their system, and it was logged, but I never got a reply. **Female, 45–54, England, Arts, Large business**

I made a complaint about a trans woman (male) colleague using the women's toilet and changing facilities. My complaint was ignored by management. One colleague quietly supported me and another was very vocal about how my views are wrong. I haven't said anything since.

Female, 25-34, Property/construction, Large business

My posts in the networks and letters to staff magazine are withheld. Diversity & Inclusion told me they would no longer answer letters I write to them with questions about policy (subjects closed) and the gender equality network (sic) and the magazine has banned discussion of 'gender, sex and fitting rooms'. Originally I was harangued about my 'tone' and before comments were removed in the magazine's online letters page I was called hateful, bigoted etc; also in the networks. The business announced it is going ahead with 'trans policy' and reviewing all its policies for gender neutral language. Anything I say about this is ignored, not printed. The LGBTQ+ network has a lot of power and managers are

afraid to upset them. Speaking to coworkers, they agree with me but don't want to stick their necks out. **Female, 55–64, Retail, Large business**

I complained that our menopause policy didn't mention women. After six months they put the word woman in, alongside trans and non-binary.

Female, 45–54, Charity, Voluntary sector

I raised a homophobia complaint that went nowhere, female colleagues of mine face sexual routinely, yet the *only* thing seniors seem to care about is trans / gender ideology. **Male, 35–44, Computing, Central government**

- 18% of respondents said they had experienced an incident of harassment or discrimination at work, or complaints against them because of their gender-critical views.

I believe I have lost work. I was the regular person employed for a specific role over a number of years. This employer has dropped employment and I am aware that the accounts I follow on twitter are a large tell of my views.

Female, 45–54, England, Arts, Self-employed

I was harassed by my line manager who is now non binary but not sure how much it was due to my beliefs.

Female, 55–64, England, Digital/media, Small business

I was laid off. **Female, 45–54, Marketing/PR, Small business**

Some people – pronoun people – don't work with me because I don't share pronouns. **Female, 35–44, England, Charity, Other public sector**

I have been overlooked for promotion as I am considered not to be a good cultural fit – our work has nothing to do with sex or gender.

Female, 35–44, England, Charity, Other public sector

What is driving this?

We asked respondents what they thought had driven the adoption of gender ideology in their organisation.

- Over two-thirds (70%) of respondents said that it was seen as industry good practice by their Equality Diversity and Inclusion (EDI) function.
- More than half (53%) of respondents said it was driven by training and lobbying by activist organisations.

- Nearly half of respondents (48%) said activist staff members.
- A third (32%) said that it was the adoption of policies without due diligence.
- 18% said it was driven by a transgender member of staff.

Some mentioned international companies not respecting UK law.

The company was bought out by a large multi-national organisation last year who introduced Americanised Equality, Diversity, Inclusion and Belonging training modules which were mandatory, and brought in US type HR modules asking you to record gender rather than sex. The training gives examples of misgendering as hate speech and cause for disciplinary behaviour, pronouns and participation in trans remembrance days are good practice. The equalities part of the training misrepresented and mis-stated the Equality Act protected characteristics.

Female, 55–64, Property/construction, Small business

We are a UK company but our parent company is a US based who are fully “woke”. We have to sit through excruciating online training where gender identity is promoted as protected characteristic. The US parent company has no understanding of the EA act or UK employment law. My concern is that we have a lot of young colleagues who are frightened to speak up/out.

Female, 45–54, Computing, Large business

Over a third (37%) of those who responded said their workplace was part of the Stonewall Champions/Workplace Equality Index.

I work for a Stonewall champion, they’ve had Mermaids in to talk to staff (we have nothing to do with children as a company), we continually get what I consider to be propaganda emailed around in the guise of ‘colleague resource group’ bulletins which you can’t unsubscribe from. Most of the management in my dept have put pronouns in their bios. Even the women’s colleague resource group has sold out and redefined women to mean anyone who identifies as such. And there is no way to stop it. Women speak to each other privately about it but you can’t speak up for fear of being branded a bigot.

Female, 35–44, Accounting, Large business

My employer has recently renewed membership of Stonewall’s scheme and the staff intranet regularly has articles with misinformation about “intersex” people and LGBTQ issues. I want to challenge it but am afraid to. I have challenged it within my trade union and got an immediate backlash.

Female, 55–64, Public administration, Central government

The problem with Stonewall in particular and other Scottish orgs like Equality Network, Scottish Trans, Engender, was the monoculture they tried to create based on complete disregard for women's rights and the legal definition of sex (quite aside from factual definition of sex, which is the definition underpinning my beliefs). **Female, 25–34, Scotland, Social care, Central government**

Many mentioned the quality of equality, diversity and inclusion training.

We were given mandatory legally incorrect D&I training which said Gender Identity (rather than Sex and Gender Reassignment) was a Protected Characteristic. When I asked if staff posts calling other staff (who said sex is binary) "bigots" and describing this as "hate speech" were going to be left in the Women's Group chat without comment I had no reply from our ethics reporting service. I do not feel it is safe to state my belief in the importance of sex based data at work. I keep quiet as other brave women risk their jobs and social networks by standing up for sex based rights – and the stress and guilt I feel about this at work is the price I pay for that cowardice.

Female, 45–54, Digital/media, Other public sector

During a training session on ED&I, I challenged the (external) trainer for using 'gender' in place of 'sex' when describing protected characteristics under the Equality Act. In front of senior managers he responded by saying that the Equality Act (2010) was a 'very old piece of legislation' and that things had moved on considerably since then. **Male, 45–54, Charity, Voluntary sector**

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Equality Act 2010 code of practice: guidance on sport

Commentary, September 2024

The Equality and Human Rights Commission's Equality Act 2010 statutory code of practice for services, public functions and associations¹ provides guidance on competitive sport and on recreational sporting activity. This note relates to that part of the code covering section 195 of the Equality Act 2010, but other parts of the Act relating to single-sex services, to occupational requirements and to associations, are also relevant.

Legislation (Equality Act 2010)

Section 195 (1-4)

- (1) A person does not contravene this Act, so far as relating to sex, only by doing anything in relation to the participation of another as a competitor in a gender-affected activity.
- (2) A person does not contravene section 29, 33, 34 or 35, so far as relating to gender reassignment, only by doing anything in relation to the participation of a transsexual person as a competitor in a gender-affected activity if it is necessary to do so to secure in relation to the activity—
 - (a) fair competition, or
 - (b) the safety of competitors.
- (3) A gender-affected activity is a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex as competitors in events involving the activity.
- (4) In considering whether a sport, game or other activity is gender-affected in relation to children, it is appropriate to take account of the age and stage of development of children who are likely to be competitors.

¹ Equality and Human Rights Commission (2011). *Services, public functions and associations: code of practice*.

Explanatory notes

614. This section allows separate sporting competitions to continue to be organised for men and women where physical strength, stamina or physique are major factors in determining success or failure, and in which one sex is generally at a disadvantage in comparison with the other. It also makes it lawful to restrict participation of transsexual people in such competitions if this is necessary to uphold fair or safe competition, but not otherwise.
615. In addition, this section allows the existing selection arrangements of national sports teams, regional or local clubs or related associations to continue. It also protects “closed” competitions where participation is limited to people who meet a requirement relating to nationality, place of birth or residence.

Background

616. This section replaces similar provisions in previous legislation.

Examples

- It would be lawful to have men and women, though not necessarily younger boys and girls, compete in separate 100 metre races.
- It would be lawful to require participants in a county tennis championship to have been born in that county or to have lived there for a minimum period prior to the event.

Guidance

The 2011 Codes of Practice reads:

Competitive sport – sex and gender reassignment

- 13.43 For sporting competitions where physical strength, stamina or physique are significant factors in determining success or failure, the Act permits separate events to be organised for men and for women.
- 13.44 If the physical strength, stamina or physique of the average person of one sex would put them at a disadvantage compared to the average person of the other sex as competitors in a sport, game or other competitive activity, it is not unlawful for those arranging the event to restrict participation to persons of one sex.
- 13.45 The Act permits the organisers of such a sport, game or other competitive activity to restrict participation of a transsexual person in that activity but only if this is necessary in a particular case to secure fair competition or the safety of other competitors.

13.46 In considering whether separate events should be organised for boys and girls, the age and stage of development of the children competing in the activity should be taken into account.

Example

The example is:

The organisers of a women's triathlon competition would need to consider whether a transsexual woman who wanted to participate would have an unfair competitive advantage or whether her participation would pose a risk to the safety of other competitors. Under the Act they would only be permitted to exclude her if they are satisfied that to do so is necessary to uphold fair competition or to ensure the safety of other competitors.

Our feedback

Interpretation

Section 195 (1) provides a broad exception for "anything done" in relation to sex discrimination (direct or indirect or harassment) in relation to the participation of another as a competitor in a "gender-affected activity".

In practice "anything done" in the context of organising a sport competition may include:

- setting entry criteria based on sex
- recording the sex of individual competitors
- enforcing the rules that require competitors only to compete in categories for which they are qualified
- requiring documentary identification or sex testing (such as a cheek swab test)
- by issuing results in sex categories, publicly reporting the sex of competitors.

Section 195 (2) provides a more limited additional exception to sections 29 (goods and services) and sections 33, 34 and 35 (disposal and management of premises) in relation to gender reassignment, only as this applies to the participation of a transsexual person as a competitor in a gender-affected activity if it is necessary to do so to secure fair competition, or the safety of competitors, in relation to the activity.

Misunderstandings

Several common misunderstandings of s.195 make it hard to organise and protect women's sports:

1. **Only about setting up categories.** A common misunderstanding is that s.195 (1) applies to the organising of men and women's sports, but not to the underlying practices such as record-keeping. Of course it is not possible to organise a woman's sports competition without categorising potential competitors as male or female and excluding the males. The UK's Sports Councils, in their 2021 *Guidance for Transgender Inclusion in Domestic Sport*, recognised that they needed to spell out that "categorisation by sex is lawful, and hence the requirement to request information relating to birth sex is appropriate".²
2. **Transgender entitlement.** Another common misconception about the Equality Act is that s.7 provides people who meet the "gender reassignment" criteria with an entitlement to use opposite-sex facilities and play in opposite-sex sports. There is nothing in s.195 (or other parts of the Equality Act) that supports this.
3. **Case-by-case assessment.** s.195 (2) is often misunderstood as requiring that the organiser of a sporting competition is obliged to consider whether there are fairness and safety concerns in relation to the participation of a particular individual who has the protected characteristic of gender reassignment and who is seeking to compete as if they were the opposite sex. This is not supported by reading of the law. Nor is a "case by case" approach practically possible. The UK Sports Councils found that, on considering scientific evidence, it is not possible or practical to draw a line to say where it is safe or fair for some men to compete against women: "Panel members are unlikely to be able to manage a situation in which their decisions can determine the suitability of some individuals, and not others." Furthermore, registration is often online. Clear rules are needed that can be communicated to everyone in advance.
4. **Gender-recognition certificates.** Organisers of sporting activities may believe that there is a duty in s.9(1) of the Gender Recognition Act 2004 to treat someone with a gender-recognition certificate (GRC) as the opposite sex "for all purposes" and thus that they must be allowed to compete in sports for the opposite sex. UK Athletics argued this position in 2023 and the EHRC issued a clarification stating that gender-recognition certificate holders can be lawfully excluded under the "sporting exemption" in the Equality Act for reasons of fair and safe competition. This is consistent with the interpretation of the Act relied on by the UK Sports Councils, that people with the protected characteristic of gender reassignment (which covers those

² UK Sports Council Equality Group (2011). [*Guidance for Transgender Inclusion in Domestic Sport*](#).

with and without a GRC) enter the Act through that characteristic and are therefore covered by s.195 (2).³

The existing guidance encourages these misconceptions, in particular with the text:

13.45 The Act permits the organisers of such a sport, game or other competitive activity to restrict participation of a transsexual person in that activity but only if this is necessary in a particular case to secure fair competition or the safety of other competitors.

The example suggests that there is a “women’s triathlon” and that the Equality Act requires its organisers to consider including some males, rather than explaining how the Equality Act makes it lawful to operate a women’s triathlon by setting and enforcing sex-based entry criteria.

The “particular case” in this guidance is ambiguous, appearing to refer to the “transsexual person” (singular) when in practice it must apply to everyone with that protected characteristic equally and without personal assessment or qualification.

These misunderstandings have led to confusion and uncertainty for event organisers and for would-be competitors, both female and trans-identifying male. Organisers afraid of legal challenge may be tempted not to enforce and communicate clear rules that protect fairness and safety, in particular for women and girls. Or they may adopt “self-ID” categories such that anyone who identifies as a woman may register to compete in the female category, believing that this is what the law requires.

Recommendations

Principles

The revised Code should be clearer that:

1. The exceptions in s.195 can apply both to the setting and enforcement of rules, and to the associated record-keeping, based on biological sex. This is in line with the law and with the practical need for policies that can be communicated clearly and applied to everyone equally and fairly.
2. There is no entitlement for a transgender person to compete in a sex-based category for which they do not qualify. A gender-recognition certificate does not change this.

³ Equality and Human Rights Commission (2023). [‘Statement on UK Athletics’ position on trans people’s participation in athletics’](#).

Suggested text

1. For sporting activities where the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex the Act permits organisers to arrange separate female and male events.
2. It is not unlawful for the organisers to undertake the actions needed to organise these separate events. This can include, for example, setting and communicating clear sex-based rules, enforcing these rules, requesting accurate information relating to competitors' sex, recording their sex, and publicly sharing this information.
3. Where participation in an event is limited to one sex, individuals who are the opposite sex do not have the right to claim sex discrimination when sex-based rules are applied to them, even if they have the protected characteristic of gender reassignment.
4. If a person has the protected characteristic of gender reassignment this does not give them the right to claim gender-reassignment discrimination when sex-based rules are applied to them in relation to sporting activities, or because of anything else done to ensure fair competition or the safety of competitors.
5. This is unaffected by possession of a gender-recognition certificate (GRC) because the protected characteristic of gender reassignment, referred to in s.195 (2), applies to all those who meet the criteria set out in s.7, with or without a GRC.
6. In considering whether separate events should be organised for boys and girls, the age and stage of development of the children competing in the activity should be taken into account.

Suggested example

The organisers of a triathlon competition wish to provide a separate female category in addition to the "open" event. This is because they believe that triathlon is a "gender-affected" activity, in which the average man has a significant advantage over the average woman. They may run such an event, including requiring all entrants to the female category to register accurately stating their sex. The open category allows registration without declaring sex.

A male competitor who identifies as a "transgender woman" wants to compete in the event. The organiser explains to them that they do not qualify for the female category, as they are male, but they can compete in the open category. Another male competitor who has transitioned and who has a gender-recognition certificate wants to compete. The organiser explains to them that they do not qualify for the female

category, which is based on biology not on having a certificate, as this is necessary for fairness and safety.

Other parts of the Act relevant to sport

There is extensive evidence of guidance issued by sport governing bodies and by operators of leisure facilities which misreads the law by declaring that single-sex changing and toilet facilities must admit people of the other sex based on their transgender identity and not on their sex.

Shared overnight accommodation is also a feature of sports trips for schools, colleges and clubs.

The revised code must make it explicit that single-sex changing and toilet facilities are lawful, and that this means excluding everyone of the other sex including those with the protected characteristic of gender reassignment.

Single-sex only services and communal accommodation

The section headed **Single-sex only services** includes this example (page 202):

If women of a particular religion or belief will not use the local swimming pool at the same time as men, women-only swimming sessions could be provided as well as mainly mixed sessions.

The revised code must make clear that “women” here does not include males claiming a transgender or female identity.

We recognise that there is ongoing legal argument about whether male-born holders of a GRC may be included in the legal definition of “women” for the purposes of the Act. However, the code should make clear that in a situation such as women-only swimming or female changing rooms it is lawful to provide a service that is female-only using the common-law definition. This is a proportionate means to a legitimate aim.

For more information contact **S40(2)** @sex-matters.org or
S40(2) @sex-matters.org

16 February 2019

Dear Elizabeth Prochaska

I am writing to request clarification and an enforcement action towards Girl Guides UK in relation to the Equality Act.

Key facts:

1. **Girl Guides UK is a charity governed by a royal charter** which states that the primary object is “educating girls and young women to help them develop emotionally, mentally, physically and spiritually so that they can make a positive contribution to their community and the wider world...” This was granted in 1922 and last updated in 2015
<https://www.girlguiding.org.uk/globalassets/docs-and-resources/quality-and-compliance/royal-charter.pdf>
2. The Girl Guides has published its **understanding of the Equality Act 2010**.¹ It states that it uses an **exemption in the Equality Act to “provide a girl-only space for its young members”**. In January 2017 the policy statement on Girl Guides UK’s website stated “Girlguiding is a single-sex organisation in accordance with the provision of the Equality Act 2010. Girlguiding believes that the needs of girls and young women are best met through an organisation catering for girls and led by women.” It also states “our ‘girl only’ offer is permitted as a positive action under the Equality Act 2010”. It also states “we are committed to ensuring our young members have female role models in leadership within Girlguiding. In order to support this, roles such as unit leader, can only be undertaken by female members”²
3. **The Girl Guides published new guidelines** on transgender and gender reassignment on January 11 2017 ³ The new policy allows male children and young people who identify as girls or young woman to join any youth section and to share communal accommodation with girls, and for males who identify as women (including those without a GRC or any surgery) to undertake ‘female only’ leadership roles’.

¹ <https://www.girlguiding.org.uk/making-guiding-happen/running-your-unit/including-all/supporting-trans-members/what-the-law-says/>

² <https://www.girlguiding.org.uk/making-guiding-happen/policies/girlguiding-policies/equality-and-diversity-policy/gender/>

³ <https://www.girlguiding.org.uk/making-guiding-happen/policies/girlguiding-policies/equality-and-diversity-policy/transgender-gender-reassignment/>

4. **Girl Guides released a statement** saying “Our guidelines comply with the requirements of the Equality Act 2010 which make clear that organisations providing single sex services should treat people according to their gender, and that not to do so constitutes discrimination against trans people”

Legal frameworks

You have clarified to Fair Play for Women (letter to Nic Williams, received on June 2018) that an association can in EHRC’s view “admit members with more than one protected characteristic and remain within the terms of Schedule 16” (i.e. in relation to Associations).

However Girl Guiding UK is not only an association, but also a charity and therefore covered by **Part 14 Section 193** -. This allows a charity to limit its benefits to people who share a protected characteristic if it is in pursuit of the charity’s object as set out in its governing document and is justified as meeting a legitimate aim. <https://www.gov.uk/government/publications/equality-act-guidance-for-charities/equality-act-guidance-for-charities#about-the-charities-exception>

Girl guides has not changed its charity objects since 1922, and it seems unlikely that ‘girls and women’ was intended to include people who are biologically and legally male at that time. Rather as stated above under (2) Girl Guides has always provided justification for being a single-sex organisation on the basis of meeting the needs of girls and young women and providing female role models. They could certainly change this purpose, by amending their charter, through their own governance process to extend the rationale and their charitable purposes to include boys and men with the protected characteristic ‘gender reassignment’, but they have not.

As such it seems to me GGUK is currently not in compliance with Part 14 Section 193, in that it is limiting its benefits to a *different* group than those set out in its Charity Objects. Presumably this also means that it is in breach of the Charity Act, although the Charity Commission may be as confused as everyone else over the distinction between sex and gender identity, and may be relying on the EHRC to explain the difference between “women and girls” and “men and boys with the protected characteristic gender reassignment”.

Questions and requests for action

1. Please can you clarify if a charity is in compliance with Part 14 Section 193 if it extends its benefits to another group sharing protected characteristics not mentioned in its governing documents, without amending its governing documents? If not which regulator has responsibility to act in the case of Girl Guides UK?
2. Could you also clarify whether Girl Guides has got this right “Our guidelines comply with the requirements of the Equality Act 2010 **which make clear that organisations providing**

single sex services should treat people according to their gender, and that not to do so constitutes discrimination against trans people”

The Equality Act (rather Schedule 13 Section 27 allows for single sex services (using the protected characteristic sex), which suggests there is no obligation to allow in people of the opposite sex. Section 28 specifically allows for the exclusion of people based on the protected characteristic of gender reassignment (which suggests for example that an adult who is legally female but biologically male could also legitimately be excluded from being a guide leader, since they would be unable to provide a ‘female role model’ to young girls, since young girls will never possibly grow up to be adult transwomen)

It seems to me that Girl Guides could quite legitimately exclude men and boys with the protected characteristic “gender reassignment” because of their charitable objects and legitimate aim of providing for the needs of girls and young women and providing female role models and a girls-only environment. Equally they could choose (through their governing processes, and through consultation with parents, young people and leaders) to change their charitable objects to also serve transgirls and transwomen. Either approach would be compatible with EA2010 and neither approach would necessarily be better or worse (or more or less inclusive) from the point of view of EHRC.

However the current situation where GGUK has not gone through the process for changing its governing objects, but instead is pretending that nothing has changed (“girl guides has always been a single gender organisation”) and using the justification that the Equality Act *requires* them to allow in male people who are on journey of gender reassignment appears to be a misunderstanding and misuse of the Act.

NB: the same issue also applies to the Women’s Institute whose charitable objects and website declare “The Women's Institute is an educational charity with a constitution that states membership is only open to women. Under UK law charitable organisations whose constitution stipulates single sex membership are entitled to restrict access to the opposite sex”, but whose policy in practice is to include self-identified transwomen. The same issue would also apply to other women’s charities with similar charity objects such as the Glasgow Women’s Library.

While it is not for the EHRC to determine whether individual charities should decide to be for women only or for women and transwomen, it is the a core part of the EHRC’s role to defend the legitimacy of the principle of single sex spaces, which is currently being eroded through confusion about the Equality Act.

Thank you

Maya Forstater

Girl Guides Policy: Note to EHRC

GGUK states that it is a “girl-only” organisation in line with the Girl Guides Royal Charter but that it interprets “girl” to and “women” to include men and boys who identify as women and girls:

“...As a girl-only organisation with a trans-inclusive Equality and diversity policy, we treat trans girls and women according to the gender they have transitioned, or are proposing to transition, to. Meaning trans girls and trans women are welcome to be a part of our great charity.”
1

The website includes a page on “what the law says”
2

It states the broad aim of the Equality Act 2010, General Data Protection Regulation/Data Protection Act 2018 and Gender Recognition Act 2004 is to

“maximise the inclusion of trans people, prevent discrimination, harassment and victimisation, and protect privacy.”

And it states that:

“The Equality Act provides options for exemptions. This means that in certain, very limited circumstances, it is permissible to restrict membership to those who share certain protected characteristics. Girlguiding uses an exemption to provide a girl-only space for its young members.

A person does not need to have had, or to want, any medical intervention to be protected by this law.

It protects people of all ages under the protected characteristic of gender reassignment.”

We believe Girl Guides is in breach of the law

Girl Guides policy is based on misinterpreting the Equality Act as meaning that a man with the protected characteristic of gender reassignment is a woman, (and a boy with the protected characteristic of gender reassignment is a girl).

It tell its local groups to treat male volunteers who identify as women as if they were women and male children who identify as girls as if they were girls. This leads to Girl Guides putting men and boys into inappropriate situations with girls, and not being truthful and accurate in risk-assessing situations or in communication with girls or their parents.

1

<https://www.girlguiding.org.uk/information-for-volunteers/running-your-unit/including-all/lgbt-members/supporting-trans-members/>

2

<https://www.girlguiding.org.uk/information-for-volunteers/running-your-unit/including-all/lgbt-members/what-the-law-says/>

We think this puts Girl Guides in breach of :

- Its duty of care and safeguarding to children.
- The Equality Act in relation to the protected characteristic of belief, as it discriminates against girls and women who do not wish to share washing and sleeping accommodation with men (and more generally do not want to be forced to pretend that a man is a woman), as their only option is to leave Guides.
- The Charities Act / use of the Charities Exception in the Equality Act, as Girl Guides' Royal Charter states that it is an organisation for women and girls. It was not established as an organisation for women and girls **and male transsexuals**. If it wanted to change its charitable objects to serve these two groups it could have done so through its governance by consulting its members, but it has not.

Previous advice from the EHRC

Fair Play for Women wrote to the Commission about this policy in April 2018 and received a response from then Legal Director Elizabeth Prochaska in June 2018. The EHRC responded that the Guides is not acting unlawfully in admitting men and boys and treating them as women and girls.

Maya Forstater also wrote to Elizabeth Prochaska concerning this policy in 2019, but received no reply.

In September 2018 the EHRC made a public statement that they had written to Girl Guiding but "not to say it is a mixed sex organisation". The EHRC said "we support their choice to have a trans inclusive policy".



In December 2018 Maya Forstater undertook a FOI request to the EHRC for correspondence related to this tweet. The information was withheld but it was identified as "Email correspondence between EHRC and Girl Guide staff including two attachments of Guidance on including trans people in guiding (Draft1.3 and Draft 1.5)"

The EHRC said to Nic Williams in 2018 "Our interpretation of the EA2010 takes into account our view the courts would be unlikely to adopt a rigid approach to the provisions [in the Charity

Act] and would seek to permit organisations, associations, or other bodies to restrict membership to those of a particular sex to operate inclusive policies and offer services to trans individuals even if they do not have a gender recognition certificate.”

It states that a case-by-case approach will be good practice, and the needs of all members or service users should be considered in any particular case.

In that response the EHRC said that it could not take any enforcement action against Girl Guides as it did not think it was operating in breach of the Equality Act.

However it said that it would continue to offer guidance to GGUK and other organisations to promote and encourage compliance and good practice in this area of equality law.

We think that this response was partial and inaccurate. While it may be lawful to set up an organisation to provide services to women and transsexuals, this is not what GGUK was set up for. Furthermore in saying that it is a “single-sex” organisation while actually admitting some men (but not treating them as men) GGUK disadvantages and puts at risk its target beneficiaries.

Sex and the law

Since 2019 there have been several cases that have clarified matters:

- Forstater v CGD [2021] established that “gender critical” beliefs are covered under S.10 of the Equality Act. (In 2022 Girl Guiding recognised this in settlement with Katie Alcock)³
- For Women Scotland clarified that sex in the Equality Act means a person’s biological sex unless they have a GRC (with the question about how this relates to a person with a GRC still to be considered by the Supreme Court).
- Earl Shilton Town Council v Ms K Miller [2023] confirmed that providing “female-only” toilets which in practice are shared with men is sex discrimination.

The Human Rights Act Section 3 requires that where the law gives public officials a choice, they must choose the option that respects human rights.

Neither the Equality Act, nor the data protection Act, nor the Gender Recognition Act give licence for an organisation to trick, coerce or force girls and women to share sleeping, washing and changing accommodation with boys and men without their consent. This engages the girls right to privacy and autonomy under Article 8, and potentially also freedom from humiliating treatment under Article 3 where girls are undressing or washing.

We request that the EHRC re-engage with GGUK on its policy and investigate whether they are misinterpreting the Equality Act and acting unlawfully, as an organisation set up for the benefit of women and girls, admitting boys and men with the protected characteristic of gender reassignment, and managing this in a way which disadvantages their beneficiaries and undermines their human rights, safety and dignity.

³ <https://www.girlguiding.org.uk/about-us/press-releases/girlguiding-settlement-statement/>

From: Helen Joyce <S40(2) @sex-matters.org>
Subject: Equality and Human Rights Commission / Sex Matters meeting

Dear Maya, Helen and Fiona,

You are invited to Tintagel House to meet with the EHRC on Friday 6 September.

Date: Friday 6 September

Time: 13:00 – 14:00

Location: Meeting room 4, Ground floor, Tintagel House, 92 Albert Embankment, Vauxhall, SE1 7TY

A member of Private Office will await your arrival at the building reception and escort you to the meeting room.

Please RSVP to this invite to confirm your attendance.

Kind regards,
S40(2)

Our vision and purpose

We're here to stand up for freedom, compassion and justice in our changing times. We do it by promoting and upholding equality and human rights ideals and laws across England, Scotland and Wales. Our work is driven by a simple belief; if everyone gets a fair chance in life, we all thrive.

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The Equality and Human Rights Commission was established by the Equality Act 2006 as the Commission for Equality and Human Rights.

Keeping children safe when it comes to recognising their sex

Schools in England and Wales are part of a statutory education system as set out in the Education Act 1996(1). Schools also have safeguarding responsibilities to work together with parents and with other agencies to protect children from harm, as set out in the statutory guidance *Keeping Children Safe in Education* and *Working Together to Keep Children Safe*.

The Secretary of State for Education has been working with the Minister for Women and Equalities on guidance for schools and colleges in England on what to do when a child is “questioning their gender”. On July 20th 2023 it was announced that the guidance was delayed.¹

“It is vital that the guidance we publish gives clarity for schools and colleges and reassurance for parents. So, we have made the decision to allow more time – to speak to teachers, parents, lawyers and other stakeholders – in order to ensure this guidance meets the high expectations that these groups rightly have for it.”

The difficulty in developing the guidance has come about because of conflicting expectations. There are some who argue that schools should enable children to “socially transition” (that is, to be treated in some or all respects as if they were the opposite sex). Others say this should happen only with great caution, or not at all.

In practice, the way that schools treat boys and girls is governed by requirements already set out in a considerable body of law and regulation. Relevant laws and regulations include:

- the Education Act 1996
- the Education Act 1998
- the Education Act 2002
- the Education and Inspections Act 2006
- the Children Act 1989
- the Human Rights Act 1998
- the Equality Act 2010, including, for state schools, the Public Sector Equality Duty
- the School Standards and Framework Act 1998, including the Admissions Code
- the statutory guidance *Keeping children safe in education* 2023.

This paper considers the legal framework under which schools operate and argues that this framework means that **no meaningful social transition is possible in schools**. Treating a boy as if he is really a girl, or a girl as if she is really a boy, is not compatible with schools’ statutory responsibilities, and the guidance should reflect this.

¹ <https://questions-statements.parliament.uk/written-statements/detail/2023-07-20/hcws983>

Legal and regulatory requirements

Registration

Every school must know the name and sex of every pupil, record these accurately and pass them on to the next school. There is no flexibility in this.

For all schools, the information to be contained in a school admissions register is statutory and is set out in **section 434 of the Education Act 1996** and subsequent regulations.

- **The Pupil Registration (England) Regulations 2006** – Sets out that the school is required to register each pupil's sex (along with their name, date of birth and other details).
- **The Education (Pupil Information) (England) Regulations 2005** – provides that when a pupil moves from one school to another, this information must be transferred as part of a "common transfer file". Schedule 2 states that this includes "gender", but here this word means "sex".
- **The Education (Information About Individual Pupils) (England) Regulations 2013** state that schools must provide information on each child annually to the DfE. This information includes the child's but it is clear that this means sex. Completing the school census is a statutory requirement under section 537A of the Education Act 1996.

Admissions to single-sex schools

Girls' schools admit female pupils; boys' schools admit male pupils. There is very limited flexibility in this. There is no provision to admit a child of the opposite sex to a single-sex school and record the child as being the sex that they are not.

Single-sex schools have admissions rules that admit only male children or female children. This is a lawful form of sex discrimination. It is provided for in **Schedule 11 of the Equality Act**.

The Equality Act allows single-sex schools to admit children of the opposite sex exceptionally without losing their status as a single-sex school. This does not mean that the law anticipates admitting children of the opposite sex and treating them as if they were the same sex.

Examples of exceptional circumstance given in the notes to the Equality Act are:

- the daughters of certain members of staff at a boys' school are allowed to attend
- A boys' school admits some girls to the Sixth Form.

There is no obligation under the Equality Act for a single-sex school to consider admitting a child of the opposite sex.

For state schools, admissions are governed by the **Admissions Code issued under Section 84 of the School Standards and Framework Act 1998**. The code requires that places are allocated in an open and fair way rather than by ad hoc selection:

"In drawing up their admission arrangements, admission authorities must ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated."

A maintained single-sex school which admits a child of the opposite sex on an ad-hoc basis (allocating a space for a girl to a boy or vice versa) is likely to be in breach of the Admissions Code. A private single-sex school might admit a child of the opposite sex, but will need to register the child in their actual sex.

Data protection

Schools must record children's sex accurately wherever it is recorded.

All those who process others' personal data have to follow strict rules set by the **UK General Data Protection Regulation (UK GDPR)** and the **Data Protection Act 2018 (DPA)**.

Schools must store and process pupil's data according to the law. One of the principles of data protection is accuracy. It is not accurate to record a male child as female or a female child as male, or to record a male child as a "girl" or a female child as a "boy".

Information about a child's sex is not "special category" (sensitive) data.

Duty of care

Knowing a child's sex is often relevant to the school's duty of care. This is routine information which staff should be able to refer to clearly.

All schools have a duty of care towards all the children who attend. This means that by law they must take reasonable steps to ensure the safety of all children and to protect them from harm. All staff have a responsibility to provide a safe environment in which children can learn. It is often necessary to know and act on a child's sex in protecting them or others from harm. This is not information that can be limited to a few people or lied about.

For example:

- Boys are not allowed to go into the girls' toilets (and vice versa) in order to protect all children's reasonable privacy, to protect the girls in particular from the potential harms of sexual harassment, exposure, voyeurism, and to protect the boys from being accused of such behaviour.
- In allocating sleeping arrangements such as dormitories, tents or shared rooms for school trips, each child's sex is relevant.
- If a ten-year-old child has a blood stain on their crotch, a teacher's assessment of the situation will differ, according to whether the teacher knows they are a girl (most likely experiencing her first period) or a boy (this could be a medical emergency).
- If a child needs to be searched while at school, this must be done by a member of staff that is the same sex as the child.

Schools should not become confused about what sex a child is, as this will undermine the ability of staff to undertake their duty of care.

Facilities

Schools must provide sex-separated toilets (over age eight) and changing rooms (over age 11) unless they are in separate fully enclosed rooms.

The **School Premises (England) Regulations 2012** and **Independent School Standards** impose statutory requirements for both maintained and independent schools to provide sex-separated toilets for pupils aged eight or over (apart from individual toilets in fully enclosed rooms), and sex-separated changing accommodation and showers for pupils who are aged 11 years or over at the start of the school year and who receive physical education.

Behaviour policy

Rules should be expressed clearly so that all children know what is expected of them in terms of behaviour. This includes rules that relate to boys and girls and same-sex/opposite-sex situations.

Under the **Education and Inspections Act 2006** it is the responsibility of the governing body to ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.

Schools should have policies which are clear, transparent and easy to understand for staff, pupils, students, parents, and carers.²

Safeguarding

Lying to children or keeping secrets with them is not consistent with safeguarding. Parents should not generally be excluded from information about their child.

Schools have responsibility for safeguarding children in their care. Schools and colleges must have regard to **Keeping Children Safe in Education 2023**. This is statutory guidance from the Department for Education. Schools must work together with others, primarily parents and statutory services that have responsibilities to safeguard and promote the welfare of children, as set out in the **Children's Act 2004** and **Working Together to Keep Children Safe 2023** (currently under consultation).

Schools should consider, at all times, what is in the best interests of the child.

Safeguarding and promoting the welfare of children is defined as:

- protecting children from maltreatment
- preventing the impairment of children's mental and physical health or development
- ensuring that children grow up in circumstances consistent with the provision of safe and effective care, and
- taking action to enable all children to have the best outcomes.

Key principles of working with parents are to build positive, trusting and cooperative relationships, using language that is clear and respectful, enabling them to participate in decision-making and creating a culture of “no surprises” by providing relevant information.

This means that schools must be clear with parents that male children are boys and female children are girls, and share with them any concerns about their child's mental health or about potential harm or abuse, unless to do so would place the child at risk of harm.

Changing name

Schools must record a child's legal name. They may allow pupils to change their informal (“known as”) name if they believe it is in the best interests of the child to do so.

The **Pupil Registration (England) Regulations 2006** require that the school registers each pupil's legal name. This is usually the name on their birth certificate. A child's name can be changed at any time before the age of 16 via a deed poll, subject to the consent of everyone with parental consent. After the age of 16 a child can change their name without their parents' consent, and their parents cannot change the child's name without the child's consent.

Schools often provide the option to register an informal “known as” name of the child. The school is under no legal obligation to make any informal name change and is entitled to refuse to do so. It should always act in the best interests of the child. Where the informal name change is accepted by the school, any other person with parental responsibility who disagrees with this action may choose to apply to Court for a Prohibited Steps Order. The court will consider what is in the best interests of the child.

Schools should consider any indications that a change of name is not in the best interests of the child. These are likely to include: the child wants to keep the name secret from parents, the parents don't know about the name or don't agree to it, concerns about bullying or radicalisation (for example homophobic bullying) or concerns about mental health.

Sport

Schools must provide equal sporting opportunities for girls and boys. For older children, this will usually require offering female-only sporting activities and competition.

Physical Education is compulsory at all key stages of the National Curriculum. Local authority-maintained schools are required to follow the National Curriculum. Academies and free schools do not have to teach it, but are required to provide a broad and balanced curriculum that “promotes the spiritual, moral, cultural, mental and physical development of pupils”.

The **Equality Act 2010** provides an exception to prohibitions against sex discrimination in relation to participation as a competitor in a “gender affected activity”. (Note that “gender” is used here to mean “sex”.)

Section 195 (3): “A gender-affected activity is a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage

compared to average persons of the other sex as competitors in events involving the activity.”

This means that schools may provide sex-separated sporting activities. It is appropriate for schools to take account of the age and stage of development of children in considering whether an activity is gender-affected.

Schools should allow girls and boys equal opportunities to participate in comparable sporting activities.³ As children get older and the size, speed and strength of boys and girls begin to diverge significantly schools that *do not* provide separate sports for girls are unlikely to be offering them equal opportunities to boys (and for some sports they will be putting girls at undue risk of injury if they have to play on mixed teams).

Uniform

Schools determine their own uniform rules and should enforce them fairly, while considering impacts on pupils with protected characteristics.

Schools and their governors decide on their school-uniform rules. Schools that have uniforms adopt them for reasons including:

- promoting the ethos of a school
- providing a sense of belonging and identity
- setting an appropriate tone for education.

Although it is not obligatory for a school to have a uniform, or any particular type of uniform, it is obligatory for schools to have behaviour policies, to treat pupils fairly and to not discriminate in relation to protected characteristics.

Therefore, if a school has a uniform its requirements should be clear, and they should be enforced fairly and equally. Schools may choose different uniform/dress-code requirements, but signaling that some pupils do not need to follow the rules is likely to encourage bad behaviour and poor discipline.

Some schools have different uniform requirements for girls and for boys (including in relation to hair). This is lawful as long as the rules for the two sexes are of a similar standard. A dress code that stipulates that pupils must have their hair styled in a “smart and conventional way” can require, for example, hair for boys to be above the collar. A “smart, conventional” uniform may include trousers for girls, but not skirts for boys. (Similarly, a mixed school which adopted a “gender neutral” uniform could choose to require all children to wear trousers, but not for all to have to wear skirts. It is socially conventional for girls to wear trousers but not for boys to wear skirts.)

Schools should consider how uniform policy might affect groups represented in the school, especially those who share protected characteristics as defined by the Equality Act 2010. If a requirement will affect a group with certain protected characteristics more than others, schools

³ Gender separation in mixed schools Non-statutory guidance June 2018
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/719398/Gender-separation-guidance.pdf

should think very carefully about whether this requirement is the best way to achieve their aims and what mitigations could be put in place. To be lawful, such a requirement will need to be justified as a proportionate means of achieving a legitimate aim.

The Equality Act

Schools must not discriminate or harass children in relation to the protected characteristic of **sex**. For children aged under 18 this can only mean their actual (“biological”) sex as understood in common law. Boys are male. Girls are female.

They must also not discriminate against a child who has or is perceived to have the protected characteristic of **gender reassignment**. A child who is gender-questioning or gender-distressed, or who identifies as transgender, is therefore protected against discrimination based on both their sex and the protected characteristic of gender reassignment. It has been found by the High Court that children can be covered by the protected characteristic, and it does not depend on a medical diagnosis.⁴

Possessing the protected characteristic of gender reassignment does not mean that a person's sex has changed, or that they must be treated as if they are the opposite sex.

If gender dysphoria (distress at the fact of one's sex) is sufficiently severe, it may come under the protected characteristic of **disability**. This can justify “reasonable accommodation” to ensure that gender-dysphoric pupils are not denied equal access to education. But it is not a reasonable accommodation for a school to treat a child as the opposite sex or to obscure their sex, as this is information that is needed at all times for the school to fulfill its duty of care in respect of both this child and all other children.

Also relevant is the protected characteristic of **religion or belief**. This covers both belief and non-belief in the construct of gender identity. “Gender-critical belief” – that sex is real, binary, immutable and important – is also covered. So are a wide variety of religions, some of which require adherents to take particular account of sex, such as Orthodox Judaism and most strands of Islam.

Direct and indirect discrimination

Direct discrimination is when one person is treated worse than another person because they have a protected characteristic, are perceived to have a protected characteristic or are associated with someone with a protected characteristic. There can be no justification for direct discrimination unless it is permitted by an exception in the Equality Act.

Section 85 (1) provides that the responsible body of a school must not discriminate against a person—

- (a) in the arrangements it makes for deciding who is offered admission as a pupil;
- (b) as to the terms on which it offers to admit the person as a pupil
- (c) by not admitting the person as a pupil.

⁴ AA + ORS v NHS Commission Board FINAL Judgment.pdf

Section 85 (2) provides that the responsible body of a school must not discriminate against a pupil—

- (a) in the way it provides education for the pupil
- (b) in the way it affords the pupil access to a benefit, facility or service
- (c) by not providing education for the pupil
- (d) by not affording the pupil access to a benefit, facility or service
- (e) by excluding the pupil from the school
- (f) by subjecting the pupil to any other detriment.

The Equality Act contains provisions that expressly allow clear sex-based rules:

- single-sex school admissions (Schedule 11)
- sports (Section 195)
- toilets, showers and changing rooms (Schedule 3 Part 7)
- communal accommodation (Schedule 23)
- a requirement of an enactment (Schedule 22).

Indirect discrimination occurs when a policy applies in the same way to everybody but indirectly disadvantages a group of people who share a protected characteristic. It may be justified as a proportionate means to a legitimate aim, or mitigated in ways that do not undermine that aim.

Harassment

Section 26 of the Equality Act provides that:

- (1) A person (A) harasses another (B) if—
 - (a) A engages in unwanted conduct related to a relevant protected characteristic, and
 - (b) the conduct has the purpose or effect of—
 - (i) violating B's dignity, or
 - (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

Section 85 (3) provides that the responsible body of such a school must not harass—

- (a) a pupil;
- (b) a person who has applied for admission as a pupil.

Section 85 (10) sets out that for the purpose of 85 (3) gender reassignment, religion or belief and sexual orientation are not relevant protected characteristics.

It is unlawful to harass a pupil in relation to the protected characteristic of sex, but there is no similar provision in relation to “gender reassignment”. However, a school that fails to protect a child from bullying based on the perceived characteristic of sexual orientation or gender reassignment may potentially be liable for discrimination.

What is a school's responsibility in relation to a child with the protected characteristic of gender reassignment?

To avoid gender-reassignment discrimination, schools should seek to ensure that children experiencing gender distress are able to access education in the same way as other children. They should be protected from bullying and covered by normal safeguarding procedures.

A school should not apply its rules differently to a child because the child says they are trans or are questioning their gender.

Can schools accommodate "social transition2?

"Social transition" is a term used to refer to a range of actions that a child may take to appear more like the opposite sex, accompanied by an expectation that they will be treated as if they are. "Transition" is a concept that suggests that a child achieves a change of status, such that a different set of expectations apply to that child from that point forward.

As outlined above, all schools have a set of rules, safeguards and protections for pupils that they are required to apply by law (to protect their pupil's data, their person and to provide access to education and associated benefits, facilities and service and so on). To disapply these rules and safeguards from a child because that child says they are trans **would be direct discrimination on the basis of gender reassignment.**

Many of the individual elements in a hoped for "social transition" simply cannot be accommodated within the school system:

- A school may not register a child as the opposite sex.
- A school may not misrecord a child's sex anywhere in its records.
- A school must have clear, fair rules about the situations in which girls and boys are treated differently, explain those rules clearly and enforce them fairly (for instance on sport and changing-rooms).
- A school must accurately recognise every child's sex in order to carry out its duty of care.
- A school cannot lie to other pupils, parents or teachers about any child's sex.

Thus the basic position is that a boy will be known as a boy for his whole school career (and a girl as a girl) for her whole school career. All the rules that apply to boys (and girls) will continue to apply to them. To do otherwise would be **direct gender reassignment discrimination**, and would also undermine the school's ability to undertake its duty of care towards other children. **No meaningful "social transition" is lawfully possible in schools.**

Furthermore, even if a school wanted to waive a particular sex-based rule for a particular child at a particular moment (for example, by allowing a nine-year-old boy to play on a girls' sports team) it cannot to make the commitment that the rule can be waived in future.

It is not in the best interests of a child who has a strong desire to be the opposite sex to allow that child to imagine that they may not need to comply with sex-based rules for the whole of

their school career.

It is in the best interests of all pupils that rules are clear and fair and clearly communicated.

Can a child demand to be known by alternative pronouns?

The legal obligations around pupil registration, data protection and duty of care mean that a school should not pretend that a girl is a “boy” or “male” or that a boy is a “girl” or “female”.

There are no specific laws about pronouns, but in standard English, and in general, “he”, “him” and “his” are words that stand in for a male person, and “she”, “her” and “hers” are words that stand in for a female person.

Requiring teachers and pupils to call a girl “he” or a boy “she” infringes on teachers’ and pupils’ freedom of belief and speech, and undermines schools’ ability to communicate clear rules that relate to the sexes.

A rule that enforces other children and teachers to not be able to refer to a child by ordinary pronouns, or that requires them to use alternative pronouns, would not stand up to challenge in relation to other people’s human rights (article 8 and 10).

Schools can simply decline a request to “change a child’s pronouns”. They do not need to specify pronouns to be used about each pupil. A boy remains a boy and a girl remains a girl. This is what is recorded and referred to about the child. Gendered personal pronouns are words in standard English grammar used to refer to people of known sex: they are not dictated by the person being referred to, and the school cannot prevent children speaking ordinary English.

Can a child demand to wear the opposite-sex uniform?

School dress codes differ. The most liberal may simply require an unbroken line of clothing from shoulders to lower thighs. Some have a single option (e.g. trousers and a sweatshirt) while others have a range (for example: “Black knee length permanent pleated skirt or plain black tailored trousers”). Some specify which uniform items are for girls and which are for boys, and similarly some schools have hairstyle rules which differ by sex.

A child who identifies as trans, is gender questioning or suffers from gender dysphoria should be held to the same uniform standards as other children of their sex at their school.

This means that the degree of gender non-conformity they will be able to express at school depends on the general rules of that school.

In some schools boys can have long hair; in others they cannot. In some schools boys can wear skirts; in others they cannot.

In most schools, girls can wear trousers and have short hair. This reflects that short hair and trousers are within the range of conventional attire for women and girls. This is not a girl transitioning or wearing a “boys’ uniform”. Similarly, in schools which do not restrict skirts to girls, a boy wearing a skirt is simply a boy wearing a skirt.

The reason that schools should follow their own rules is that they are rules. In a school where only girls are allowed to have long hair or wear the school uniform summer dress, allowing one boy to have long hair and wear the dress signals that this is a child to whom the girl’s rules apply (or no rules apply). It will be difficult for teachers and other staff (including supply teachers, parent volunteers and so on) to enforce clear rules, for example about which toilets a

child should use, if there are different boys' and girls' uniforms, but some children are allowed to dress in the wrong one.

Can a child change their name?

Yes a child can change their "known as" name using the usual procedures that the school has for informal name changes, if the school is confident it is in the child's best interest. But this is not a change of status or a change of sex.

Schools cannot have a blanket ban on children changing their name to ones that are gender neutral or incongruent with their sex, but with **any** name change, schools should consider whether it is in the best interests of the child (for example considering the views of the parents, any concerns about the child's mental health or about homophobic bullying or radicalisation).

Safeguarding concerns

Schools have a duty to protect children from harms including drugs, gangs, neglect, sexual exploitation and radicalisation, whether these come from within their family or are the product of outside influences (including online influences). Influences that encourage children to feel that they cannot live within ordinary sex-based rules or that their body is wrong are also safeguarding concerns.

Safeguarding concerns relating to a child that develops a cross-sex identity might include:

- Significant changes in behaviour, performance or attitude
- Relationships that put them in danger, for example if the child is talking about intimate issues with strangers on the internet
- That the child is psychologically vulnerable and being encouraged to feel dysphoric about their body
- That the child is being encouraged to want to break sex-based rules
- That a girl is binding her breasts
- That the child is being given unrealistic expectations and encouraged to self-harm if those expectations are not fulfilled
- That the child is being alienated from their parents
- That the child is self-medicating with drugs such as puberty blockers and hormones
- That the child is being encouraged to disregard sexual boundaries.

Any staff member who has any concerns about a child's welfare should follow the processes set out in *Keeping Children Safe in Education*. That is, they should follow their own school's child-protection policy and speak to the designated safeguarding lead. The school should work with parents as far as possible, as *Working Together to Safeguard Children 2023* states:

"All practitioners should work in partnership with parents and carers as far as possible. Parents and carers need to understand what is happening and need to be supported to say what they think. This is particularly important when there is reasonable cause to suspect that a child is suffering or is likely to suffer significant harm. Working collaboratively will mean parents have the best chance of making changes and practitioners can make fair and accurate decisions about how to support children and keep them safe."

Is any of this unlawful indirect discrimination?

Indirect discrimination occurs when a policy applies in the same way to everybody but indirectly disadvantages a group of people who share a protected characteristic. It may be justified as a proportionate means to a legitimate aim, or mitigated in ways that do not undermine that aim.

The policies that we are referring to – namely: accurately recording a child's sex and applying the same sex-based rules, duty of care and safeguarding to all pupils – are justified because they are a proportionate means to a legitimate aim. The aim is to educate children safely within a school setting. In order to do this it is necessary to know their sex and to apply sex-based rules clearly and fairly. Therefore it is proportionate to do this.

A school can not be required to *directly* discriminate against a pupil based on a characteristic (by putting them outside the rules that keep them safe) in order to avoid *indirectly* discriminating against them based on the same characteristic (because the rule makes the child feel uncomfortable).

What a school can do to mitigate risk of gender-reassignment discrimination is ensure that its sex-based rules are justified and not simply based on tradition or stereotype. For example:

- Avoid traditional sex-based distinctions in the subjects pupils study or the games they play
- Avoid sex-based rules at proms, dances and other social events about what girls or boys can wear (or expectations about who they partner)
- Consider having more gender-neutral uniform rules
- Reduce situations and rules where children's sex is emphasised, for example girl-boy seating.

These steps make it easier to accommodate children who chafe at the traditional social norms for their sex.

A school might also consider providing "gender neutral" (individual) toilets and changing facilities as an alternative to sex-separated facilities where possible.

However, it should be clear that the aim of any such mitigation is to reduce the discomfort a child feels and ensure they are able to access education, not to allow them to "transition" to being treated as opposite sex within the school system.

The kindest and fairest approach to children experiencing gender issues is to explain that they cannot be excluded from sex-based rules, but that does not mean they are required to conform with out-dated gender stereotypes. Any other approach holds out hope that intransigence and prolonged negotiation (or ambiguity about rules) will lead to some children being treated as exceptions to sex-based rules.

Schools are covered by the Public Sector Equality Duty. When making a decision, taking an action or developing a policy, a school must consciously consider what the implications would be for the equality of pupils with protected characteristics. This includes current pupils and those who apply to attend the school. It does not mean that they have to consider separately waiving the rules for each individual pupil who may have that characteristic.

Once a school has decided on a rule or policy, it should be communicated clearly. This is part

of the school's responsibility for fostering good relations across all protected characteristics – between people who share a protected characteristic and people who do not share it.

The DFE guidance should give schools a “safe harbour” of policies that are consistent with legislation and which balance the needs of those different protected characteristics.

Baroness Kishwer Falconer, Chair Equality and Human Rights Commission

10th April 2023

Dear Kishwer

Thank you for publishing your letter to the Minister for Women and Equalities setting out, with careful reasoning, why you support revisiting and clarifying the meaning of “sex” as a protected characteristic in the Equality Act.

We are sorry that you have been subjected to abuse as a result. As you will know, this bullying is commonly experienced by anyone (but particularly women) who departs from simply affirming that “trans women are women”. You have our solidarity, support and admiration for your integrity, steadfast in this storm.

The treatment you have received is part of an international pattern of institutionalised discrimination and harassment of people who express “gender-critical” views. Last month in Auckland, campaigners for women’s rights were threatened, assaulted and prevented from speaking in public. We have seen women at a rally in Hyde Park facing a barrage of amplified abuse, and hate-filled protests outside the inaugural conference of the Lesbian Project in London. In the US, swimmer Railey Gaines was hit in the face and threatened by a mob. We have personally (Maya and Helen) sat quietly in a pub in Westminster while protesters gathered outside shouting “fascist” at us. The EHRC offices has had urine poured over its doors by a protester who exposed himself.

Our experience is that the impunity with which protesters threaten women and LGB campaigners is linked to a broad-based and frightening campaign to dehumanise us and portray us as outside the bounds of civilised society, and therefore as acceptable targets for any sort of attack. We are referred to as vile old hags, fascists, Nazis, and cockroaches that are infesting the public domain.

Our inboxes are full of messages from women and men who describe routine and explicit discrimination and harassment which they face at work or at the hands of public authorities, schools, universities, regulators and trade unions, because they have been labelled “TERFs”. While the “Forstater” judgment is having some impact, many still face hostility. This sort of discrimination would not be tolerated for a moment if it were directed at a group defined by any other protected characteristic. When groups are victimised, when slurs are used to describe them, when the police stand back from protecting them, and when elite opinion holds that they do not merit the normal courtesies and protections of civilised society, it is hardly surprising that a violent fringe feels

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Directors: Michael Biggs, Rebecca Bull, Julia Casimo, Naomi Cunningham, Maya Forstater, Emma Hilton

encouraged to use violence against them.

We believe that clarifying the meaning of sex in the Equality Act in the UK is an important step to address this. Not only will it deal with the specific anomalies and issues you detail in your letter, but also, and perhaps even more importantly, it will clarify that biological women, as a group, are vulnerable to discrimination because of their sex, and that those setting public policy must consider the impacts of their decisions upon this group as well as others.

Speaking clearly about the distinction between being a woman, on the one hand, and being a man who identifies as a woman, on the other, is not hateful. Nor is collecting accurate data on the two sexes. Indeed, these distinctions are essential to understand impacts and protect everyone's rights, and in particular those of vulnerable groups.

We welcome your recognition of competing rights. If any possibility of competing rights is dismissed, then women's rights are, in effect, set at zero whenever the demands or interests of men who identify as women are raised.

As you may know (and we will be writing to Melanie Field with further details), we were shocked that, after attending an EHRC-sponsored event for civil-society organisations on 17th February at Birmingham City University Centre for Human Rights, we (together with LGB Alliance) were subjected to the same silencing treatment. The joint communiqué developed by participants at the event was vetoed because of our involvement. Project staff deleted a tweet that recognised our participation and told us they would not work with us in future. This is the polite use of the "heckler's veto", but has the same effect as those who scream in our faces and seek to intimidate us physically.

You are right when you say in your letter to the minister that there is an urgent need to move public debate on these issues to a more informed and constructive basis. This includes engagement with civil-society organisations. The BCU incident reveals that there is a gap waiting to be filled by organisations willing to hold space open for constructive discussion.

In 2018 the EHRC convened separate round tables with groups on both sides of this debate, and has continued to engage bilaterally. We would encourage you now to bring these conversations into the same room. We would welcome regular meetings bringing together civil-society organisations that respect everyone's rights with the aim of discussing perspectives, and finding common ground and clarity about areas of disagreement. We think it is a reasonable minimum condition for any group wishing to be treated as part of civil society that it should be willing to engage in civil debate.

Yours sincerely

S40(2) S40(2) S40(2)

Maya Forstater
Executive Director,
Sex Matters

Helen Joyce
Director of Advocacy,
Sex Matters

Naomi Cunningham
Chair, Sex Matters

January 20th 2025

Baroness Kishwer Falkner
Chair
Equality and Human Rights Commission
Tintagel House
92 Albert Embankment
London
SE1 7TY

Dear Kishwer

The *Data (Use and Access) Bill* that is currently going through the Lords will provide the legislative framework for a government-backed Digital Verification Services (DVS). This is a policy which aims to enable people to more easily prove who they are and key facts about themselves (which would include whether they are male or female) without using paper documents.

The Department for Science, Innovation and Technology is developing the associated *Digital Identities and Attributes Trust Framework*. This picks up on work done under the last government, as part of the development of the Data Protection and Digital Information Bill, which the EHRC commented on last year.

The system will provide a functional gateway for many parts of life where people need to prove their identity or facts about themselves in order to access public and private services, apply for jobs or work in the online-mediated gig economy. I am sure you can see that there could be equal opportunities and human rights implications which need to be considered

The system relies on public authorities such as HM Passport Office, the DVLA and NHS providing verified, trustworthy data. **We have been raising the issue that none of these sources provide accurate data and reliable data on a**

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sex-matters.org | info@sex-matters.org

Trustees: Naomi Cunningham (chair), Tim Allan, Michael Biggs, Rebecca Bull, Julia Casimo, Emma Hilton, Kate Owen, Anya Palmer, Claire Weir | CEO: Maya Forstater

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Registered office: 63/66 Hatton Garden, Fifth Floor Suite 23, London, EC1N 8LE

person's sex. These concerns are set out in our report "Sex and the Data Bill" that we published in December.¹

Reliable information on an individual's sex is needed for situations including healthcare, social care, sports, safeguarding, sexual consent - such as dating sites, and single-sex services.

The design of the data verification services system is a clear zero-sum game between those who want the system to verify actual sex and those who want it to enable people **to falsely verify themselves as the wrong sex.** It cannot do both (but what it can do is enable people including those with trans identities to keep the data on their sex private when it is not needed).

As the Chair of the Equality and Human Rights commission who has done so much to raise the need for clarity in law we ask you to **highlight this issue to the government and ask them to commit to ensuring that the DVS system is designed to treat biological sex as an attribute which is subject to the same minimum requirements for accuracy and clarity as others such as date of birth.**

There are three amendments coming up in the House of Lords (in report stage starting on Tuesday) which address this. I am attaching our briefing on these.

As you know language and concepts are often confused or ideologically driven in this area, and many people are afraid to engage. But clear data (and the ability to have clear rules) must not be lost through lack of attention.

A data system which "verifies" false or unreliable sex data as true will lead to breaches of human rights (including Articles 8 and 3), and to detrimental effects both on the basis of sex (people won't be able to prove their sex, single-sex services won't be able to be provided, data won't be collected on sex) and on the basis of gender reassignment (trans people will be at risk of becoming locked out of the system altogether and of being directly harmed such as given the wrong medication or diagnosis because they are recorded as the wrong sex).

We would be happy to talk to you or any of your team that is considering the equality and human rights impacts of this Bill.

Yours sincerely

S40(2)

Maya Forstater
CEO

¹ <https://sex-matters.org/posts/publications/sex-and-the-data-bill/>

From: Correspondence Team <correspondence@equalityhumanrights.com>
Sent: 07 January 2025 19:17
To: S40(2) @sex-matters.org
Subject: Your enquiry (ref: 10309857)

Categories: In scope

Dear Maya Forstater

Case 10309857

Thank you for your interest in the Code of Practice and for submitting a response. We will review your written response when analysing responses to the consultation.

Kind regards

Correspondence Team
correspondence@equalityhumanrights.com
Equality and Human Rights Commission

Third Floor, Tintagel House,
92 Albert Embankment
London, SE1 7TY

equalityhumanrights.com



NOTE: Please do not edit the subject line when replying to this email.

From: Maya Forstater <S40(2)@s-matters.org>
Sent: 08 August 2023 10:07
To: Kishwer Falkner; Chair and CEO
Cc: Akua Reindorf; S40(2); Helen Joyce
Subject: Review of Technical Schools Guidance
Attachments: Keeping children safe (1).pdf

Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments.
If in doubt, please contact the ICT Service Desk.

Dear Kishwer and Marcial,

Thank you for all the work you are doing to clarify the Equality Act and improve relations between people with different protected characteristics.

I had not realised that the EHRC Technical Guidance to schools on the Equality Act is being reviewed separately from the development of DFE guidance for gender questioning children.

I want to make sure you are aware of the commentary we have written on this:

<https://sex-matters.org/posts/updates/ehrc2/>

It is our view that the technical guidance is wrong in saying that it would be direct GR discrimination not to refer to a girl as a boy or a boy as a girl in school.

In fact we think it **would be direct discrimination to do so**. Schools (and every staff member in them) have a duty of care towards all their pupils. It is not possible to fulfil this duty of care while pretending that a child is the opposite sex and misleading others with a duty of care about this.

For example

- a ten year old child has a bloodstain on the groin
- a child says "I know I am a boy"
- a child asks which tent they should sleep in for an away trip
- a child is challenged by another child about being in the "wrong" toilets
- a child tells a teacher that when they grow up they hope to get pregnant and have a baby and they believe this is possible

In each of these situations if the staff member involved has been misled about the actual sex of the child they will not be able to interpret the situation or respond to it safely and responsibly within their duty of care.

It is imperative that schools understand that if a child has the protected characteristic of gender reassignment **their sex had not changed**. It will be direct discrimination against them because they have or are perceived to have the protected characteristic of gender reassignment they are **not included** within the ordinary standards of duty of care and safeguarding which depend on having accurate information, and sharing it. It will also be a failure in their duty of care and safeguarding for other children to lie about the child's sex.

We also think it is wrong to say that schools are required on a case by case (daily? annually? per child?) basis to consider whether to allow a child to use opposite sex facilities. It is not highly questionable that it is a detriment not to let a child use opposite sex facilities (for the reasons stated above). But even if it is it would be justified by the need to have clear rules for the benefit of all.

Recognising that the previous EHRC technical guidance was wrong is an important step in enabling the DFE to develop sound guidance.

Making clear that the protected characteristic of gender reassignment does not mean that a child must be treated as the opposite sex, but only that they must have the same access to education as other children is a critical role for the EHRC.

We know that it will be extremely difficult for the EHRC to explicitly recognise this error in the guidance (which it was strongly defending as recently as 2021), but it is necessary in order to create a safe environment for children in schools.

It is a core principle of safeguarding that lessons are learnt and made explicit.

I am attaching our analysis of the legal framework in which schools operate and the reasons why it is not possible for schools to comply with these responsibilities while pretending that some children are not the sex that they are.

We have also sent this to the Secretary of State and to Dr Cass.

With best wishes

From: Maya Forstater <S40(2)@sex-matters.org>
Sent: 03 October 2024 17:13
To: Kishwer Falkner; Chair and CEO; John Kirkpatrick
Cc: Fiona McAnena; Helen Joyce
Subject: Response to EHRC strategy
Attachments: Response-to-EHRC-strategy.pdf

Categories: In scope

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Dear Kishwer and John,

Please find attached our response to the EHRC strategy consultation. Also submitted (along with multiple choice answers) via the online consultation site.

With best wishes

Maya

Maya Forstater
Chief Executive Officer



S40(2)@sex-matters.org
S40(2)
[sex-matters.org](mailto:S40(2)@sex-matters.org)

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From: Maya Forstater <S40(2)@sex-matters.org>
Sent: 02 January 2025 15:13
To: Kishwer Falkner; John Kirkpatrick; Chair and CEO; Correspondence Team
Cc: Fiona McAnena; Helen Joyce
Subject: Response to Code of Practice Consultation
Attachments: SM letter on EHRC COP.pdf; Response to EHRC COP consultation.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: In scope, S40(2)

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Dear Kishwer and John,

Best wishes for the new year.

I am attaching our response to the Code of Practice consultation which we have also submitted online. We found the 250 word limit on comments per chapter was inadequate and have therefore written a letter with an attached note laying out our concerns about how the protected characteristics of sex and gender reassignment, and the relevant provisions and exceptions are dealt with.

I know that others have also found the 250 word limit inadequate. We hope that you will accept additional responses and ensure that they are given consideration alongside those submitted via the online survey.

We will publish our full response.

With best wishes

Maya Forstater
Chief Executive Officer



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From: Maya Forstater S40(2) @s-matters.org>
Sent: 19 April 2024 15:36
To: Kishwer Falkner
Cc: S40(2) Helen Joyce; Fiona McAnena
Subject: Request for a meeting

Categories: In scope

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Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!)

With best wishes

Maya Forstater
Executive Director



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policies and language

From: Microsoft Outlook
To: S40(2) @sex-matters.org
Sent: 08 May 2025 10:09
Subject: Relayed: Relayed: EHRC Freedom of Information Request: Consultation on Disclosure

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org) (S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org))

Subject: EHRC Freedom of Information Request: Consultation on Disclosure

From: Kishwer Falkner
Sent: 04 October 2024 07:58
To: 'Maya Forstater'; Chair and CEO; John Kirkpatrick
Cc: 'Fiona McAnena'; 'Helen Joyce'
Subject: RE: Response to EHRC strategy

Categories: In scope

Dear Maya,

Many thanks for letting me know. We look forward to reading it.

Kind regards,

Kishwer

From: Maya Forstater
Sent: Thursday, October 3, 2024 5:13 PM
To: Kishwer Falkner ; Chair and CEO ; John Kirkpatrick
Cc: Fiona McAnena ; Helen Joyce
Subject: Response to EHRC strategy

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Dear Kishwer and John,

Please find attached our response to the EHRC strategy consultation. Also submitted (along with multiple choice answers) via the online consultation site.

With best wishes

Maya

Maya Forstater
Chief Executive Officer



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From: Kishwer Falkner
Sent: 04 January 2025 15:03
To: 'Maya Forstater'; John Kirkpatrick; Chair and CEO; Correspondence Team
Cc: 'Fiona McAnena'; 'Helen Joyce'
Subject: RE: Response to Code of Practice Consultation

Categories: In scope

Dear Maya,

A very happy new year to you too, and all colleagues at SM.

Thanks for sending through the detailed submission. I can also confirm that we will not adhere to a 'limit' of 250 words, and will accept all comments including those providing separate comments.

With best wishes,

Kishwer

From: Maya Forstater
Sent: Thursday, January 2, 2025 3:13 PM
To: Kishwer Falkner ; John Kirkpatrick ; Chair and CEO ; Correspondence Team
Cc: Fiona McAnena ; Helen Joyce
Subject: Response to Code of Practice Consultation

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Dear Kishwer and John,

Best wishes for the new year.

I am attaching our response to the Code of Practice consultation which we have also submitted online. We found the 250 word limit on comments per chapter was inadequate and have therefore written a letter with an attached note laying out our concerns about how the protected characteristics of sex and gender reassignment, and the relevant provisions and exceptions are dealt with.

I know that others have also found the 250 word limit inadequate. We hope that you will accept additional responses and ensure that they are given consideration alongside those submitted via the online survey.

We will publish our full response.

With best wishes

Maya Forstater
Chief Executive Officer



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S40(2) sex-matters.org

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From: Maya Forstater <S40(2) @s-matters.org>
Sent: 06 September 2024 10:54
To: Kishwer Falkner
Cc: S40(2) Helen Joyce; Fiona McAnena
Subject: Re: Request for a meeting
Attachments: Schools-model-policy-on-sex-based-rules.pdf

Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments.
If in doubt, please contact the ICT Service Desk.

Dear Kishwer,

We are looking forward to seeing you this afternoon.
I am attaching our model policy for schools which we launched this week

<https://sex-matters.org/posts/updates/a-model-policy-that-protects-all-childrens-wellbeing/>

With best wishes
Maya

Maya Forstater
Chief Executive Officer



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On Fri, 19 Apr 2024 at 15:36, Maya Forstater <S40(2) @s-matters.org> wrote:
Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!)

With best wishes

Maya Forstater
Executive Director



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From: Maya Forstater <S40(2) @s-matters.org>
Sent: 24 May 2024 16:57
To: S40(2)
Cc: Helen Joyce; Fiona McAnena
Subject: Re: Request for a meeting

Categories: In scope

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Yes please!
Thank you

Maya Forstater
Chief Executive Officer



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On Fri, 24 May 2024 at 13:01, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

I can offer 28th at 10am? Please do let me know if that's suitable.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Friday, May 24, 2024 12:52 PM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Helen Joyce S40(2) @sex-matters.org; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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Dear S40(2)

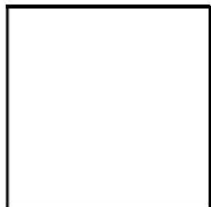
One of our number is now unavailable on that date (though if it is the only availability we will make it with just two of us)

Could you check whether the 10th, 13th, 26th or 28th are any good?

Thank you.

Maya Forstater

Chief Executive Officer



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S40(2)
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On Fri, 24 May 2024 at 11:44, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Good morning Maya,

Thank you for you reply. Please could we confirm the 25th June at 10:00? We of course are happy to host at our EHRC offices in Victoria Street.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Tuesday, May 21, 2024 7:38 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Helen Joyce <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Re: Request for a meeting

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We can do any of those mornings except Wed 26th June. On 12th June I can do up to 3pm.

We would prefer in person.

Thank you

Maya

On Thu, May 9, 2024, 1:20 PM S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)> wrote:

Dear Maya,

The Chairwoman has availability 10th, 12th, 13th June and w/c 24th June between 10:30 and 13:00.

Please do let me know if any of these days are suitable for you. Do you have a preference for the meeting to take place in person or online?

Many thanks,

S40(2)

From: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Thursday, May 2, 2024 3:33 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Helen Joyce <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Re: Request for a meeting

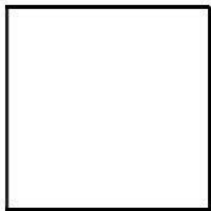
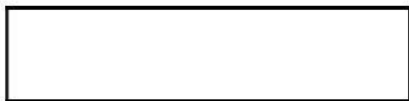
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Thank you for getting back to me. Yes please do send some dates!

Maya Forstater

Executive Director



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policies and language

On Thu, 2 May 2024 at 13:55, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

Apologies for my delayed reply. I hope you are well.

Many thanks for your email. Baroness Falkner would be delighted to meet with you to discuss the issues raised.

Due to diary constraints and a very busy time at the commission, it's unlikely we will be available to meet before June. Please do let me know if that's suitable for you and I will send over some dates.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>

Sent: Friday, April 19, 2024 3:36 PM

To: Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>

Cc: S40(2) <S40(2) @equalityhumanrights.com>; Helen Joyce

<S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>

Subject: Request for a meeting

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Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

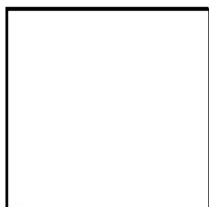
We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!)

With best wishes

Maya Forstater

Executive Director



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From: Helen Joyce <hS40(2) @s-matters.org>
Sent: 28 May 2024 14:01
To: S40(2)
Cc: Maya Forstater; Fiona McAnena
Subject: Re: Request for a meeting

Categories: In scope

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Dear S40(2) - we can do that! Could you please send a calendar invite to all three of us?
Helen

On Fri, 24 May 2024 at 13:01, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

I can offer 28th at 10am? Please do let me know if that's suitable.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Friday, May 24, 2024 12:52 PM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Helen Joyce <S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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Dear S40(2)

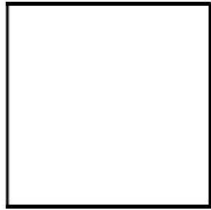
One of our number is now unavailable on that date (though if it is the only availability we will make it with just two of us)

Could you check whether the 10th, 13th, 26th or 28th are any good?

Thank you.

Maya Forstater

Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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On Fri, 24 May 2024 at 11:44, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Good morning Maya,

Thank you for you reply. Please could we confirm the 25th June at 10:00? We of course are happy to host at our EHRC offices in Victoria Street.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Tuesday, May 21, 2024 7:38 PM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Helen Joyce <S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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We can do any of those mornings except Wed 26th June. On 12th June I can do up to 3pm.

We would prefer in person.

Thank you

Maya

On Thu, May 9, 2024, 1:20 PM S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

The Chairwoman has availability 10th, 12th, 13th June and w/c 24th June between 10:30 and 13:00.

Please do let me know if any of these days are suitable for you. Do you have a preference for the meeting to take place in person or online?

Many thanks,

S40(2)

From: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Thursday, May 2, 2024 3:33 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Helen Joyce <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Re: Request for a meeting

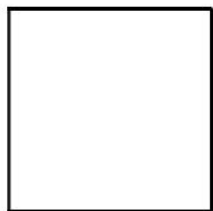
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Thank you for getting back to me. Yes please do send some dates!

Maya Forstater

Executive Director



S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)
S40(2)
[sex-matters.org](mailto:S40(2)@sex-matters.org)

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On Thu, 2 May 2024 at 13:55, S40(2) <S40(2)@equalityhumanrights.com> wrote:

Dear Maya,

Apologies for my delayed reply. I hope you are well.

Many thanks for your email. Baroness Falkner would be delighted to meet with you to discuss the issues raised.

Due to diary constraints and a very busy time at the commission, it's unlikely we will be available to meet before June. Please do let me know if that's suitable for you and I will send over some dates.

Many thanks,

S40(2)

From: Maya Forstater <S40(2)@s-matters.org>
Sent: Friday, April 19, 2024 3:36 PM
To: Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>
Cc: S40(2) <S40(2)@equalityhumanrights.com>; Helen Joyce <S40(2)@sex-matters.org>; Fiona McAnena <S40(2)@sex-matters.org>
Subject: Request for a meeting

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Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

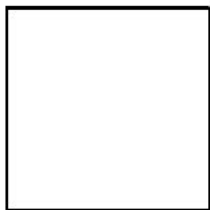
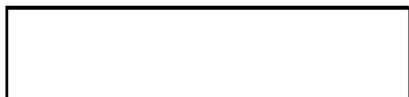
We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!)

With best wishes

Maya Forstater

Executive Director



S40(2) [@sex-matters.org](mailto:sex-matters.org)

S40(2)

sex-matters.org

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--

[Helen Joyce](#)
[Director of Advocacy](#)



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Personal website: thehelenjoyce.com

From: S40(2)
Sent: 09 September 2024 17:55
To: Fiona McAnena
Subject: RE: Question about a delivery

Categories: In scope

Hello Fiona

Yes thank you. Happy to collect those if you leave them at reception.

Best,

S40(2)

From: Fiona McAnena
Sent: Monday, September 9, 2024 1:48 PM
To: S40(2)
Subject: Question about a delivery

You don't often get email from S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org). [Learn why this is important](#)

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Hi S40(2) Good to meet you on Friday. We will email shortly the various bits of information we spoke about in the meeting, but I wanted to drop in some copies of a report for those who attended. If I come by the office, which is convenient for me tomorrow afternoon, can I leave them for you to pass on? It's an A4 report, not that big, so it'll just be a few documents in an envelope.

Fiona

--

Fiona McAnena
Director of Campaigns



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sex-matters.org
S40(2)

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From: Fiona McAnena S40(2) @sex-matters.org>
Sent: 10 September 2024 15:39
To: S40(2)
Subject: Re: Question about a delivery

Categories: In scope

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Thanks for letting me know you have them. I didn't ask for you as I wasn't sure if you were in the office and I had to catch a train at Vauxhall - outbound from London, only every half hour.

Fiona

Fiona McAnena
Director of Campaigns
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From: S40(2)
Sent: Tuesday, September 10, 2024 3:35:17 PM
To: Fiona McAnena
Subject: RE: Question about a delivery
Dear Fiona
Just confirming receipt. Thank you for making the effort to deliver these.
Best,
S40(2)

From: S40(2)
Sent: Monday, September 9, 2024 5:55 PM
To: Fiona McAnena
Subject: RE: Question about a delivery
Hello Fiona
Yes thank you. Happy to collect those if you leave them at reception.
Best,
S40(2)

From: Fiona McAnena <S40(2)@sex-matters.org>
Sent: Monday, September 9, 2024 1:48 PM
To: S40(2) <S40(2)@equalityhumanrights.com>
Subject: Question about a delivery

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Hi S40(2). Good to meet you on Friday. We will email shortly the various bits of information we spoke about in the meeting, but I wanted to drop in some copies of a report for those who attended. If I come by the office, which is convenient for me tomorrow afternoon, can I leave them for you to pass on? It's an A4 report, not that big, so it'll just be a few documents in an envelope.

Fiona

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Fiona McAnena

Director of Campaigns



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From: S40(2)
Sent: 05 September 2024 11:59
To: S40(2)

Cc: S40(2) @sex-matters.org
Subject: Civil Appeals - Listing
RE: Order CA-2023-001319-G [HSF-GBR01.FID2990884]

Categories: In scope

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Dear all

The First Intervenor notes that the Respondent's position following the Court of Appeal's refusal of permission to re-open its cross-appeal remains unclear (and has been attempting to seek clarity from the Respondent on that basis). The First Intervenor considers that clarity from the Respondent on its intended position is needed urgently before a final determination can be made as to whether updated submissions are required.

We have copied the Court of Appeal Listing Office into this email in order to keep them updated.

Yours faithfully

S40(2)

From: S40(2)
Sent: Friday, August 16, 2024 2:51 PM
To: S40(2)

S40(2) @equalityhumanrights.com' ; S40(2)
Subject: RE: Order CA-2023-001319-G

Dear All,

Further to the Court's order, can we please agree to exchange any updated submissions / replacement skeletons by 9 September, so that all written submissions can be included in the hearing bundle as required by the CPR?

Unless we have up to date submissions in good time before 16 September, we will be unable to include them in the bundle and will have instead to include an older version, which is likely to inconvenience the Court.

Regards,

S40(2)



Andr

Address: 92 London Street, Reading, Berkshire, RG1 4SJ

Tel: S40(2) **Mobile:** S40(2) **Fax:** S40(2)

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From: Civil Appeals - CMSC <civilappeals.cmsC@justice.gov.uk>

Sent: Friday, August 16, 2024 10:28 AM

To: S40(2)

S40(2) @equalityhumanrights.com' <S40(2) @equalityhumanrights.com>

Subject: Order CA-2023-001319-G

Good Morning

Please see attached order for your information

Regards

S40(2)

Court of Appeal, Civil Division | Royal Courts of Justice | Strand | London WC2A 2LL

Telephone: S40(2)

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From: S40(2)
Sent: 30 January 2023 17:33
To: Chair and CEO; S40(2)
Cc: 'S40(2) @sex-matters.org'; S40(2)
Subject: RE: Meeting with EHRC Chair and CEO

Categories: In scope

Hello Maya and Helen,

I hope you are both doing well.

To follow up from my previous email, I will assume tomorrow's proposed meeting will not be going ahead. Please do let me know if otherwise.

I would be grateful if you could let me know of your next known availability at your earliest convenience.

Kind regards,
S40(2)

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From: S40(2)
Sent: 25 January 2023 12:36
To: Chair and CEO ; S40(2)
Cc: S40(2) @sex-matters.org'
Subject: RE: Meeting with EHRC Chair and CEO

Hi Maya,

I hope you are well.

I'm just emailing to follow up on this as I am now back from leave. Do you have availability 11:30 – 12:00 on 31st Jan? If so, please do let me know and I will happily send over a Teams invite.

Kind regards,
S40(2)

S40(2)
Private Office – Business Support
Equality and Human Rights Commission

T: 0207 832 S40(2)

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From: S40(2) <S40(2)@equalityhumanrights.com>
Sent: 13 January 2023 18:12
To: Maya Forstater <S40(2)>
Cc: Chair and CEO <ChairandCEO@equalityhumanrights.com>; Helen Joyce <S40(2)@sex-matters.org>
Subject: RE: Meeting with EHRC Chair and CEO

Hello Maya,

No worries, thank you for coming back to me.

Is 11am on 31st January suitable for you? If so, I am happy to send over a Teams invite.

Many thanks,
S40(2)

Private Office – Business Support
Equality and Human Rights Commission

T: 0207 832 S40(2)

Third Floor, Windsor House
42-50 Victoria Street
London SW1H 0TL

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From: Maya Forstater <S40(2) >
Sent: 13 January 2023 17:54
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Chair and CEO <ChairandCEO@equalityhumanrights.com>; Helen Joyce S40(2) @sex-matters.org>
Subject: Re: Meeting with EHRC Chair and CEO

Apologies for delay - Monday or Tuesday are best for us.

Maya

Maya Forstater

Mobile: S40(2)

Skype: S40(2)

Web: www.hiymaya.net

Twitter: MForstater

On Fri, 13 Jan 2023 at 16:52, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Good afternoon Maya,

I will be on leave next week until 22nd Jan so I'm copying our Private Office email for one of my colleagues to take forward your response.

We look forward to hearing from you.

Many thanks,

S40(2)

S40(2)
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Equality and Human Rights Commission

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From: S40(2)
Sent: 12 January 2023 16:52
To: 'Maya Forstater' <S40(2)>
Subject: Meeting with EHRC Chair and CEO

Dear Maya,

I hope you are well.

I am reaching out on behalf of our Chair and CEO, who you met with in September, to set up another meeting with yourself and Helen. I'd be grateful if you could let me know of your availability from week commencing 30th January.

Many thanks,

S40(2)

S40(2)
Private Office – Business Support
Equality and Human Rights Commission

T: 0207 832 S40(2)

Third Floor, Windsor House
42-50 Victoria Street
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From: Maya Forstater <S40(2)@s-matters.org>
Sent: 20 November 2023 13:39
To: Kishwer Falkner; FALKNER OF MARGRAVINE, Baroness
Cc: BADENOCH, Kemi; Bryony BONNER (TRADE); Daniel EL-GAMRY (TRADE);
laura.farris.mp@parliament.uk;
childrens.commissioner@childrenscommissioner.gov.uk; inbox@cypcs.org.uk; Helen
Joyce; Stephanie Davies-Arai; S40(2)
Subject: Re: Letter to Kishwer Falkner re: inappropriate recommendation to collect data on
sexual orientation and gender reassignment of children in schools
Attachments: 20231117-Letter-to-Kishwer-Falkner-EHRC.pdf
Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments.
If in doubt, please contact the ICT Service Desk.

Here is the final published version of the letter (with a couple of typos corrected). Please use this version

It is published here <https://sex-matters.org/posts/publications/letter-to-kishwer-falkner-chair-of-the-equality-and-human-rights-commission/>

It was picked up by the Telegraph and the Express over the weekend
<https://www.telegraph.co.uk/news/2023/11/18/ehrc-plans-incompatible-with-safeguarding-gender-critical/>
<https://www.express.co.uk/news/politics/1836627/ehrc-sex-matters-transgender-trend>

With best wishes

Maya Forstater
Executive Director



S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)
S40(2)
sex-matters.org

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On Fri, 17 Nov 2023 at 16:51, Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)> wrote:
Dear Kishwer

Please find letter attached from Sex Matters and Transgender Trend.

We are very concerned about recommendation 1 in the Equality and Human Rights Monitor report.

With best wishes

Maya

Maya Forstater
Executive Director



S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)
S40(2)
sex-matters.org

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From: Maya Forstater <S40(2)@s-matters.org>
Sent: 28 February 2023 14:48
To: Melanie Field
Cc: Helen Joyce; Chair and CEO; Kishwer Falkner; Marcial Boo
Subject: Re: Lesbians without liberty: how the UK discriminates against women who love women
Attachments: EHRC workplace survey.pdf
Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Thank you Melanie, Kishwer and Marcial

We have submitted it to the statutory review together with our [Single Sex Services](#) survey report from earlier in the year. and an early version of of analysis from our survey on the experience of being gender critical at work (also attached here). We have also submitted the lesbians report to Victor Madrigal.

The headlines from the workplace survey (which will be published in Q2 2023) are:

2,203 people responded. While this is not a representative survey, the strength of the response highlights that high-profile cases of people being bullied and harassed at work for gender-critical views are just the tip of an iceberg. The stories of are harrowing tales of people being made to feel afraid and isolated at work, and in some cases being driven out of jobs.

- Nearly a quarter (23%) said that managers were hostile towards people with gender-critical beliefs. Just 10% said that managers were supportive.
- Over half (54%) of respondents said that people with gender-critical views face hostility from management or colleagues. Only 4% said that people with gender-critical views were respected within an environment where difference is valued.
- More than two-thirds (68%) said they did not express gender-critical views publicly (such as on social media) for fear of a backlash at work.
- Nearly a half (44%) said they feel like their workplace is hostile to people like them.
- A third of respondents (34%) said they feel under pressure to say things they do not believe to keep their job.
- 17% said that they had been involved in clashes at work.
- 10% of respondents said that they had been bullied or harassed.

87% female of respondents were female and most were between 35 and 64, with the 45–54 age group most represented. A significant minority (44%) said that their belief about sex relate to their religion,

We are doing further work to pull out key themes and experiences in different sectors and in relation to professional bodies and trades unions.

We would be keen to come and present the study to staff at the EHRC, and to invite you to take part in

one of the launch events. This study for the first time sets out how belief discrimination on this issue is endemic in many sectors, and is undermining relations between groups with different protected characteristics.

With best wishes

Maya

On Fri, 24 Feb 2023, 19:11 Melanie Field, <S40(2) @equalityhumanrights.com> wrote:

Dear Maya

Kishwer and Marcial have asked me to send you our thanks for this report, which we will read with interest. I will share it with relevant colleagues, including those working on our Statutory Review.

You may also wish to be aware of the current call for inputs prior to the forthcoming visit to the UK by the UN Independent Expert on SOGI on 24 April to 5 May. <https://www.ohchr.org/en/calls-for-input/2023/call-inputs-un-independent-expert-protection-against-violence-and>

Best wishes

Melanie

Melanie Field
Chief Strategy and Policy Officer
Equality and Human Rights Commission

T: 020 7832 S40(2) **M:** S40(2)

Third Floor, Windsor House,
42-50 Victoria Street,
London, SW1H 0TL

equalityhumanrights.com

From: Maya Forstater <S40(2) @s-matters.org>

Sent: 24 February 2023 13:28

To: Chair and CEO <ChairandCEO@equalityhumanrights.com>; Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>; Marcial Boo <Marcial.Boo@equalityhumanrights.com>; Melanie Field <Melanie.Field@equalityhumanrights.com>

Cc: Helen Joyce <S40(2) @sex-matters.org>

Subject: Lesbians without liberty: how the UK discriminates against women who love women

Dear Kishwer, Marcial and Melanie

Please find attached a new report by Sex Matters which highlights how the UK legal framework and existing guidance and policy discriminates against lesbians and gay men in relation to freedom of association,

The report highlights the experience of lesbians from a survey we conducted, but the legal analysis covers both lesbians and gay men.

We are publishing it in time to submit it to the EHRC Statutory Review.

It notes that the UK government's current interpretation of the interaction between the Gender Recognition Act and the Equality Act says that lesbian associations *cannot* exclude

males if they have a government certificate deeming them to be women.

We think this interpretation, which destroys freedom of association for lesbians and gay men is wrong (since it is not in line with Section 3 of the Human Rights Act).

We do not think that the correct response to this is to introduce more piecemeal exceptions to the Equality Act, making it harder to understand and implement but to clarify that sex and sexual orientation are protected characteristics in their own right, and are not modified by legal gender reassignment.

Being a trans-identifying heterosexual male and being a lesbian are two quite separate material realities, and protecting the freedom of association of lesbians requires that this is recognised in law.

Maya Forstater

Executive Director



S40(2) @sex-matters.org
S40(2) sex-matters.org

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Sex Matters is a human-rights organisation

campaigning for clarity about sex in laws,

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From: Melanie Field
Sent: 24 February 2023 19:11
To: Maya Forstater
Cc: Helen Joyce; Chair and CEO; Kishwer Falkner; Marcial Boo
Subject: RE: Lesbians without liberty: how the UK discriminates against women who love women

Categories: In scope

Dear Maya

Kishwer and Marcial have asked me to send you our thanks for this report, which we will read with interest. I will share it with relevant colleagues, including those working on our Statutory Review.

You may also wish to be aware of the current call for inputs prior to the forthcoming visit to the UK by the UN Independent Expert on SOGI on 24 April to 5 May. <https://www.ohchr.org/en/calls-for-input/2023/call-inputs-un-independent-expert-protection-against-violence-and>

Best wishes

Melanie

Melanie Field
Chief Strategy and Policy Officer
Equality and Human Rights Commission

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42-50 Victoria Street,
London, SW1H 0TL

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From: Maya Forstater
Sent: 24 February 2023 13:28
To: Chair and CEO ; Kishwer Falkner ; Marcial Boo ; Melanie Field
Cc: Helen Joyce
Subject: Lesbians without liberty: how the UK discriminates against women who love women

Dear Kishwer, Marcial and Melanie

Please find attached a new report by Sex Matters which highlights how the UK legal framework and existing guidance and policy discriminates against lesbians and gay men in relation to freedom of association,

The report highlights the experience of lesbians from a survey we conducted, but the legal analysis covers both lesbians and gay men.

We are publishing it in time to submit it to the EHRC Statutory Review.

It notes that the UK government's current interpretation of the interaction between the Gender Recognition Act and the Equality Act says that lesbian associations *cannot* exclude males if they have a government certificate deeming them to be women.

We think this interpretation, which destroys freedom of association for lesbians and gay men is wrong (since it is not in line with Section 3 of the Human Rights Act).

We do not think that the correct response to this is to introduce more piecemeal exceptions to the Equality Act, making it harder to understand and implement but to clarify that sex and sexual orientation are protected characteristics in their own right, and are not modified by legal gender reassignment.

Being a trans-identifying heterosexual male and being a lesbian are two quite separate material realities, and protecting the freedom of association of lesbians requires that this is recognised in law.

Maya Forstater
Executive Director



S40(2) [@sex-matters.org](mailto:sex-matters.org)
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campaigning for clarity about sex in laws,
policies and language

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From: Fiona McAnena <S40(2)@sex-matters.org>
Sent: 24 September 2024 15:26
To: S40(2) John Kirkpatrick
Cc: Helen Joyce; Maya Forstater; Kishwer Falkner; Su-Mei Thompson; Joanne Cash
Subject: Re: Guidance on sport
Attachments: Equality Act Code of Practice_guidance on sport.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: In scope

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Dear John and S40(2)

When we met recently I mentioned that, following the April 2022 guidance on single and separate sex services, I had been in a meeting with EHRC people where the possibility of a separate piece of work to provide better guidance on sport was mentioned. There was recognition that there was confusion in sport, and indeed the need for the EHRC statement issued in February 2023 in response to UK Athletics bears this out.

We have had extensive engagement with sporting bodies on this matter, and we would welcome the opportunity to contribute as you look at this topic for the revised CoP. By way of illustration, we have looked at what the 2011 Code says about section 195 and proposed revised guidance which is in line with your statement to UK Athletics. This is attached. You will see that the examples given in 2011 were somewhat ambiguous. Clearer examples will ensure consistency in application of the law, and thus provide equality of opportunity and treatment for everyone.

I would be delighted to meet with you or any of your colleagues to discuss this.

Kind regards

Fiona

--

Fiona McAnena
Director of Campaigns



S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)



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From: Maya Forstater

Date: Monday, 9 September 2024 at 20:22

To: Kishwer Falkner , S40(2) @equalityhumanrights.com ,
S40(2) @equalityhumanrights.com , S40(2) @equalityhumanrights.com , S40(2)
, S40(2) @equalityhumanrights.com

Cc: Helen Joyce , Fiona McAnena

Subject: Follow up to our meeting

Dear Kishwer and John, Joanne, Su-Mei, John and S40(2)

Thank you for taking the time to meet us. As discussed, here are a few pieces of evidence that we think may be useful.

1) **The original draft Code of Practice for Service Providers and Associations which went out for consultation in 2010** (attached). We think this was a much better approach than that which ended up being published. It is closely aligned to the legislation. On the single sex services exceptions in Schedule 3 it said

“The prohibition on gender reassignment discrimination does not apply in relation to the provision of separate- and single-sex services, provided that the treatment is a proportionate means of achieving a legitimate aim.”

And

“The service provider will be expected to consider the needs and wishes of the transsexual person as well as those of the women or men using separate or single-sex services.”

We will shortly be publishing on our website an analysis on what changed from the draft to the post-consultation final version and we'll send that to you. We feel that the 2010 draft was good. The problems arose in these changes, which came from rather one-sided input to the consultation.

It is notable how much the statutory guidance on this topic changed from the original version which was based on the legislation, and which was consulted on, to the final version. A [Freedom of Information request](#) revealed that there is a document from this time called "Press for Change" which is an annotated version of the draft Code of Practice. The content of this document has not

been disclosed by the EHRC. You will know that Press for Change was the leading transgender lobby group at that time.

2) Polling which shows public opinion is for tolerance and non-discrimination of transgender people, but also strongly for single-sex provision especially in sport, even when that means excluding trans-identifying males. Our pre-election polling shows that there is no public appetite for self-ID. A separate poll shows that more than a third of the population are confused about whether a “trans woman” is a female-born person identifying as a man or vice versa. This is one reason we encourage clear language. Without that it’s not possible to discuss the policy issues, or for service providers and employers to communicate clearly to people what policies have been adopted and what they mean.

- Our polling - [June 2024](#) and [May 2023](#)
- MBM polling on the confusion around language - [August 2023](#)

3) Relevant legal cases discussed

In 2022 we wrote analysis of [relevant cases in relation to single-sex services](#)

In addition we would draw your attention to:

[Earl Shilton v Mrs Miller \[EAT 2023\]](#) - it was sex discrimination to provide inadequate toilets to a woman at work - inadequate signage meant the woman was at risk of a man entering the toilet, or of seeing a man using the urinal.

“The men’s toilets consisted of a single cubicle and a trough urinal. There was a sign that should be placed on the door when the toilet was being used by a woman, but it did not always stay in place. The only facility suitable for women was the single cubicle. It could only be accessed by passing the urinal. There was no lock on the main entrance door to the men’s toilets. There was a risk of a man entering the facility regardless of the sign on the door, which meant that a woman might see a man using the urinal without knowing he was there having used the lavatory in the cubicle, or on entering the men’s toilet.”

[Ms V Abbas v ISS Facility Ltd \[ET 2023\]](#) - it was sex discrimination to provide inadequate toilets to a woman at work. Only men’s toilets and a unisex toilet were provided. Ms Abbas was told she could use either.

“In practice, the claimant was encouraged to use the accessible toilet and that is what she chose to do. She had a number of concerns about the toilet. First, whilst it was lockable from the inside, the lock was loose and it could be opened from the outside with a coin. Secondly, there was no sign on the toilet to suggest that it was also a designated toilet for women and, thirdly, men routinely used the toilet. Before using the toilet, the claimant typically had to clean it before sitting down.”

Reflecting on these cases we think that it would be sex discrimination for an employer or service provider to tell women that a facility is female only (for example by putting up a sign with the words female or woman or with the standard pictogram) and then tell male employees and service users that they can use the same facilities.

This is the issue with the question we discussed about whether it is a “fact-specific” question whether it is a proportionate means to a legitimate aim to exclude all male adults from a space that is designated female-only.

The case of [Adams v Edinburgh Rape Crisis Centre \[ET 2024\]](#) illustrates the issue. The tribunal concluded (at para 237- 238) concerning the question of whether it was reasonable or possible for a person working for a rape crisis centre to keep their sex private:

“Similarly, the Tribunal’s view is that whilst some individuals may be sensitive about having what the respondent’s witnesses termed a person’s “gender history” revealed, this is not something which flows axiomatically from the existence of a right to privacy. The cases of *G v UK* and *YY v Turkey* were about much more basic concerns.

“There would clearly be circumstances where the right to private life includes a right to confidentiality of one’s gender history but it is not something which occurs in every case. In the vast majority of cases there will be absolutely no controversy whatever in asking someone their biological sex or sex at birth. There would also be no controversy whatsoever in asking someone their gender identity. It will usually be fairly obvious. Given that it is not an absolute right one requires to look at the context in this case.

The context in this case was that AB works at a Rape Crisis Centre. As noted above it is one of the few organisations which is exempt from the terms of the Equalities [sic] Act in terms of Schedule 9. When AB was employed it was a genuine occupational requirement that she be a woman. In the view of the Tribunal there is absolutely no breach of her right to privacy in those circumstances of telling a service user that she was assigned female at birth and now identifies as non binary. The Tribunal heard no evidence from AB and there was no evidence before us that there was any particular sensitivity around this matter. The evidence simply appeared to be that based on their strong adherence to gender identity theory all of the respondent’s witnesses believed that this was something which could not be done. In the view of the Tribunal this is not something which the law recognises in the case of someone who works for a Rape Crisis Centre.”

There are two upcoming cases on changing rooms in the the NHS including the cases of the nurses in Doncaster ([being supported by Christian Concern](#)) and the [nurse in Fife](#) (her hearing is in February and she is represented by [Margaret Gribbon](#) - we are in touch).

4) [A report on the issues in sport compiled by Fiona in her previous role at Fair Play For Women.](#) Recently the problems at Olympic women’s boxing and then the women’s sprints at the Paralympics have been in the spotlight, but this report illustrates the scale and range of issues in the UK at all levels and across many sports. It’s not just about sport but also about privacy in single-sex changing rooms and toilets around sports facilities, gyms and leisure centres, and about the silencing and intimidation associated with trying to raise concerns about the loss of provision that is genuinely single-sex. No one is arguing against single-sex sport or other provision but when they insist on “trans inclusion”, meaning trans-identifying males in the women’s provision, then it becomes mixed-sex. This is where clearer guidance is needed.

We support you in your mission to ensure the human rights of all are fully considered and properly balanced to maximise the opportunities for everyone to live well.

If there is ever anything we can do to help let us know. With best wishes Maya

Maya Forstater
Chief Executive Officer



S40(2) [@sex-matters.org](mailto:may@sex-matters.org)
S40(2)
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From: Helen Joyce <S40(2) @s-matters.org>
Sent: 31 January 2023 09:55
To: S40(2)
Cc: Maya Forstater; S40(2)
Subject: Re: FW: EHRC meeting today

Categories: In scope

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Great, thanks.

On Tue, 31 Jan 2023 at 09:33, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Hi Helen,

I am just forwarding the below and copying Maya in case I've sent to the wrong email address. Just to confirm, the meeting time is 11:30am.

Please feel free to call my mobile if you need to contact me: S40(2) .

Many thanks,

S40(2)

S40(2)

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42-50 Victoria Street
London SW1H 0TL

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From: S40(2)
Sent: 31 January 2023 09:05
To: 'S40(2) @sex-matters.org' S40(2) @sex-matters.org>
Subject: EHRC meeting today

Good morning Helen,

Thank you for calling. Unfortunately, there was no number pop up so I was unable to call back, however, I can confirm that today's meeting will be held in person at Windsor House at 11:30. This information is reflected in the invite I sent.

Apologies, also for yourself and Maya being unable to contact us. Our systems have blockers that we believed to have been removed but unsuccessful. The issue should now be resolved for any future emails.

Many thanks,

S40(2)

S40(2)
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--

[Helen Joyce](#)
[Director of Advocacy](#)



Personal website: thehelenjoyce.com

From: Joanne Cash S40(2) @equalityhumanrights.com>
Sent: 11 September 2024 18:22
To: Maya Forstater; Kishwer Falkner; Su-Mei Thompson; Miriam Bookman; S40(2)
John Kirkpatrick
Cc: Helen Joyce; Fiona McAnena
Subject: Re: Follow up to our meeting

Categories: In scope

Dear Maya,

Thank you for coming in to meet with us and for following up like this.

Warm regards,
Joanne

From: Maya Forstater
Sent: 09 September 2024 20:22
To: Kishwer Falkner ; Su-Mei Thompson ; Joanne Cash ; S40(2) ; S40(2) ; John Kirkpatrick
Cc: Helen Joyce ; Fiona McAnena
Subject: Follow up to our meeting

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Dear Kishwer and John, Joanne, Su-Mei, John and Stephen

Thank you for taking the time to meet us. As discussed, here are a few pieces of evidence that we think may be useful.

1) The original draft Code of Practice for Service Providers and Associations which went out for consultation in 2010 (attached). We think this was a much better approach than that which ended up being published. It is closely aligned to the legislation. On the single sex services exceptions in Schedule 3 it said

"The prohibition on gender reassignment discrimination does not apply in relation to the provision of separate- and single-sex services, provided that the treatment is a proportionate means of achieving a legitimate aim."

And

"The service provider will be expected to consider the needs and wishes of the transsexual person as well as those of the women or men using separate or single-sex services."

We will shortly be publishing on our website an analysis on what changed from the draft to the post-consultation final version and we'll send that to you. We feel that the 2010 draft was good.

The problems arose in these changes, which came from rather one-sided input to the consultation.

It is notable how much the statutory guidance on this topic changed from the original version which was based on the legislation, and which was consulted on, to the final version. A [Freedom of Information request](#) revealed that there is a document from this time called "Press for Change" which is an annotated version of the draft Code of Practice. The content of this document has not been disclosed by the EHRC. You will know that Press for Change was the leading transgender lobby group at that time.

2) Polling which shows public opinion is for tolerance and non-discrimination of transgender people, but also strongly for single-sex provision especially in sport, even when that means excluding trans-identifying males. Our pre-election polling shows that there is no public appetite for self-ID. A separate poll shows that more than a third of the population are confused about whether a "trans woman" is a female-born person identifying as a man or vice versa. This is one reason we encourage clear language. Without that it's not possible to discuss the policy issues, or for service providers and employers to communicate clearly to people what policies have been adopted and what they mean.

-
-
- Our polling -
- [June](#)
- [2024](#) and
- [May](#)
- [2023](#)
-
-
-
-
-
- MBM polling on the confusion around language -
- [August 2023](#)
-

3) Relevant legal cases discussed

In 2022 we wrote analysis of [relevant cases in relation to single-sex services](#)

In addition we would draw your attention to:

[Earl Shilton v Mrs Miller \[EAT 2023\]](#) - it was sex discrimination to provide inadequate toilets to a woman at work - inadequate signage meant the woman was at risk of a man entering the toilet, or of seeing a man using the urinal.

"The men's toilets consisted of a single cubicle and a trough urinal. There was a sign that should be placed on the door when the toilet was being used by a woman, but it did not always stay in place. The only facility suitable for women was the single cubicle. It could only be accessed by passing the urinal. There was no lock on the main entrance door to the men's toilets. There was a risk of a man entering the facility regardless of the sign on the

door, which meant that a woman might see a man using the urinal without knowing he was there having used the lavatory in the cubicle, or on entering the men's toilet."

[Ms V Abbas v ISS Facility Ltd \[ET 2023\]](#) - it was sex discrimination to provide inadequate toilets to a woman at work. Only men's toilets and a unisex toilet were provided. Ms Abbas was told she could use either.

"In practice, the claimant was encouraged to use the accessible toilet and that is what she chose to do. She had a number of concerns about the toilet. First, whilst it was lockable from the inside, the lock was loose and it could be opened from the outside with a coin. Secondly, there was no sign on the toilet to suggest that it was also a designated toilet for women and, thirdly, men routinely used the toilet. Before using the toilet, the claimant typically had to clean it before sitting down."

Reflecting on these cases we think that it would be sex discrimination for an employer or service provider to tell women that a facility is female only (for example by putting up a sign with the words female or woman or with the standard pictogram) and then tell male employees and service users that they can use the same facilities.

This is the issue with the question we discussed about whether it is a "fact-specific" question whether it is a proportionate means to a legitimate aim to exclude all male adults from a space that is designated female-only.

The case of [Adams v Edinburgh Rape Crisis Centre \[ET 2024\]](#) illustrates the issue. The tribunal concluded (at para 237- 238) concerning the question of whether it was reasonable or possible for a person working for a rape crisis centre to keep their sex private:

"Similarly, the Tribunal's view is that whilst some individuals may be sensitive about having what the respondent's witnesses termed a person's "gender history" revealed, this is not something which flows axiomatically from the existence of a right to privacy. The cases of *G v UK* and *YY v Turkey* were about much more basic concerns.

"There would clearly be circumstances where the right to private life includes a right to confidentiality of one's gender history but it is not something which occurs in every case. In the vast majority of cases there will be absolutely no controversy whatever in asking someone their biological sex or sex at birth. There would also be no controversy whatsoever in asking someone their gender identity. It will usually be fairly obvious. Given that it is not an absolute right one requires to look at the context in this case.

The context in this case was that AB works at a Rape Crisis Centre. As noted above it is one of the few organisations which is exempt from the terms of the Equalities [sic] Act in terms of Schedule 9. When AB was employed it was a genuine occupational requirement that she be a woman. In the view of the Tribunal there is absolutely no breach of her right to privacy in those circumstances of telling a service user that she was assigned female at birth and now identifies as non binary. The Tribunal heard no evidence from AB and there was no evidence before us that there was any particular sensitivity around this matter. The evidence simply appeared to be that based on their strong adherence to gender identity theory all of the respondent's witnesses believed that this was something which could not be done. In the view of the Tribunal this is not something which the law recognises in the case of someone who works for a Rape Crisis Centre."

There are two upcoming cases on changing rooms in the the NHS including the cases of the nurses in Doncaster ([being supported by Christian Concern](#)) and the [nurse in Fife](#) (her hearing is in February and she is represented by [Margaret Gribbon](#) - we are in touch).

4) **[A report on the issues in sport compiled by Fiona in her previous role at Fair Play For Women.](#)**

Recently the problems at Olympic women's boxing and then the women's sprints at the Paralympics have been in the spotlight, but this report illustrates the scale and range of issues in the UK at all levels and across many sports. It's not just about sport but also about privacy in single-sex changing rooms and toilets around sports facilities, gyms and leisure centres, and about the silencing and intimidation associated with trying to raise concerns about the loss of provision that is genuinely single-sex. No one is arguing against single-sex sport or other provision but when they insist on "trans inclusion", meaning trans-identifying males in the women's provision, then it becomes mixed-sex. This is where clearer guidance is needed.

We support you in your mission to ensure the human rights of all are fully considered and properly balanced to maximise the opportunities for everyone to live well.

If there is ever anything we can do to help let us know. With best wishes Maya

Maya Forstater

Chief Executive Officer



S40(2)

[@sex-matters.org](#)

S40(2)

[sex-matters.org](#)

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We campaign for clarity about sex in laws, policies and language

From: Maya Forstater <S40(2) @sex-matters.org>
Sent: 17 November 2021 13:48
To: FALKNER OF MARGRAVINE, Baroness; Kishwer Falkner; Marcial Boo
Subject: Re: Final letter: academics write to the EHRC

Categories: In scope

Dear Baroness Falkner,

I hope you received our letter of 16 October calling on the EHRC to undertake an inquiry into the impact of gender ideology on academic freedom, and non-discrimination in universities.

The Office for Students is undertaking a review of the conduct of Sussex University in relation to Kathleen Stock, which is welcome, but the issue goes well beyond Sussex University.

As our letter, and the accompanying Sunday Times article highlights, there are many, many cases of academics being harassed and discriminated against for their "gender critical" views.

Will you please respond and/or meet with us?

Maya Forstater
Executive Director



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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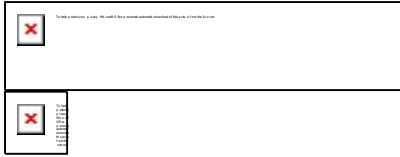
On Sat, 16 Oct 2021 at 20:25, Maya Forstater <S40(2) @sex-matters.org> wrote:
Dear Kishwer Falkner,

I am attaching the final version of our letter, signed by 240 academics calling for the EHRC to undertake a sector-wide "Reindorf Review".

It should be in the Sunday Times tomorrow.

Maya

Maya Forstater
Executive Director



S40(2) [@sex-matters.org](mailto:sex-matters.org)
S40(2) sex-matters.org

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From: Chair and CEO
Sent: 08 February 2023 16:06
To: 'Maya Forstater'; 'info@sex-matters.org'
Cc: Helen Joyce; Maya Forstater; Correspondence Team; Chair and CEO
Subject: RE: FAO Marcial Boo
Attachments: 1182ForstaterJoyce.pdf

Categories: In scope

Dear Maya,

Please see the attached response, sent on behalf of Marcial Boo.

Thanks,
S40(2)

From: Maya Forstater
Sent: 20 January 2023 14:29
To: Chair and CEO
Cc: Helen Joyce ; Maya Forstater
Subject: FAO: Marcial Boo

Dear Marcial Boo,

Please find a letter attached re: the Statutory review
I am sending it from my personal email as our organisational one seems to get stopped by your spam filters.

Maya

Maya Forstater

Mobile: S40(2)
Skype: S40(2)
Web: www.hiymaya.net
Twitter: MForstater

From: S40(2)
Sent: 23 August 2024 15:34
To: 'S40(2)'; S40(2) @sex-matters.org'
Cc: S40(2)
Subject: RE: CA-2023-001319 Higgs v Farmor's School and another (ref: 8731357)

Categories: In scope

Dear Sir/Madam

I am writing on behalf of my colleague ^{S40(2)} who is currently on holiday. With apologies if we have missed it, I would be grateful if you could send us a copy of your/your client's intervention in this case.

Kind regards
S40(2)

S40(2)

Suite 3.04 (3rd Floor), Tintagel House,
92 Albert Embankment, Vauxhall,
London SE1 7TY

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Human Rights
Commission

From: S40(2)
Sent: Friday, August 16, 2024 4:08 PM
To: Civil Appeals - CMSC ; 'S40(2)

; S40(2) ; S40(2) @sex-matters.org' ; S40(2)
Subject: RE: CA-2023-001319 Higgs v Farmor's School and another (ref: 8731357)

OFFICIAL-SENSITIVE

Dear Sir/Madam

Further to the below, the EHRC will be grateful to interveners if you will share substantive submissions with us, to enable our consideration of the necessity for any further written responses from us.

Kind regards

S40(2)

OFFICIAL-SENSITIVE

From: Civil Appeals - CMSC <civilappeals.cmsC@justice.gov.uk>

Sent: Friday, August 16, 2024 3:31 PM

To: 'S40(2)

S40(2)

S40(2)

<S40(2) @camerons.co.uk>; S40(2) <S40(2) @equalityhumanrights.com>; S40(2)
<S40(2) @equalityhumanrights.com>; S40(2) @sex-matters.org' <S40(2) @sex-matters.org>;
S40(2)

Subject: CA-2023-001319 Higgs v Farmor's School and another

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Dear Sir/Madam

Lady Justice Elisabeth Laing has increased the time allocation for the appeal to two days to accommodate the EHRC's intervention, for which she has given permission.

As you will see from the order she has made, the appeal bundle deadline is extended to 4 pm on 16 September 2024..

Any written responses to the written interventions are to be filed by 4 pm on 16 September 2024.

Yours sincerely

S40(2)

Court of Appeal, Civil Division | Royal Courts of Justice | Strand | London WC2A 2LL

Telephone: S40(2)

Please note my non working days are Wednesdays and Thursdays

Civilappeals.cmsc@justice.gov.uk

gov.uk/hmcts

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From: Civil Appeals - CMSC
Sent: 16 August 2024 10:28
To: S40(2) ; S40(2) ; S40(2) ' <S40(2) >;
S40(2)
S40(2)
S40(2)
S40(2) @equalityhumanrights.com' <S40(2) @equalityhumanrights.com>
Subject: Order CA-2023-001319-G

Good Morning

Please see attached order for your information

Regards

S40(2)
Court of Appeal, Civil Division | Royal Courts of Justice | Strand | London WC2A 2LL
Telephone: S40(2)

gov.uk/hmcts

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From: Fiona McAnena <S40(2) @sex-matters.org>
Sent: 03 September 2024 16:48
To: Private Office Diary
Subject: Re: Equality and Human Rights Commission / Sex Matters meeting
Categories: In scope

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Looking forward to it, thank you.

Fiona

--

Fiona McAnena
Director of Campaigns



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S40(2)

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From: Private Office Diary
Date: Tuesday, 3 September 2024 at 15:52
To: Maya Forstater , Helen Joyce , S40(2) @s-matters.org , Chair and CEO
Subject: Equality and Human Rights Commission / Sex Matters meeting

Dear Maya, Helen and Fiona,

You are invited to Tintagel House to meet with the EHRC on Friday 6 September.

Date: Friday 6 September
Time: 13:00 – 14:00
Location: Meeting room 4, Ground floor, Tintagel House, 92 Albert Embankment, Vauxhall, SE1 7TY

A member of Private Office will await your arrival at the building reception and escort you to the meeting room.

Please RSVP to this invite to confirm your attendance.

Kind regards,
S40(2)

Our vision and purpose

We're here to stand up for freedom, compassion and justice in our changing times. We do it by promoting and upholding equality and human rights ideals and laws across England, Scotland and Wales. Our work is driven by a simple belief; if everyone gets a fair chance in life, we all thrive.

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From: S40(2)
Sent: 23 January 2025 12:44
To: OHCHR-CESCR
Cc: S40(2) [AMNESTY ORG]; S40(2) [ANTISLAVERY]; S40(2)

S40(2)

[RIGHT-
TO-EDUCATION]; S40(2)

Subject: info@iplsa.net
Re: CESCR 77th Session - briefings by CSOs - United Kingdom of Great Britain and Northern Ireland

Categories: In scope

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Dear CESCR Secretariat,

Thank you for your email.

I write to confirm that

1. S40(2) (S40(2)) and
2. S40(2) (S40(2))

will be attending the informal briefing and participating in the proceedings in person for Feminists' For A People's Vaccine (FPV) and Third World Network (TWN).

We look forward to receiving further details from you.

Thank you.

Kind regards,
S40(2)

On Tue, 21 Jan 2025, 17:52 OHCHR-CESCR, <ohchr-cescr@un.org> wrote:

Dear participants,

Thank you for the submissions and for the interest in the work of the Committee on Economic, Social and Cultural Rights.

Regarding the upcoming 77th session, as you will know, the Committee will review the report of the United Kingdom of Great Britain and Northern Ireland, and offers you the opportunity to take part in an informal briefing to present your submission and exchange with the members of the Committee.

Informal Briefing time

- **Wednesday, 12 February 2025, from 1.15 to 2.45 p.m.** (Geneva time) – *without interpretation*

We kindly invite you to confirm by e-mail by the end of the week- Friday 24 January, if your organization will be joining to brief the Committee.

Following the information you provided on the submission platform, could you please confirm by replying to this email, whether your participation will be online or in-person (video recording will not be possible for this session), and with the name(s) of the speaker(s) and email address for direct contact.

- **For in-person participation:** Please register via the Indico accreditation platform at this link [77th session \(10-28 February 2025\) Indico.UN](#)
- **For online participation:** The technical information will be sent to the speakers and other requested participants after confirmation.

Thank you for facilitating the process and contributing to the effective organization of this briefing with the CESCR Committee members.

General information for the oral briefing

This is a private and informal meeting, and it is not recorded nor are matters discussed reported or made public. As a standard rule, at least one participant from each organization is expected to make a brief statement, after which Members may ask questions.

The speaking time will be divided among all participants, and time for questions and answers is also envisaged. In general – please plan that an individual NGO would have a maximum of 3 minutes, a coalition with many contributors, and addressing a broad range of issues up to a maximum of 5 minutes. Participants can also respond to any questions that may be raised by the Committee members.

We encourage participants to coordinate as much as possible, so as to make the best use of the limited time available. Just Fair, copied above, has kindly agreed to facilitate coordination of the meeting.

Thank you once again.

Kind regards

From: Laura Pascal <S40(2) @sex-matters.org>
Sent: 20 December 2024 17:21
To: PS, Sec-OF-STATE
Cc: S40(2) ; HomeOfficePolicyMP@homeoffice.gov.uk;
jess.phillips.mp@parliament.uk; Kishwer Falkner; Maya Forstater
Subject: Re: [Confidential] Private letter to the Minister for Women and Equalities - 20th
December 2024

Categories: In scope

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Dear Leah

Thank you so much for getting back to me so quickly; much appreciated.

Wishing you all a great festive break.

All the best
Laura

Laura Pascal
Head of Public Affairs

S40(2)



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On Fri, 20 Dec 2024 at 15:53, PS, Sec-OF-STATE <Sec-OF-STATE.PS@education.gov.uk> wrote:

Dear Laura,

Thank you, confirming receipt – the Secretary of State will respond in early January.

Best wishes,

S40(2)

S40(2)

Private Secretary to the Rt Hon Bridget Phillipson MP

Secretary of State for Education and Minister for Women and Equalities

S40(2)

From: Laura Pascal <S40(2) @s-matters.org>

Sent: 20 December 2024 10:45

To: PS, Sec-OF-STATE <Sec-OF-STATE.PS@education.gov.uk>

Cc: S40(2) fcdo.gov.uk; PS, Advisers-Diary <Advisers-Diary.PS@education.gov.uk>; HomeOfficePolicyMP@homeoffice.gov.uk; jess.phillips.mp@parliament.uk; Kishwer.Falkner@equalityhumanrights.com

Subject: [Confidential] Private letter to the Minister for Women and Equalities - 20th December 2024

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Dear Secretary of State and coplees,

Please find attached a letter from the CEO and directors of the human-rights charity Sex Matters.

With kind regards,

Laura

Laura Pascal

Head of Public Affairs

S40(2)



sex-matters.org

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From: Maya Forstater <S40(2) @s-matters.org>
Sent: 10 April 2023 20:18
To: Kishwer Falkner; FALKNER OF MARGRAVINE, Baroness
Cc: Chair and CEO; Helen Joyce; Naomi Cunningham
Subject: Letter to Kishwer Falkner
Attachments: Letter to Kishwer April 2023.docx.pdf

Categories: In scope

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Letter attached with all our best wishes.

Maya Forstater
Executive Director



S40(2) @sex-matters.org
S40(2)
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From: Maya Forstater <S40(2) @s-matters.org>
Sent: 21 March 2024 19:45
To: Kishwer Falkner
Cc: BADENOCH, Kemi; Bryony BONNER (TRADE); Daniel EL-GAMRY (TRADE);
laura.farris.mp@parliament.uk; Helen Joyce; Fiona McAnena;
gillian.keegan.mp@parliament.uk; S40(2) @education.gov.uk
Subject: Letter to Kishwer Falkner re: EHRC response to DfE Guidance
Attachments: 20240321Letter to Kishwer Falkner EHRC.pdf; On-the-EHRC-response-to-schools-guidance.pdf
Categories: In scope

You don't often get email from maya.forstater@s-matters.org. [Learn why this is important](#)

Dear Kishwer Falkner

cc: Kemi Badenoch, Gillian Keegan, Laura Farris.

Please find attached a letter from Sex Matters and our analysis and concerns about the EHRC response to the DfE guidance, in particular in relation to safeguarding.

Also published today <https://sex-matters.org/posts/updates/has-the-ehrc-forgotten-about-children-and-safeguarding>

With best wishes

Maya Forstater
Executive Director



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From: Maya Forstater <S40(2) @s-matters.org>
Sent: 17 November 2023 16:52
To: Kishwer Falkner; FALKNER OF MARGRAVINE, Baroness
Cc: BADENOCH, Kemi; Bryony BONNER (TRADE); Daniel EL-GAMRY (TRADE);
laura.farris.mp@parliament.uk;
childrens.commissioner@childrenscommissioner.gov.uk; inbox@cypcs.org.uk; Helen
Joyce; Stephanie Davies-Arai
Subject: Letter to Kishwer Falkner re: inappropriate recommendation to collect data on
sexual orientation and gender reassignment of children in schools
Attachments: 20231117 Letter to Kishwer Falkner EHRC (1).pdf
Categories: In scope

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Dear Kishwer

Please find letter attached from Sex Matters and Transgender Trend.

We are very concerned about recommendation 1 in the Equality and Human Rights Monitor report.

With best wishes

Maya

Maya Forstater
Executive Director



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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From: Maya Forstater <S40(2) @s-matters.org>
Sent: 13 November 2024 12:38
To: Kishwer Falkner; John Kirkpatrick
Cc: Naomi Cunningham; Joanne Cash; Su-Mei Thompson
Subject: Letter re: Charity Commission
Attachments: SM letter to EHRC 13_11_2024.pdf

Categories: In scope

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Dear Baroness Falkner,

Congratulations on being reappointed, and thank you again for all your work.

Please find attached a letter from Naomi Cunningham, Chair of Sex Matters concerning the conduct of the Charity Commission which is seeking to obstruct Sex Matters in bringing a discrimination claim under the Equality Act against the National Council for Voluntary Organisations.

We hope that the EHRC will give guidance to the Charity Commission not to overstep its regulatory role and prevent rights holders seeking justice under the Equality Act.

Maya

Maya Forstater
Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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Sex Matters is a human-rights charity
We campaign for clarity about sex in laws, policies and language

From: Maya Forstater <S40(2)@sex-matters.org>
Sent: 20 January 2025 14:46
To: Kishwer Falkner; Chair and CEO
Cc: Laura Pascal
Subject: Letter and briefing on the Data (Use and Access) Bill
Attachments: Letter to Kishwer Falkner - digital.pdf; Parliamentary Briefing_ Data Use and Access Bill_ Lords Report Stage. .pdf

Categories: In scope

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Dear Kishwer

Please find letter attached.

Thank you for your attention.

Maya Forstater
Chief Executive Officer



S40(2)@sex-matters.org
S40(2)
sex-matters.org

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Sex Matters is a human-rights charity
We campaign for clarity about sex in laws, policies and language

From: Chair and CEO
Sent: 25 March 2024 16:12
To: S40(2) @sex-matters.org; S40(2) @protonmail.com;
S40(2) @s-matters.org
Cc: Correspondence Team; Chair and CEO
Subject: Letter from EHRC Chairwoman, Baroness Falkner
Attachments: 20240325ForstaterJoyceDavies.pdf

Categories: In scope

Dear Maya, Helen and Stephanie,

Please see the attached letter sent on behalf of Chairwoman, Baroness Kishwer Falkner.

Kind regards,
S40(2)

From: Correspondence Team <correspondence@equalityhumanrights.com>
Sent: 09 October 2024 13:42
To: S40(2) @sex-matters.org
Subject: Guidance on Sport (ref: 9861224)

Categories: In scope

Dear Ms McAnena

Case 9861224

Thank you for your email of 24 September regarding guidance on sport.

Although we remain committed to intervening where there are clear misinterpretations of the law, as we did with UK Athletics, we do not intend to develop bespoke guidance relating to sport. Our position on the law as it relates to sex/gender and sport is part of our updated code of practice for services, public functions and associations.

Thank you for your invitation to meet however, as we are currently running a consultation to gather feedback on our updates, this is a more appropriate opportunity to contribute your views on this issue. You can do so by filling in the consultation [survey](#) on our website.

Kind regards,

S40(2)
S40(2)
Equality and Human Rights Commission

Correspondence Team
correspondence@equalityhumanrights.com
Equality and Human Rights Commission.

Third Floor, Tintagel House,
92 Albert Embankment
London, SE1 7TY

equalityhumanrights.com

 Equality and
Human Rights
Commission

NOTE: Please do not edit the subject line when replying to this email.

From: Correspondence Team <correspondence@equalityhumanrights.com>
Sent: 25 September 2024 16:33
To: S40(2) @sex-matters.org
Subject: Guidance on Sport (ref: 9861224)

Categories: In scope

Dear Ms McAnena

Case 9861224

Thank you for the email you sent yesterday regarding guidance on sport. This is to confirm that we have received it and will come back to you with a response. Please note that we aim to respond to the queries we receive within twenty working days but this can sometimes take longer depending on the complexity of the issue raised with us.

We will come back to you.

Kind regards,

S40(2) .

S40(2)
Correspondence Team
correspondence@equalityhumanrights.com
Equality and Human Rights Commission

T: 020 7832S40(2)

Third Floor, Tintagel House,
92 Albert Embankment
London, SE1 7TY

equalityhumanrights.com



NOTE: Please do not edit the subject line when replying to this email.

From: Maya Forstater <S40(2)@s-matters.org>
Sent: 24 February 2023 13:28
To: Chair and CEO; Kishwer Falkner; Marcial Boo; Melanie Field
Cc: Helen Joyce
Subject: Lesbians without liberty: how the UK discriminates against women who love women
Attachments: Lesbians-without-liberty.pdf

Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Dear Kishwer, Marcial and Melanie

Please find attached a new report by Sex Matters which highlights how the UK legal framework and existing guidance and policy discriminates against lesbians and gay men in relation to freedom of association,

The report highlights the experience of lesbians from a survey we conducted, but the legal analysis covers both lesbians and gay men.

We are publishing it in time to submit it to the EHRC Statutory Review.

It notes that the UK government's current interpretation of the interaction between the Gender Recognition Act and the Equality Act says that lesbian associations *cannot* exclude males if they have a government certificate deeming them to be women.

We think this interpretation, which destroys freedom of association for lesbians and gay men is wrong (since it is not in line with Section 3 of the Human Rights Act).

We do not think that the correct response to this is to introduce more piecemeal exceptions to the Equality Act, making it harder to understand and implement but to clarify that sex and sexual orientation are protected characteristics in their own right, and are not modified by legal gender reassignment.

Being a trans-identifying heterosexual male and being a lesbian are two quite separate material realities, and protecting the freedom of association of lesbians requires that this is recognised in law.

Maya Forstater
Executive Director



S40(2) [@sex-matters.org](mailto:sex-matters.org)
S40(2)
sex-matters.org

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Sex Matters is a human-rights organisation
campaigning for clarity about sex in laws,
policies and language

From: S40(2) on behalf of Kishwer Falkner
Sent: 18 May 2021 18:07
To: info@sex-matters.org
Cc: Correspondence Team; S40(2)
Subject: EHRC letter FAO: Maya Forstater, Naomi Cunningham, S40(2) S40(2)
Attachments: 20210518 EHRC Chair to Sex Matters.pdf

Categories: In scope

Good afternoon,

I am writing to share the attached letter with the above on behalf of EHRC Chairwoman, Baroness Kishwer Falkner.

I would be grateful if you could pass on the letter and acknowledge safe receipt.

Best wishes,

S40(2)
Private Secretary to the Chair and Chief Executive
Equality and Human Rights Commission

S40(2)



From: Information Governance Team
Sent: 08 May 2025 10:08
To: S40(2) @sex-matters.org
Subject: EHRC Freedom of Information Request: Consultation on Disclosure
Attachments: Sex-Matters.pdf

Dear Maya Forstater

EHRC Freedom of Information Request: Consultation on Disclosure

The Commission has received a request under the Freedom of Information Act 2000 for a copy of any minutes, notes, agendas or summaries relating to the meeting between Sex Matters and the EHRC held on 6 September 2024. The wording of the request is as follows:

“A copy of any minutes, notes, agendas, or summaries relating to the meeting held with Sex Matters. This should include any formal or informal documentation produced before, during, or after the meeting, including internal briefings or follow-up communications that summarise or record the substance of the discussion.”

Our searches have revealed that we hold information relevant to this request. In accordance with good practice, we would like to give you the opportunity to raise any concerns you may have about the release of the attached information before we make our final decision regarding disclosure.

If you have any concerns about disclosure of any of the attached correspondence, please explain clearly the harm that you believe would arise to you or others if it were to be released. If we are to successfully apply any of the exemptions from disclosure available under the Freedom of Information Act, we will need to provide reasoned arguments which could withstand the scrutiny of the Information Commissioner, to whom we are ultimately accountable for our approach to handling requests for information. We will consider any representations made before making our final decision about disclosure.

We need your response by **Monday 12 May**, to ensure we can meet the statutory deadline for responding to this request. If we do not receive a response by then, we will proceed on the basis that you have no objections to disclosure. Please do contact us if you have any questions.

Thank you for your assistance.

Corporate Law and Regulatory Compliance Team
Equality and Human Rights Commission

E: foi@equalityhumanrights.com
Arndale House, The Arndale Centre,
Manchester, M4 3AQ
equalityhumanrights.com

From: Google Calendar <calendar-notification@google.com> on behalf of Helen Joyce <S40(2) @sex-matters.org>
Sent: 05 September 2024 11:28
To: Private Office Diary
Subject: Accepted: Equality and Human Rights Commission / Sex Matters meeting @ Fri 6 Sept 2024 1pm - 2pm (BST) (Private Office Diary)
Attachments: invite.ics
Categories: In scope

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Helen Joyce has accepted this invitation.

Dear Maya, Helen and Fiona,

You are invited to Tintagel House to meet with the EHRC on Friday 6 September.

Date: Friday 6 September

Time: 13:00 – 14:00

Location: Meeting room 4, Ground floor, Tintagel House, 92 Albert Embankment, Vauxhall, SE1 7TY

A member of Private Office will await your arrival at the building reception and escort you to the meeting room.

Please RSVP to this invite to confirm your attendance.

Kind regards,
S40(2)

Our vision and purpose

We're here to stand up for freedom, compassion and justice in our changing times. We do it by promoting and upholding equality and human rights ideals and laws across England, Scotland and Wales. Our work is driven by a simple belief; if everyone gets a fair chance in life, we all thrive.

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The Equality and Human Rights Commission was established by the Equality Act 2006 as the Commission for Equality and Human Rights.

When

Friday 6 Sept 2024 · 1pm – 2pm (United Kingdom Time)

Location

Tintagel House, Meeting Room 4, Ground Floor, 92 Albert Embankment, Vauxhall SE1 7TY

[View map](#)

Guests

Private Office Diary - organizer

Helen Joyce - creator

Fiona McAnena

Maya Forstater

Chair and CEO

[View all guest info](#)

Invitation from [Google Calendar](#)

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From: Maya Forstater <S40(2)@sex-matters.org>
Sent: 09 September 2024 20:22
To: Kishwer Falkner; Su-Mei Thompson; Joanne Cash; S40(2) S40(2)
John Kirkpatrick
Cc: Helen Joyce; Fiona McAnena
Subject: Follow up to our meeting
Attachments: Consultation draft Code of Practice for Services, Public Functions and Associations.pdf

Categories: In scope

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Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Dear Kishwer and John, Joanne, Su-Mei, John and Stephen

Thank you for taking the time to meet us. As discussed, here are a few pieces of evidence that we think may be useful.

1) The original draft Code of Practice for Service Providers and Associations which went out for consultation in 2010 (attached). We think this was a much better approach than that which ended up being published. It is closely aligned to the legislation. On the single sex services exceptions in Schedule 3 it said

"The prohibition on gender reassignment discrimination does not apply in relation to the provision of separate- and single-sex services, provided that the treatment is a proportionate means of achieving a legitimate aim."

And

"The service provider will be expected to consider the needs and wishes of the transsexual person as well as those of the women or men using separate or single-sex services."

We will shortly be publishing on our website an analysis on what changed from the draft to the post-consultation final version and we'll send that to you. We feel that the 2010 draft was good. The problems arose in these changes, which came from rather one-sided input to the consultation.

It is notable how much the statutory guidance on this topic changed from the original version which was based on the legislation, and which was consulted on, to the final version. A [Freedom of Information request](#) revealed that there is a document from this time called "Press for Change" which is an annotated version of the draft Code of Practice. The content of this document has not been disclosed by the EHRC. You will know that Press for Change was the leading transgender lobby group at that time.

2) **Polling which shows public opinion is for tolerance and non-discrimination of transgender people**, but also strongly for single-sex provision especially in sport, even when that means excluding trans-identifying males. Our pre-election polling shows that there is no public appetite for self-ID. A separate poll shows that more than a third of the population are confused about whether a “trans woman” is a female-born person identifying as a man or vice versa. This is one reason we encourage clear language. Without that it’s not possible to discuss the policy issues, or for service providers and employers to communicate clearly to people what policies have been adopted and what they mean.

-
-
- Our polling -
 - [June 2024](#) and
 - [May 2023](#)
-
-
-
-
-
- MBM polling on the confusion around language -
 - [August 2023](#)
-

3) **Relevant legal cases discussed**

In 2022 we wrote analysis of [relevant cases in relation to single-sex services](#)

In addition we would draw your attention to:

[Earl Shilton v Mrs Miller \[EAT 2023\]](#) - it was sex discrimination to provide inadequate toilets to a woman at work - inadequate signage meant the woman was at risk of a man entering the toilet, or of seeing a man using the urinal.

“The men’s toilets consisted of a single cubicle and a trough urinal. There was a sign that should be placed on the door when the toilet was being used by a woman, but it did not always stay in place. The only facility suitable for women was the single cubicle. It could only be accessed by passing the urinal. There was no lock on the main entrance door to the men’s toilets. There was a risk of a man entering the facility regardless of the sign on the door, which meant that a woman might see a man using the urinal without knowing he was there having used the lavatory in the cubicle, or on entering the men’s toilet.”

[Ms V Abbas v ISS Facility Ltd \[ET 2023\]](#) - it was sex discrimination to provide inadequate toilets to a woman at work. Only men’s toilets and a unisex toilet were provided. Ms Abbas was told she could use either.

“In practice, the claimant was encouraged to use the accessible toilet and that is what she chose to do. She had a number of concerns about the toilet. First, whilst it was lockable

from the inside, the lock was loose and it could be opened from the outside with a coin. Secondly, there was no sign on the toilet to suggest that it was also a designated toilet for women and, thirdly, men routinely used the toilet. Before using the toilet, the claimant typically had to clean it before sitting down.”

Reflecting on these cases we think that it would be sex discrimination for an employer or service provider to tell women that a facility is female only (for example by putting up a sign with the words female or woman or with the standard pictogram) and then tell male employees and service users that they can use the same facilities.

This is the issue with the question we discussed about whether it is a “fact-specific” question whether it is a proportionate means to a legitimate aim to exclude all male adults from a space that is designated female-only.

The case of [Adams v Edinburgh Rape Crisis Centre \[ET 2024\]](#) illustrates the issue. The tribunal concluded (at para 237- 238) concerning the question of whether it was reasonable or possible for a person working for a rape crisis centre to keep their sex private:

“Similarly, the Tribunal’s view is that whilst some individuals may be sensitive about having what the respondent’s witnesses termed a person’s “gender history” revealed, this is not something which flows axiomatically from the existence of a right to privacy. The cases of *G v UK* and *YY v Turkey* were about much more basic concerns.

“There would clearly be circumstances where the right to private life includes a right to confidentiality of one’s gender history but it is not something which occurs in every case. In the vast majority of cases there will be absolutely no controversy whatever in asking someone their biological sex or sex at birth. There would also be no controversy whatsoever in asking someone their gender identity. It will usually be fairly obvious. Given that it is not an absolute right one requires to look at the context in this case.

The context in this case was that AB works at a Rape Crisis Centre. As noted above it is one of the few organisations which is exempt from the terms of the Equalities [sic] Act in terms of Schedule 9. When AB was employed it was a genuine occupational requirement that she be a woman. In the view of the Tribunal there is absolutely no breach of her right to privacy in those circumstances of telling a service user that she was assigned female at birth and now identifies as non binary. The Tribunal heard no evidence from AB and there was no evidence before us that there was any particular sensitivity around this matter. The evidence simply appeared to be that based on their strong adherence to gender identity theory all of the respondent’s witnesses believed that this was something which could not be done. In the view of the Tribunal this is not something which the law recognises in the case of someone who works for a Rape Crisis Centre.”

There are two upcoming cases on changing rooms in the the NHS including the cases of the nurses in Doncaster ([being supported by Christian Concern](#)) and the [nurse in Fife](#) (her hearing is in February and she is represented by [Margaret Gribbon](#) - we are in touch).

4) A [report on the issues in sport compiled by Fiona in her previous role at Fair Play For Women](#).

Recently the problems at Olympic women’s boxing and then the women’s sprints at the Paralympics have been in the spotlight, but this report illustrates the scale and range of issues in the UK at all levels and across many sports. It’s not just about sport but also about privacy in single-sex changing rooms and toilets around sports facilities, gyms and leisure centres, and

about the silencing and intimidation associated with trying to raise concerns about the loss of provision that is genuinely single-sex. No one is arguing against single-sex sport or other provision but when they insist on “trans inclusion”, meaning trans-identifying males in the women’s provision, then it becomes mixed-sex. This is where clearer guidance is needed.

We support you in your mission to ensure the human rights of all are fully considered and properly balanced to maximise the opportunities for everyone to live well.

If there is ever anything we can do to help let us know. With best wishes Maya

Maya Forstater

Chief Executive Officer



S40(2) [@sex-matters.org](mailto:sex-matters.org)
S40(2)
sex-matters.org

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Sex Matters is a human-rights charity

We campaign for clarity about sex in laws, policies and language

Subject: EHRC meeting with Maya Forstater and Helen Joyce, Sex Matters TBC
Location: Location TBC

Start: Tue 31/01/2023 11:30
End: Tue 31/01/2023 12:00
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Chair and CEO
Required Attendees: Melanie Field; Marcial Boo; Kishwer Falkner; 'FALKNER OF MARGRAVINE, Baroness';
'S40(2)'; S40(2) @sex-matters.org'
Optional Attendees: S40(2)
Resources: Lon-Boardroom

Categories: In scope

London Boardroom,
Third Floor,
Windsor House,
50 Victoria Street
SW1H 0TL

Microsoft Teams meeting

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[+44 20 7660](#) ^{S40(2)} S40(2) # United Kingdom, London

Phone Conference ID: S40(2)

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From: Maya Forstater <S40(2) >
Sent: 20 January 2023 14:29
To: Chair and CEO
Cc: Helen Joyce; Maya Forstater
Subject: FAO: Marcial Boo
Attachments: EHRC statutory review.docx.pdf

Categories: In scope

Dear Marcial Boo,

Please find a letter attached re: the Statutory review

I am sending it from my personal email as our organisational one seems to get stopped by your spam filters.

Maya

Maya Forstater

Mobile: +S40(2)

Skype: S40(2)

Web: www.hiymaya.net

Twitter: MForstater

From: S40(2) on behalf of Marcial Boo
Sent: 07 December 2021 17:32
To: info@sex-matters.org
Cc: Correspondence Team; Chair and CEO; Maya Forstater
Subject: EHRC letter FAO: Maya Forstater, Naomi Cunningham, Rebecca Bull, Emma Hilton, Michael Biggs
Attachments: 806SexMatters.pdf
Categories: In scope

Dear Board of Directors,

Please see the attached letter, sent on behalf of Marcial Boo, Chief Executive.

I would be grateful if you could confirm receipt.

Yours sincerely,

S40(2)

S40(2)
Private Secretary to the Chair and CEO
Equality and Human Rights Commission

T: 0207 832 S40(2)

Third Floor, Windsor House
42-50 Victoria Street
London SW1H 0TL

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**Equality and
Human Rights
Commission**

Private Secretary to the Chair and CEO
Equality and Human Rights Commission

Please consider the environment before printing this e-mail.

From: S40(2)
Sent: 31 January 2023 09:05
To: 'S40(2) @sex-matters.org'
Subject: EHRC meeting today

Categories: In scope

Good morning Helen,

Thank you for calling. Unfortunately, there was no number pop up so I was unable to call back, however, I can confirm that today's meeting will be held in person at Windsor House at 11:30. This information is reflected in the invite I sent.

Apologies, also for yourself and Maya being unable to contact us. Our systems have blockers that we believed to have been removed but unsuccessful. The issue should now be resolved for any future emails.

Many thanks,
S40(2)

S40(2)
Private Office – Business Support
Equality and Human Rights Commission

T: 0207 832 S40(2)

Third Floor, Windsor House
42-50 Victoria Street
London SW1H 0TL

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Subject: EHRC meeting with Maya Forstater and Helen Joyce, Sex Matters TBC
Location: Lon-Boardroom

Start: Tue 31/01/2023 11:30
End: Tue 31/01/2023 12:00
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Chair and CEO
Required Attendees: Melanie Field; Marcial Boo; Kishwer Falkner; 'FALKNER OF MARGRAVINE, Baroness'; S40(2) ; S40(2) @sex-matters.org'
Optional Attendees: S40(2)
Resources: Lon-Boardroom

Categories: In scope

London Boardroom,
Third Floor,
Windsor House,
50 Victoria Street
SW1H 0TL

Meeting link:

<https://equalityhumanrights.webex.com/equalityhumanrights/j.php?MTID=m85bc8efa006cfb736d86763ba53aa15d>

Meeting number:

S40(2)

Meeting password:

S40(2)

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Join by phone

S40(2) United Kingdom Toll

Access code: S40(2)

Global call-in numbers

<https://equalityhumanrights.webex.com/equalityhumanrights/globalcallin.php?MTID=mee12d9cfb2d32584e60ec0c700eba151>

Keeping children safe when it comes to recognising their sex

Schools in England and Wales are part of a statutory education system as set out in the Education Act 1996(1). Schools also have safeguarding responsibilities to work together with parents and with other agencies to protect children from harm, as set out in the statutory guidance *Keeping Children Safe in Education* and *Working Together to Keep Children Safe*.

The Secretary of State for Education has been working with the Minister for Women and Equalities on guidance for schools and colleges in England on what to do when a child is “questioning their gender”. On July 20th 2023 it was announced that the guidance was delayed.¹

“It is vital that the guidance we publish gives clarity for schools and colleges and reassurance for parents. So, we have made the decision to allow more time – to speak to teachers, parents, lawyers and other stakeholders – in order to ensure this guidance meets the high expectations that these groups rightly have for it.”

The difficulty in developing the guidance has come about because of conflicting expectations. There are some who argue that schools should enable children to “socially transition” (that is, to be treated in some or all respects as if they were the opposite sex). Others say this should happen only with great caution, or not at all.

In practice, the way that schools treat boys and girls is governed by requirements already set out in a considerable body of law and regulation. Relevant laws and regulations include:

- the Education Act 1996
- the Education Act 1998
- the Education Act 2002
- the Education and Inspections Act 2006
- the Children Act 1989
- the Human Rights Act 1998
- the Equality Act 2010, including, for state schools, the Public Sector Equality Duty
- the School Standards and Framework Act 1998, including the Admissions Code
- the statutory guidance *Keeping children safe in education* 2023.

This paper considers the legal framework under which schools operate and argues that this framework means that **no meaningful social transition is possible in schools**. Treating a boy as if he is really a girl, or a girl as if she is really a boy, is not compatible with schools’ statutory responsibilities, and the guidance should reflect this.

¹ <https://questions-statements.parliament.uk/written-statements/detail/2023-07-20/hcws983>

Legal and regulatory requirements

Registration

Every school must know the name and sex of every pupil, record these accurately and pass them on to the next school. There is no flexibility in this.

For all schools, the information to be contained in a school admissions register is statutory and is set out in **section 434 of the Education Act 1996** and subsequent regulations.

- **The Pupil Registration (England) Regulations 2006** – Sets out that the school is required to register each pupil's sex (along with their name, date of birth and other details).
- **The Education (Pupil Information) (England) Regulations 2005** – provides that when a pupil moves from one school to another, this information must be transferred as part of a "common transfer file". Schedule 2 states that this includes "gender", but here this word means "sex".
- **The Education (Information About Individual Pupils) (England) Regulations 2013** state that schools must provide information on each child annually to the DfE. This information includes the child's but it is clear that this means sex. Completing the school census is a statutory requirement under section 537A of the Education Act 1996.

Admissions to single-sex schools

Girls' schools admit female pupils; boys' schools admit male pupils. There is very limited flexibility in this. There is no provision to admit a child of the opposite sex to a single-sex school and record the child as being the sex that they are not.

Single-sex schools have admissions rules that admit only male children or female children. This is a lawful form of sex discrimination. It is provided for in **Schedule 11 of the Equality Act**.

The Equality Act allows single-sex schools to admit children of the opposite sex exceptionally without losing their status as a single-sex school. This does not mean that the law anticipates admitting children of the opposite sex and treating them as if they were the same sex.

Examples of exceptional circumstance given in the notes to the Equality Act are:

- the daughters of certain members of staff at a boys' school are allowed to attend
- A boys' school admits some girls to the Sixth Form.

There is no obligation under the Equality Act for a single-sex school to consider admitting a child of the opposite sex.

For state schools, admissions are governed by the **Admissions Code issued under Section 84 of the School Standards and Framework Act 1998**. The code requires that places are allocated in an open and fair way rather than by ad hoc selection:

"In drawing up their admission arrangements, admission authorities must ensure that the practices and the criteria used to decide the allocation of school places are fair, clear, and objective. Parents should be able to look at a set of arrangements and understand easily how places for that school will be allocated."

A maintained single-sex school which admits a child of the opposite sex on an ad-hoc basis (allocating a space for a girl to a boy or vice versa) is likely to be in breach of the Admissions Code. A private single-sex school might admit a child of the opposite sex, but will need to register the child in their actual sex.

Data protection

Schools must record children's sex accurately wherever it is recorded.

All those who process others' personal data have to follow strict rules set by the **UK General Data Protection Regulation (UK GDPR)** and the **Data Protection Act 2018 (DPA)**.

Schools must store and process pupil's data according to the law. One of the principles of data protection is accuracy. It is not accurate to record a male child as female or a female child as male, or to record a male child as a "girl" or a female child as a "boy".

Information about a child's sex is not "special category" (sensitive) data.

Duty of care

Knowing a child's sex is often relevant to the school's duty of care. This is routine information which staff should be able to refer to clearly.

All schools have a duty of care towards all the children who attend. This means that by law they must take reasonable steps to ensure the safety of all children and to protect them from harm. All staff have a responsibility to provide a safe environment in which children can learn. It is often necessary to know and act on a child's sex in protecting them or others from harm. This is not information that can be limited to a few people or lied about.

For example:

- Boys are not allowed to go into the girls' toilets (and vice versa) in order to protect all children's reasonable privacy, to protect the girls in particular from the potential harms of sexual harassment, exposure, voyeurism, and to protect the boys from being accused of such behaviour.
- In allocating sleeping arrangements such as dormitories, tents or shared rooms for school trips, each child's sex is relevant.
- If a ten-year-old child has a blood stain on their crotch, a teacher's assessment of the situation will differ, according to whether the teacher knows they are a girl (most likely experiencing her first period) or a boy (this could be a medical emergency).
- If a child needs to be searched while at school, this must be done by a member of staff that is the same sex as the child.

Schools should not become confused about what sex a child is, as this will undermine the ability of staff to undertake their duty of care.

Facilities

Schools must provide sex-separated toilets (over age eight) and changing rooms (over age 11) unless they are in separate fully enclosed rooms.

The **School Premises (England) Regulations 2012** and **Independent School Standards** impose statutory requirements for both maintained and independent schools to provide sex-separated toilets for pupils aged eight or over (apart from individual toilets in fully enclosed rooms), and sex-separated changing accommodation and showers for pupils who are aged 11 years or over at the start of the school year and who receive physical education.

Behaviour policy

Rules should be expressed clearly so that all children know what is expected of them in terms of behaviour. This includes rules that relate to boys and girls and same-sex/opposite-sex situations.

Under the **Education and Inspections Act 2006** it is the responsibility of the governing body to ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.

Schools should have policies which are clear, transparent and easy to understand for staff, pupils, students, parents, and carers.²

Safeguarding

Lying to children or keeping secrets with them is not consistent with safeguarding. Parents should not generally be excluded from information about their child.

Schools have responsibility for safeguarding children in their care. Schools and colleges must have regard to **Keeping Children Safe in Education 2023**. This is statutory guidance from the Department for Education. Schools must work together with others, primarily parents and statutory services that have responsibilities to safeguard and promote the welfare of children, as set out in the **Children's Act 2004** and **Working Together to Keep Children Safe 2023** (currently under consultation).

Schools should consider, at all times, what is in the best interests of the child.

Safeguarding and promoting the welfare of children is defined as:

- protecting children from maltreatment
- preventing the impairment of children's mental and physical health or development
- ensuring that children grow up in circumstances consistent with the provision of safe and effective care, and
- taking action to enable all children to have the best outcomes.

Key principles of working with parents are to build positive, trusting and cooperative relationships, using language that is clear and respectful, enabling them to participate in decision-making and creating a culture of “no surprises” by providing relevant information.

This means that schools must be clear with parents that male children are boys and female children are girls, and share with them any concerns about their child's mental health or about potential harm or abuse, unless to do so would place the child at risk of harm.

Changing name

Schools must record a child's legal name. They may allow pupils to change their informal (“known as”) name if they believe it is in the best interests of the child to do so.

The **Pupil Registration (England) Regulations 2006** require that the school registers each pupil's legal name. This is usually the name on their birth certificate. A child's name can be changed at any time before the age of 16 via a deed poll, subject to the consent of everyone with parental consent. After the age of 16 a child can change their name without their parents' consent, and their parents cannot change the child's name without the child's consent.

Schools often provide the option to register an informal “known as” name of the child. The school is under no legal obligation to make any informal name change and is entitled to refuse to do so. It should always act in the best interests of the child. Where the informal name change is accepted by the school, any other person with parental responsibility who disagrees with this action may choose to apply to Court for a Prohibited Steps Order. The court will consider what is in the best interests of the child.

Schools should consider any indications that a change of name is not in the best interests of the child. These are likely to include: the child wants to keep the name secret from parents, the parents don't know about the name or don't agree to it, concerns about bullying or radicalisation (for example homophobic bullying) or concerns about mental health.

Sport

Schools must provide equal sporting opportunities for girls and boys. For older children, this will usually require offering female-only sporting activities and competition.

Physical Education is compulsory at all key stages of the National Curriculum. Local authority-maintained schools are required to follow the National Curriculum. Academies and free schools do not have to teach it, but are required to provide a broad and balanced curriculum that “promotes the spiritual, moral, cultural, mental and physical development of pupils”.

The **Equality Act 2010** provides an exception to prohibitions against sex discrimination in relation to participation as a competitor in a “gender affected activity”. (Note that “gender” is used here to mean “sex”.)

[Section 195 \(3\): “A gender-affected activity is a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage](#)

compared to average persons of the other sex as competitors in events involving the activity.”

This means that schools may provide sex-separated sporting activities. It is appropriate for schools to take account of the age and stage of development of children in considering whether an activity is gender-affected.

Schools should allow girls and boys equal opportunities to participate in comparable sporting activities.³ As children get older and the size, speed and strength of boys and girls begin to diverge significantly schools that *do not* provide separate sports for girls are unlikely to be offering them equal opportunities to boys (and for some sports they will be putting girls at undue risk of injury if they have to play on mixed teams).

Uniform

Schools determine their own uniform rules and should enforce them fairly, while considering impacts on pupils with protected characteristics.

Schools and their governors decide on their school-uniform rules. Schools that have uniforms adopt them for reasons including:

- promoting the ethos of a school
- providing a sense of belonging and identity
- setting an appropriate tone for education.

Although it is not obligatory for a school to have a uniform, or any particular type of uniform, it is obligatory for schools to have behaviour policies, to treat pupils fairly and to not discriminate in relation to protected characteristics.

Therefore, if a school has a uniform its requirements should be clear, and they should be enforced fairly and equally. Schools may choose different uniform/dress-code requirements, but signaling that some pupils do not need to follow the rules is likely to encourage bad behaviour and poor discipline.

Some schools have different uniform requirements for girls and for boys (including in relation to hair). This is lawful as long as the rules for the two sexes are of a similar standard. A dress code that stipulates that pupils must have their hair styled in a “smart and conventional way” can require, for example, hair for boys to be above the collar. A “smart, conventional” uniform may include trousers for girls, but not skirts for boys. (Similarly, a mixed school which adopted a “gender neutral” uniform could choose to require all children to wear trousers, but not for all to have to wear skirts. It is socially conventional for girls to wear trousers but not for boys to wear skirts.)

Schools should consider how uniform policy might affect groups represented in the school, especially those who share protected characteristics as defined by the Equality Act 2010. If a requirement will affect a group with certain protected characteristics more than others, schools

³ Gender separation in mixed schools Non-statutory guidance June 2018
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/719398/Gender-separation-guidance.pdf

should think very carefully about whether this requirement is the best way to achieve their aims and what mitigations could be put in place. To be lawful, such a requirement will need to be justified as a proportionate means of achieving a legitimate aim.

The Equality Act

Schools must not discriminate or harass children in relation to the protected characteristic of **sex**. For children aged under 18 this can only mean their actual (“biological”) sex as understood in common law. Boys are male. Girls are female.

They must also not discriminate against a child who has or is perceived to have the protected characteristic of **gender reassignment**. A child who is gender-questioning or gender-distressed, or who identifies as transgender, is therefore protected against discrimination based on both their sex and the protected characteristic of gender reassignment. It has been found by the High Court that children can be covered by the protected characteristic, and it does not depend on a medical diagnosis.⁴

Possessing the protected characteristic of gender reassignment does not mean that a person's sex has changed, or that they must be treated as if they are the opposite sex.

If gender dysphoria (distress at the fact of one's sex) is sufficiently severe, it may come under the protected characteristic of **disability**. This can justify “reasonable accommodation” to ensure that gender-dysphoric pupils are not denied equal access to education. But it is not a reasonable accommodation for a school to treat a child as the opposite sex or to obscure their sex, as this is information that is needed at all times for the school to fulfill its duty of care in respect of both this child and all other children.

Also relevant is the protected characteristic of **religion or belief**. This covers both belief and non-belief in the construct of gender identity. “Gender-critical belief” – that sex is real, binary, immutable and important – is also covered. So are a wide variety of religions, some of which require adherents to take particular account of sex, such as Orthodox Judaism and most strands of Islam.

Direct and indirect discrimination

Direct discrimination is when one person is treated worse than another person because they have a protected characteristic, are perceived to have a protected characteristic or are associated with someone with a protected characteristic. There can be no justification for direct discrimination unless it is permitted by an exception in the Equality Act.

Section 85 (1) provides that the responsible body of a school must not discriminate against a person—

- (a) in the arrangements it makes for deciding who is offered admission as a pupil;
- (b) as to the terms on which it offers to admit the person as a pupil
- (c) by not admitting the person as a pupil.

⁴ AA + ORS v NHS Commission Board FINAL Judgment.pdf

Section 85 (2) provides that the responsible body of a school must not discriminate against a pupil—

- (a) in the way it provides education for the pupil
- (b) in the way it affords the pupil access to a benefit, facility or service
- (c) by not providing education for the pupil
- (d) by not affording the pupil access to a benefit, facility or service
- (e) by excluding the pupil from the school
- (f) by subjecting the pupil to any other detriment.

The Equality Act contains provisions that expressly allow clear sex-based rules:

- single-sex school admissions (Schedule 11)
- sports (Section 195)
- toilets, showers and changing rooms (Schedule 3 Part 7)
- communal accommodation (Schedule 23)
- a requirement of an enactment (Schedule 22).

Indirect discrimination occurs when a policy applies in the same way to everybody but indirectly disadvantages a group of people who share a protected characteristic. It may be justified as a proportionate means to a legitimate aim, or mitigated in ways that do not undermine that aim.

Harassment

Section 26 of the Equality Act provides that:

- (1) A person (A) harasses another (B) if—
 - (a) A engages in unwanted conduct related to a relevant protected characteristic, and
 - (b) the conduct has the purpose or effect of—
 - (i) violating B's dignity, or
 - (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

Section 85 (3) provides that the responsible body of such a school must not harass—

- (a) a pupil;
- (b) a person who has applied for admission as a pupil.

Section 85 (10) sets out that for the purpose of 85 (3) gender reassignment, religion or belief and sexual orientation are not relevant protected characteristics.

It is unlawful to harass a pupil in relation to the protected characteristic of sex, but there is no similar provision in relation to “gender reassignment”. However, a school that fails to protect a child from bullying based on the perceived characteristic of sexual orientation or gender reassignment may potentially be liable for discrimination.

What is a school's responsibility in relation to a child with the protected characteristic of gender reassignment?

To avoid gender-reassignment discrimination, schools should seek to ensure that children experiencing gender distress are able to access education in the same way as other children. They should be protected from bullying and covered by normal safeguarding procedures.

A school should not apply its rules differently to a child because the child says they are trans or are questioning their gender.

Can schools accommodate "social transition2?

"Social transition" is a term used to refer to a range of actions that a child may take to appear more like the opposite sex, accompanied by an expectation that they will be treated as if they are. "Transition" is a concept that suggests that a child achieves a change of status, such that a different set of expectations apply to that child from that point forward.

As outlined above, all schools have a set of rules, safeguards and protections for pupils that they are required to apply by law (to protect their pupil's data, their person and to provide access to education and associated benefits, facilities and service and so on). To disapply these rules and safeguards from a child because that child says they are trans **would be direct discrimination on the basis of gender reassignment.**

Many of the individual elements in a hoped for "social transition" simply cannot be accommodated within the school system:

- A school may not register a child as the opposite sex.
- A school may not misrecord a child's sex anywhere in its records.
- A school must have clear, fair rules about the situations in which girls and boys are treated differently, explain those rules clearly and enforce them fairly (for instance on sport and changing-rooms).
- A school must accurately recognise every child's sex in order to carry out its duty of care.
- A school cannot lie to other pupils, parents or teachers about any child's sex.

Thus the basic position is that a boy will be known as a boy for his whole school career (and a girl as a girl) for her whole school career. All the rules that apply to boys (and girls) will continue to apply to them. To do otherwise would be **direct gender reassignment discrimination**, and would also undermine the school's ability to undertake its duty of care towards other children. **No meaningful "social transition" is lawfully possible in schools.**

Furthermore, even if a school wanted to waive a particular sex-based rule for a particular child at a particular moment (for example, by allowing a nine-year-old boy to play on a girls' sports team) it cannot to make the commitment that the rule can be waived in future.

It is not in the best interests of a child who has a strong desire to be the opposite sex to allow that child to imagine that they may not need to comply with sex-based rules for the whole of

their school career.

It is in the best interests of all pupils that rules are clear and fair and clearly communicated.

Can a child demand to be known by alternative pronouns?

The legal obligations around pupil registration, data protection and duty of care mean that a school should not pretend that a girl is a “boy” or “male” or that a boy is a “girl” or “female”.

There are no specific laws about pronouns, but in standard English, and in general, “he”, “him” and “his” are words that stand in for a male person, and “she”, “her” and “hers” are words that stand in for a female person.

Requiring teachers and pupils to call a girl “he” or a boy “she” infringes on teachers’ and pupils’ freedom of belief and speech, and undermines schools’ ability to communicate clear rules that relate to the sexes.

A rule that enforces other children and teachers to not be able to refer to a child by ordinary pronouns, or that requires them to use alternative pronouns, would not stand up to challenge in relation to other people’s human rights (article 8 and 10).

Schools can simply decline a request to “change a child’s pronouns”. They do not need to specify pronouns to be used about each pupil. A boy remains a boy and a girl remains a girl. This is what is recorded and referred to about the child. Gendered personal pronouns are words in standard English grammar used to refer to people of known sex: they are not dictated by the person being referred to, and the school cannot prevent children speaking ordinary English.

Can a child demand to wear the opposite-sex uniform?

School dress codes differ. The most liberal may simply require an unbroken line of clothing from shoulders to lower thighs. Some have a single option (e.g. trousers and a sweatshirt) while others have a range (for example: “Black knee length permanent pleated skirt or plain black tailored trousers”). Some specify which uniform items are for girls and which are for boys, and similarly some schools have hairstyle rules which differ by sex.

A child who identifies as trans, is gender questioning or suffers from gender dysphoria should be held to the same uniform standards as other children of their sex at their school.

This means that the degree of gender non-conformity they will be able to express at school depends on the general rules of that school.

In some schools boys can have long hair; in others they cannot. In some schools boys can wear skirts; in others they cannot.

In most schools, girls can wear trousers and have short hair. This reflects that short hair and trousers are within the range of conventional attire for women and girls. This is not a girl transitioning or wearing a “boys’ uniform”. Similarly, in schools which do not restrict skirts to girls, a boy wearing a skirt is simply a boy wearing a skirt.

The reason that schools should follow their own rules is that they are rules. In a school where only girls are allowed to have long hair or wear the school uniform summer dress, allowing one boy to have long hair and wear the dress signals that this is a child to whom the girl’s rules apply (or no rules apply). It will be difficult for teachers and other staff (including supply teachers, parent volunteers and so on) to enforce clear rules, for example about which toilets a

child should use, if there are different boys' and girls' uniforms, but some children are allowed to dress in the wrong one.

Can a child change their name?

Yes a child can change their "known as" name using the usual procedures that the school has for informal name changes, if the school is confident it is in the child's best interest. But this is not a change of status or a change of sex.

Schools cannot have a blanket ban on children changing their name to ones that are gender neutral or incongruent with their sex, but with **any** name change, schools should consider whether it is in the best interests of the child (for example considering the views of the parents, any concerns about the child's mental health or about homophobic bullying or radicalisation).

Safeguarding concerns

Schools have a duty to protect children from harms including drugs, gangs, neglect, sexual exploitation and radicalisation, whether these come from within their family or are the product of outside influences (including online influences). Influences that encourage children to feel that they cannot live within ordinary sex-based rules or that their body is wrong are also safeguarding concerns.

Safeguarding concerns relating to a child that develops a cross-sex identity might include:

- Significant changes in behaviour, performance or attitude
- Relationships that put them in danger, for example if the child is talking about intimate issues with strangers on the internet
- That the child is psychologically vulnerable and being encouraged to feel dysphoric about their body
- That the child is being encouraged to want to break sex-based rules
- That a girl is binding her breasts
- That the child is being given unrealistic expectations and encouraged to self-harm if those expectations are not fulfilled
- That the child is being alienated from their parents
- That the child is self-medicating with drugs such as puberty blockers and hormones
- That the child is being encouraged to disregard sexual boundaries.

Any staff member who has any concerns about a child's welfare should follow the processes set out in *Keeping Children Safe in Education*. That is, they should follow their own school's child-protection policy and speak to the designated safeguarding lead. The school should work with parents as far as possible, as *Working Together to Safeguard Children 2023* states:

"All practitioners should work in partnership with parents and carers as far as possible. Parents and carers need to understand what is happening and need to be supported to say what they think. This is particularly important when there is reasonable cause to suspect that a child is suffering or is likely to suffer significant harm. Working collaboratively will mean parents have the best chance of making changes and practitioners can make fair and accurate decisions about how to support children and keep them safe."

Is any of this unlawful indirect discrimination?

Indirect discrimination occurs when a policy applies in the same way to everybody but indirectly disadvantages a group of people who share a protected characteristic. It may be justified as a proportionate means to a legitimate aim, or mitigated in ways that do not undermine that aim.

The policies that we are referring to – namely: accurately recording a child's sex and applying the same sex-based rules, duty of care and safeguarding to all pupils – are justified because they are a proportionate means to a legitimate aim. The aim is to educate children safely within a school setting. In order to do this it is necessary to know their sex and to apply sex-based rules clearly and fairly. Therefore it is proportionate to do this.

A school can not be required to *directly* discriminate against a pupil based on a characteristic (by putting them outside the rules that keep them safe) in order to avoid *indirectly* discriminating against them based on the same characteristic (because the rule makes the child feel uncomfortable).

What a school can do to mitigate risk of gender-reassignment discrimination is ensure that its sex-based rules are justified and not simply based on tradition or stereotype. For example:

- Avoid traditional sex-based distinctions in the subjects pupils study or the games they play
- Avoid sex-based rules at proms, dances and other social events about what girls or boys can wear (or expectations about who they partner)
- Consider having more gender-neutral uniform rules
- Reduce situations and rules where children's sex is emphasised, for example girl-boy seating.

These steps make it easier to accommodate children who chafe at the traditional social norms for their sex.

A school might also consider providing "gender neutral" (individual) toilets and changing facilities as an alternative to sex-separated facilities where possible.

However, it should be clear that the aim of any such mitigation is to reduce the discomfort a child feels and ensure they are able to access education, not to allow them to "transition" to being treated as opposite sex within the school system.

The kindest and fairest approach to children experiencing gender issues is to explain that they cannot be excluded from sex-based rules, but that does not mean they are required to conform with out-dated gender stereotypes. Any other approach holds out hope that intransigence and prolonged negotiation (or ambiguity about rules) will lead to some children being treated as exceptions to sex-based rules.

Schools are covered by the Public Sector Equality Duty. When making a decision, taking an action or developing a policy, a school must consciously consider what the implications would be for the equality of pupils with protected characteristics. This includes current pupils and those who apply to attend the school. It does not mean that they have to consider separately waiving the rules for each individual pupil who may have that characteristic.

Once a school has decided on a rule or policy, it should be communicated clearly. This is part

of the school's responsibility for fostering good relations across all protected characteristics – between people who share a protected characteristic and people who do not share it.

The DFE guidance should give schools a “safe harbour” of policies that are consistent with legislation and which balance the needs of those different protected characteristics.

Baroness Kishwer Falconer, Chair Equality and Human Rights Commission

10th April 2023

Dear Kishwer

Thank you for publishing your letter to the Minister for Women and Equalities setting out, with careful reasoning, why you support revisiting and clarifying the meaning of “sex” as a protected characteristic in the Equality Act.

We are sorry that you have been subjected to abuse as a result. As you will know, this bullying is commonly experienced by anyone (but particularly women) who departs from simply affirming that “trans women are women”. You have our solidarity, support and admiration for your integrity, steadfast in this storm.

The treatment you have received is part of an international pattern of institutionalised discrimination and harassment of people who express “gender-critical” views. Last month in Auckland, campaigners for women’s rights were threatened, assaulted and prevented from speaking in public. We have seen women at a rally in Hyde Park facing a barrage of amplified abuse, and hate-filled protests outside the inaugural conference of the Lesbian Project in London. In the US, swimmer Railey Gaines was hit in the face and threatened by a mob. We have personally (Maya and Helen) sat quietly in a pub in Westminster while protesters gathered outside shouting “fascist” at us. The EHRC offices has had urine poured over its doors by a protester who exposed himself.

Our experience is that the impunity with which protesters threaten women and LGB campaigners is linked to a broad-based and frightening campaign to dehumanise us and portray us as outside the bounds of civilised society, and therefore as acceptable targets for any sort of attack. We are referred to as vile old hags, fascists, Nazis, and cockroaches that are infesting the public domain.

Our inboxes are full of messages from women and men who describe routine and explicit discrimination and harassment which they face at work or at the hands of public authorities, schools, universities, regulators and trade unions, because they have been labelled “TERFs”. While the “Forstater” judgment is having some impact, many still face hostility. This sort of discrimination would not be tolerated for a moment if it were directed at a group defined by any other g protected characteristic. When groups are victimised, when slurs are used to describe them, when the police stand back from protecting them, and when elite opinion holds that they do not merit the normal courtesies and protections of civilised society, it is hardly surprising that a violent fringe feels

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encouraged to use violence against them.

We believe that clarifying the meaning of sex in the Equality Act in the UK is an important step to address this. Not only will it deal with the specific anomalies and issues you detail in your letter, but also, and perhaps even more importantly, it will clarify that biological women, as a group, are vulnerable to discrimination because of their sex, and that those setting public policy must consider the impacts of their decisions upon this group as well as others.

Speaking clearly about the distinction between being a woman, on the one hand, and being a man who identifies as a woman, on the other, is not hateful. Nor is collecting accurate data on the two sexes. Indeed, these distinctions are essential to understand impacts and protect everyone's rights, and in particular those of vulnerable groups.

We welcome your recognition of competing rights. If any possibility of competing rights is dismissed, then women's rights are, in effect, set at zero whenever the demands or interests of men who identify as women are raised.

As you may know (and we will be writing to Melanie Field with further details), we were shocked that, after attending an EHRC-sponsored event for civil-society organisations on 17th February at Birmingham City University Centre for Human Rights, we (together with LGB Alliance) were subjected to the same silencing treatment. The joint communiqué developed by participants at the event was vetoed because of our involvement. Project staff deleted a tweet that recognised our participation and told us they would not work with us in future. This is the polite use of the "heckler's veto", but has the same effect as those who scream in our faces and seek to intimidate us physically.

You are right when you say in your letter to the minister that there is an urgent need to move public debate on these issues to a more informed and constructive basis. This includes engagement with civil-society organisations. The BCU incident reveals that there is a gap waiting to be filled by organisations willing to hold space open for constructive discussion.

In 2018 the EHRC convened separate round tables with groups on both sides of this debate, and has continued to engage bilaterally. We would encourage you now to bring these conversations into the same room. We would welcome regular meetings bringing together civil-society organisations that respect everyone's rights with the aim of discussing perspectives, and finding common ground and clarity about areas of disagreement. We think it is a reasonable minimum condition for any group wishing to be treated as part of civil society that it should be willing to engage in civil debate.

Yours sincerely

S40(2)

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22 Jul 2024

Dear Kishwer,

Congratulations on the EHRC's confirmation as a "A" Status NHRI by GANHRI. We hope that you and the EHRC will be able to get on with your important work without further attacks.

We are pleased to see that the EHRC's new draft strategy includes sex discrimination, harassment and victimisation in the workplace, risk to freedom of expression by prohibiting the expression of certain views and legal clarity in relation to sex and gender and matters of religion or belief.

You may have seen that we wrote a response to the updated guidance on discriminatory advertisements <https://sex-matters.org/posts/updates/ehrc-issues-guidance-on-adverts/>.

As you know, we do not think that the EHRC has taken the correct legal position on the question of whether the Equality Act provides protection against discrimination on the basis of the ordinary, everyday, common law definition of sex. The updated guidance illustrates the problem with the "sex means paperwork" approach.

We will be arguing in the For Women Scotland case, if given permission to intervene, that if the principal purposes of the EqA10 are considered clearly:

- a) It is not necessary for "sex" in the EqA10 to be read as modified by s9(1) GRA, s9(1) in order to meet the purposes of the statute to protect against discrimination, harassment and victimisation
- b) adopting the interpretation that Section 9(1) applies undermines the purposes, coherence and effectiveness of the EqA especially as regards action to protect against sex

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Trustees: Michael Biggs, Rebecca Bull, Julia Casimo, Naomi Cunningham, Emma Hilton. CEO: Maya Forstater

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discrimination and advance the interests of women and girls.

As you said in your letter to the Minister of Women and Equalities last year, “human rights law may require the statutory recognition of biological sex.” If human-rights law requires a coherent scheme for protection against sex discrimination we argue that the deeming provision of s9(1) of the GRA should be disregarded for the purpose of the Equality Act.

We agree that the law is confusing, and that the courts in the FWS case have so far taken the opposite view. We welcomed your call for the law to be clarified in your letter. The previous government started but did not complete this work before the election, and we understand that this government currently does not intend to continue with it. **This places the responsibility for providing clarity back with the EHRC.**

Whatever the correct interpretation of the law, in practice the presence or absence of a GRC cannot make a difference to people’s human rights or how they are treated in everyday life. The information that someone has a GRC is generally private (and protected by Section 22 of the GRA against disclosure). What will be known is their sex (which is directly perceived in almost all in-person interactions) and whether they view themselves as a man or a woman (such as whether their title is Mr or Ms and how they dress). Where these two features are at odds, the person is likely to have (or be perceived to have) the protected characteristic of “gender reassignment”.

The central focus of our analysis of how the protected characteristic of sex interacts with the GRA is not the exceptions, but the core anti-discrimination provisions in the EqA, which address the mischief that women (and men) face discrimination because of their sex (as perceived and understood by others, and as an objective characteristic).

The principal purposes of the Equality Act 2010 are:

- **to prevent direct discrimination** by a range of public and private employers, service providers and others
- **to prevent indirect discrimination** arising from group disadvantages based on shared characteristics.
- **to protect and advance the interests of particular groups** based on shared characteristics, in particular via the public sector equality duty (PSED) (EqA10, s149) and provision for positive action (EqA10, s158).

Those rights and protections are based on the recognition that people with shared characteristics have common experiences or interests which give rise to particular needs or disadvantages, and which differ from those of other groups. The protected characteristic of sex is closely tied to the concepts of “same-sex” and “opposite-sex”, and to the recognition that in some situations the involvement of a person of the opposite sex can be inappropriate and unwanted.

A man is the opposite sex to a woman (he can impregnate; she can gestate). Identifying as transgender does not change this. Being a “transwoman” is not something a woman can experience. Men who identify as transgender and who may wear stereotypically female clothing, adopt a female name, take female hormones or have cosmetic surgery do not have commonality of experience with women, but with other men and with each other (they have the protected

characteristics of being male and of gender reassignment).

Conversely, women who identify as transgender (who may refer to themselves as “transgender men”) and who may wear stereotypically male clothing, adopt a male name, take male hormones or have cosmetic surgery have a commonality of experience with other women (such as pregnancy, the need for contraception, being vulnerable to sexual harassment from heterosexual men) and with each other on the basis of gender reassignment.

Women and men who identify as transgender can still face discrimination and harassment because of their sex, because other people continue to be able to recognise their sex. The fact that someone holds a GRC will not affect that reality.

It seems obvious (and simple) that the purpose of the Equality Act is to provide protection against discrimination based on sex (including perceived sex), and that it has a scheme of exceptions to allow different or separate provision for the two sexes where needed.

Thus in any place where it is not lawful to discriminate against a person based on their sex, it would not be lawful to discriminate against a person with a transgender identity based on their (perceived or actual) sex either. And in any place where it is lawful to discriminate on the basis of both perceived and actual sex, these rules can lawfully apply to transgender people too.

A reading of the Equality Act that applies s9(1) GRA is not required to achieve the purposes of the statute in regards to discrimination against individuals based on the sex they present as (including transsexuals/transgender people with or without a GRC) as this is addressed by the well-established principles of perceived or associative discrimination. However, applying s9(1) GRA undermines the clarity of analysis in relation to provisions that relate to shared characteristics, such as indirect discrimination and positive action, and the concepts of same-sex and opposite-sex.

The result of a s9(1) GRA reading is that, instead of actual women being considered as a distinct class with objective shared characteristics and distinct needs and experiences to those of the opposite sex, the class of “women” includes people whose bodies are male and whose life experience was shaped by being male.

A public authority would not be required to consider how policies impact on male and female people differently as biological classes, but only how they impact on legal “sex” classes that include both members of the relevant biological sex and members of the opposite (biological) sex with a GRC (while excluding members of the relevant biological sex with a GRC). This produces unjust, absurd and anomalous results. A vivid example of how this operates in practice is provided by the EIA completed in relation to E Wing at HMP Downview, which houses trans-identifying men in a women’s prison.¹ The EIA says simply in relation to the PC of sex: “E Wing is for high risk transgender women only. The unit is aimed at keeping all women, both non-trans and transgender, safe.” It then goes on to discuss the possibility of a need for equivalent provision for

1

<https://fairplayforwomen.com/wp-content/uploads/2020/10/Equality-Analysis-Document-E-Wing-Version-16.0-for-publication.pdf>

trans-identifying women. There is no discussion of the impacts on female prisoners of the presence of trans-identifying men, because the two groups are lumped together as “women” under the same protected characteristic.

The EHRC’s approach of saying that these anomalous and unjust results can be fixed by the use of a series of further exceptions is like the addition of “epicycles” in the Ptolemaic model of the cosmos, which envisages the earth at the centre, requiring complex corrections for observations which do not match the counterfactual premise.

The approach of two-stage exceptions is overly complex and does not work in practice (as our research with the women’s sector has demonstrated).²

In order to defend themselves using exceptions specific to “gender reassignment” while considering that some people have (imperceptibly) changed sex, duty-bearers need to show justification for their policies. This involves considering the interests and needs of the different groups affected. But the “sex is paperwork” approach to the protected characteristics means a public authority would not be able to consider the needs of biological women and biological males with a GRC as two different groups, but only as a single group who share the protected characteristic of sex.

This approach leaves the EHRC forever trying to explain a model of the Equality Act which does not align with reality, and which is over complex and ultimately unworkable.

The recent guidance on discriminatory adverts reflects and illustrates this problem, and goes further, saying: “Occupational requirements under Schedule 9 **must** relate to having a particular protected characteristic as defined in the Equality Act 2010.”

This suggests that an advertisement for a specialist job (such as peer counselling) that requires a woman, mother, or lesbian **must** relate to the “legal definition” of woman, even though this does not correspond with the meaningful definition of woman, mother or lesbian.

For example, an elderly woman who advertises for a female live-in carer may have no idea of these esoteric legal concepts. She simply advertises for a woman and expects women to apply. When someone who is clearly male arrives for an interview she is frightened, confused and shocked and turns the applicant away. The EHRC guidance says that her action may be defended as lawful using schedule 9, but if the job applicant has a GRC then it is only lawful if the woman has specified that it is an occupational requirement “not to be a transgender person”.

The woman in this scenario does not know whether the job applicant has a GRC (and it would make no difference to her). Indeed she may not know what a GRC is, and may never have contemplated that a man in women’s clothing might consider himself to be a woman and might unexpectedly and inappropriately turn up for the job interview. (Furthermore if the man-with-a-certificate “is a woman” as the EHRC contends, it could be open to him to make a claim for harassment on the basis of gender reassignment given her reaction).³

² <https://sex-matters.org/posts/publications/womens-services-a-sector-silenced>

³ See for example the case of V v Sheffield Teaching Hospitals
<https://sex-matters.org/posts/the-workplace/if-you-cant-say-sex-how-can-you-say-sexual-harassment/>

This whole schema imposes on this woman a set of unexpected and incomprehensible categories which do not relate to reality. If you insert between the woman and man-with-a-certificate a bureaucracy of agencies, public, private and voluntary service providers and public funding, we have seen what happens. The woman's ordinary use of language becomes stigmatised and forbidden, her consent and dignity are ignored, and the institutions become confused, afraid and hostile towards her and all those who do not think that a man can be a woman.

The obscure two-step occupational requirement the EHRC proposes cannot be used in practice because the objective justification depends on the material reality of sexed bodies, but the legal categories, and the words to describe the two sexes have been dislocated from reality and ordinary understanding.

The way to avoid harassment in situations of intimate contact or space-sharing where members of one sex have been told they can expect to encounter only members of the same sex is to make this expectation clear to members of the opposite sex. This means saying a clear "no" to members of the opposite sex even if they have gender dysphoria, a transgender identity, a GRC or a very passionate wish to be affirmed and included as being the opposite sex. It is frightening to say no to angry men who have become used to getting their own way, but it is crucial that the EHRC does this to protect the often low-wage, female workers and service users – including those with other relevant protected characteristics such as disability and religion or belief – who will otherwise be required to deal with these demands. **Unless the EHRC says "no" in categorical language that everyone can understand, service providers and employers will not feel confident to do so, and the problems you identify in your letter and in the strategy will continue.**

We are very concerned that the EHRC is due to revise the Statutory Codes of Practice, and in doing so may continue with the confusing and unworkable Ptolemaic "epicycles" approach (relying on two-step exceptions as set out in the recent guidance on advertising) rather than a simple and coherent "heliocentric" reading of the Equality Act which recognises that in fact the earth – the provisions in the Act about sex discrimination – relate to facts of sex discrimination, not to the legal fiction that some people have changed sex.

We hope we can reschedule our meeting that was cancelled before the election to discuss these concerns.

Yours sincerely

S40(2)

Maya Forstater
CEO

S40(2)

Helen Joyce
Director of Advocacy

S40(2)

Fiona McAnena
Director of Campaigns



Kishwer, Baroness Falkner of Margravine

requests the pleasure of the company of

Maya Forstater

Between 12.30pm and 13.45pm on

Thursday 24 April 2025

in the River Room, House of Lords

Celebrating the 15th anniversary of the Equality Act 2010

hosted by the Equality and Human Rights Commission

By kind permission of the Lord Speaker

Please attend with both this invitation and photographic ID and allow 30 minutes for security checks
RSVP by: 21 March 2025 | Stakeholder Engagement Team | 0141 228 5922 | stakeholderteam@equalityhumanrights.com

Maya Forstater

Sex Matters

By email only

From: Marcial Boo, Chief Executive

Our ref: 2094Forstater

Wednesday 13 September 2023

Dear Ms Forstater,

Thank you for your email of 8 August in which you raise concerns about the EHRC's technical guidance for schools on the Equality Act, and the lack of guidance for schools on dealing with gender questioning pupils.

You raise important and complex areas of equality law. For example, as you suggest, it may not be directly discriminatory for a school not to refer to a child by their preferred gender (where it differs from their legal sex). However, schools must carefully consider how they justify and consistently apply their policies on this matter to avoid any risk of indirect discrimination.

As you know, our technical guidance for schools, which covers a broad range of Equality Act issues schools need to consider, was published in 2014. We recognise that since that time, several areas of policy and law, including in particular considerations around sex and gender such as those you raise, have evolved. We are currently undertaking a rapid review of this guidance, and intend to publish a revised version, correcting the inaccuracies which have been highlighted to us, within the coming weeks.

However, I would like to clarify that we will not be publishing our own guidance for schools specifically on issues of sex and gender in addition to the guidance

being prepared by the Department for Education, on which we are feeding in our advice on equality and human rights law. Duplication of this work risks creating confusion for schools, who we know are calling for clear information on these matters. We have been urging DfE to expedite their new guidance and expect them to consult on it shortly.

Yours sincerely,

pp **S40(2)**

Marcial Boo

Chief Executive

Equality and Human Rights Commission |

Maya Forstater and Helen Joyce

Sex Matters

By email only

From: Melanie Field, Chief Strategy
and Policy Officer

Our ref: 2109ForstaterJoyce

Monday 16 October 2023

Dear Ms Forstater and Ms Joyce,

Technical Guidance for Schools

Thank you for your letter dated 4 October 2023, relating to the recently published corrected version of our Technical Guidance for Schools in England and Scotland. I am glad that you feel these legal corrections will help to clarify some of these complex issues for schools.

You raise concerns about the example relating to the use of changing facilities at page 43 of the guidance for England. I would like to be clear that this, as with the other examples in the guidance, is intended to be an illustrative example and to highlight the considerations schools will need to make in these sorts of scenarios. In particular, this example sets out that a school would need to ensure that if it were to require all students to use the facilities aligned with their sex at birth, it would need to consider whether this decision was objectively justifiable in relation to any disadvantage to students with the protected characteristic of gender reassignment. This is the legal test regarding issues of potential indirect discrimination. It also posits one potential way schools could consider applying their policy flexibly, if it was appropriate in that particular circumstance. This example does not mean that any policy relating to the use of

changing facilities in this context would necessarily be discriminatory, nor does it suggest that the provision of alternative facilities, in this particular way, would be the best course of action in all contexts.

With regard to the wider questions and issues you raise on matters of sex and gender, we recognise that this is a complex area and agree that it is one on which schools do require further guidance and clarification. To that end, we have been urging the Department for Education to publish their draft guidance on this as a matter of urgency.

Yours sincerely,

S40(2)

Melanie Field

Chief Strategy and Policy Officer

Equality and Human Rights Commission |

March 21 2024

Kishwer Falkner
Chair, Equality and Human Rights Commission
50 Victoria Street
London SW1H 0TL

cc: Kemi Badenoch, Gillian Keegan, Laura Farris

Dear Kishwer Falkner

We are writing concerning the EHRC's published response to the DfE consultation on its draft guidance for schools on gender-questioning children.

We think the EHRC's analysis is misdirected about the application of the Equality Act. It emphasises the risk of indirect discrimination, but ignores the direct discrimination involved in exempting or excluding children from rules and policies designed to safeguard them because they have a protected characteristic.

This tendency has been identified as "adultification", a type of bias which skews the perception of certain children, leading to professionals viewing them as more "grown up", or "adult".

The EHRC response suggests that DfE should tell schools to undertake "case-by-case" assessment instead of enforcing clear sex-based rules, and that schools should be told to agree to referring to boys as girls ("she") and girls as boys ("he"). This is not required by the Equality Act or the Human Rights Act, and it undermines safeguarding for the pupil in question and for others. We have published our analysis, and it is attached.

We raised the issue of safeguarding with you in a letter sent on 17th November 2023. We noted then, and are raising again now, that it is a critical gap that the EHRC's governance manual does not mention safeguarding or include a process for due diligence concerning recommendations and guidance in this regard. The EHRC should have a published safeguarding policy, and a process, with board-level oversight for assessing the safeguarding implications of its guidance and recommendations.

Yours sincerely

S40(2) S40(2) S40(2)

Maya Forstater
Executive Director

Helen Joyce
Director of Advocacy

Fiona McAnena
Director of Campaigns

Sex Matters is a human-rights organisation campaigning for clarity about sex in law, policy and language | sex-matters.org | info@sex-matters.org

Maya Forstater, Executive Director

Helen Joyce, Director of Advocacy

Sex Matters

Stephanie Davies Arai BEM, Director

Transgender Trend

By email only

From: Baroness Kishwer Falkner,
Chairwoman

Our ref:
20240325ForstaterJoyceDavies

Monday 25 March 2024

Dear Maya, Helen and Stephanie,

Thank you for your letter of 17 November, outlining your concerns about Recommendation One from our Equality and Human Rights Monitor 2023 (the Monitor). I apologise for the delayed response.

The Monitor is the most extensive assessment of Britain's equality and human rights landscape and uses a robust, data-driven approach to identify key challenges. The report and its recommendations aim to inform discussions and decision making, promote action and support tangible progress.

In developing the 2023 report we deliberately chose improving data collection as a main focus of our recommendations. That is because we know that high quality data is still lacking in many areas, and that improved data collection is key to strengthening the ability of policymakers and practitioners to respond to the equality and human rights challenges they face. As long as we have incomplete data, it will not be possible to fully explain or address the inequalities

we observe.

Recommendation One is directed at UK, Scottish and Welsh Governments' data producers, and concerns research and data collection on bullying in schools, including the prevalence of bullying related to protected characteristics.

Our recommendation covers all protected characteristics, but we specifically highlighted the protected characteristics of sexual orientation and gender reassignment in this recommendation as there is evidence that these are often omitted from equality data collection.

We have not specified exactly what data is gathered. Even better understanding the incidence of bullying reported as, say, homophobic or transphobic would improve the quality of the evidence base. Nor have we specified a methodology for collecting the data we recommend is gathered, as research methods must be appropriate for the context in which they are applied.

In particular, we recognise the importance of safeguarding considerations when seeking to collect data in relation to children and young people. Data owners and principal investigators are responsible for assessing the safeguarding risk and disclosure risks in their projects. This is laid out in the UK's statistical regulation system and data governance legislation; it is not for us to advise on those issues.

As part of our routine stakeholder engagement, we discuss recommendations with those who have a responsibility in delivering them, and we will draw the considerations you highlight to their attention in any such discussions. We will also add a clarification to our website to set expectations for the

Arndale House, The Arndale Centre
Manchester, M4 3AQ

equalityhumanrights.com

recommendations made. As always, we welcome your feedback and the time you have taken to provide it.

Yours sincerely,

S40(2)

Baroness Kishwer Falkner of Margravine
Chairwoman
Equality and Human Rights Commission |

Maya Forstater, Executive Director,
Helen Joyce, Director of Advocacy,
Fiona McAnena, Director of
Campaigns
Sex Matters
By email only

From: Baroness Kishwer Falkner,
Chairwoman

Our ref: 20240405

5 April 2024

Dear Ms. Forstater, Ms. Joyce, and Ms McAnena,

Thank you for your letter of 22 March 2024, regarding the Equality and Human Rights Commission's response to the Department for Education's consultation on its draft guidance for schools on gender-questioning children.

Matters of sex and gender remain a subject of significant public debate, a topic on which many groups and individuals hold strong views and an area in which there is still limited jurisprudence. As such there remains some disagreement about the law, and particularly the operation of the Equality Act 2010.

We welcome your considered analysis of the Department for Education's guidance as you see it, and were glad to see that we agree on several points. On the points where we disagree, we stand by our analysis of equality and human rights law in our published response.

Your letter raises specific concerns about safeguarding. We are well aware of the importance of this. As such we make reference to Section 175 of Education Act 2002 in our consultation response. We also carefully considered how our

response interacts with legal and policy considerations regarding safeguarding, such as those set out in materials and guidance from the Department for Education and National Police Chiefs' Council. While I recognise that there are a range of views about how safeguarding responsibilities interact with schools' approach to gender-questioning children, nothing in our response contradicts these materials. Furthermore, while we consider the safeguarding implications of our work where it is relevant to do so, our expertise and our remit lies in the equality and human rights framework, and that is where we have focused our response.

I understand that the Department for Education has received a significant number of responses to its consultation, including from you and many educational experts who will provide valuable expertise in safeguarding matters. We look forward to seeing the final published guidance, and will consider whether any further involvement from the EHRC on this matter is necessary or appropriate in due course.

Yours sincerely,

S40(2)

Baroness Kishwer Falkner

Chairwoman

Equality and Human Rights Commission

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Workplace survey 2022

Early results report to the EHRC

Sex Matters is a human rights organisation campaigning
for clarity about sex in law, policy and language

sex-matters.org | info@sex-matters.org

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Introduction

There have been several high-profile cases of people experiencing bullying, harassment and discrimination at work for saying that sex matters – including the employment-tribunal cases of Maya Forstater¹, Allison Bailey² and Jo Phoenix³, and others that have received public attention such as Professor Kathleen Stock at Sussex University⁴ and Suzanne Moore⁵ and Hadley Freeman⁶ at the *Guardian*.

Sex Matters carried out a survey in 2022 to find out how widespread this experience is.⁷

The survey received 2,203 responses. It shows that these high-profile cases are just the tip of an iceberg. The responses show evidence of hostile workplaces, with respondents consistently expressing fear of being ostracised by colleagues, and of not being considered for promotion or even losing employment.

- **Nearly a quarter (23%) said that managers were hostile towards people with gender-critical beliefs.** Just 10% said that managers were supportive.
- **Over half (54%) of respondents said that people with gender-critical views face hostility from management or colleagues.** Only 4% said that people with gender-critical views were respected within an environment where difference is valued.
- **More than two-thirds (68%) said they did not express gender-critical views publicly (such as on social media) for fear of a backlash at work.**
- Nearly a half (44%) said they feel like their workplace is hostile to people like them.
- A third of respondents (34%) said they feel under pressure to say things they do not believe to keep their job.
- 17% said that they had been involved in clashes at work.
- **10% of respondents said that they had been bullied or harassed.**

87% female of respondents were female and most were between 35 and 64, with the 45–54 most age group most represented. Although it was not a representative survey, this suggests

¹ *M Forstater v CGD Europe and others* [2022] UKET 2200909/2019

² *Ms A Bailey v Stonewall Equality Ltd and others* [2022] UKET 2202172/2020

³ Prof Jo Phoenix (2021). 'Harassed, silenced and compared to a racist for my gender-critical views'.

⁴ George Grylls (2021). 'Kathleen Stock resigns from University of Sussex after trans rights row'. *The Times*.

⁵ Charlotte Tobitt (2020). 'Why Suzanne Moore resigned: Says Guardian editors removed views on trans issues from comment pieces'. *Press Gazette*.

⁶ Anita Singh (2022). 'Hadley Freeman: "Atmosphere of fear" governs Guardian trans coverage'. *The Telegraph*.

⁷ Responses were solicited through social media and Sex Matters' mailing list between 13th October and 13th December 2022.

that older women are particularly disadvantaged by workplaces which discriminate against people who express gender-critical views.

I have never been so afraid to hold what I believe are fair and protective views towards vulnerable women. This is a marked change.

Female, 55–64, Scotland, Social care, Local government

I find it incredible and depressing that after 36 years in this industry pushing back at all of the sexism and misogyny I have faced, it feels like I am back at square one, opinions dismissed, males prioritised over females, fearful of speaking out. As an out lesbian in the workplace I worry that it will only take one vocal trans rights activist within the wider company to discover my views and it could be a very uncomfortable or even unsafe place to work.

Female, 55–64, Property/construction, Small business

I have attended training where presenters have defined ‘transphobia’ as thinking that your ‘sex assigned at birth’ is more significant than your ‘gender identity.’ It’s absolutely hopeless – there is no discussion to be had – you either say nothing or get piled on by colleagues who have never even met you.

Female, 45–54, Public Administration, Central government

I would not feel safe speaking out openly about my gender-critical views or criticising the policies based on gender ideology, and would fear for my job if I did. I would also feel very uncomfortable working with anyone trans-identifying in this environment, as I would feel obliged to demonstrate agreement with their beliefs about themselves (even if I disagreed) or to risk career consequences.

Female, 45–54, Business, Central government

I feel so angry and frustrated that no one wants to hear us. They’re not interested in representing the law properly or taking advice from people who have a different view. I feel it would damage my career severely to speak up... I feel stressed about it all the time. I sometimes just feel like quitting. All the talk is of being your authentic self at work but women in particular who disagree have no scope to question, to challenge, to disagree, to be authentic to their own beliefs.

Female, 45–54, HR, Voluntary sector

A significant minority (44%) said that their belief about sex relate to their religion and 45% said that transgenderism had affected them or someone in their family personally (they have transitioned or de-transitioned; their child, spouse or other family member has transitioned or de-transitioned)

This is an early release of the survey results to input into the EHRC Statutory Review. A full report will be published in the second quarter of 2023.

Gender-critical at work

The survey was designed to collect feedback from people who identified as gender-critical.

- 95% of respondents strongly disagreed or disagreed that transwomen are women, transmen are men and non-binary people are non-binary.
- 97% of respondents strongly agreed or agreed that they instinctively feel that there are basic facts about the sexes which are common sense.
- 88% of respondents strongly agreed or agreed that they were a feminist and that being gender critical is about defending women's rights.
- 98% of respondents strongly agreed or agreed that they were concerned about children transitioning.
- 97% of respondents strongly agreed or agreed that they were concerned about the conflation of transgenderism with sexual orientation, and the impacts on LGB people.
- 99% of respondents said that they strongly agreed or agreed they are concerned about the impact of conflating sex and gender for statistics, data and science.

These are not minority beliefs but in general reflect the common, scientific and common-sense view of the two sexes.⁸

The survey respondents tend to be those who feel particularly strongly the importance of being able to articulate the truth about the material reality of sex. Some cited professional reasons for this, such as concern for child safeguarding or children's health, or work in data collection or research.

I don't talk about my views at work. One of my colleagues has a transgender child among her friends/family and firmly believes that child should be admitted to all opposite-sex spaces so I know she would be hostile. I suspect some other colleagues are likely to be gender critical but don't know how to broach the subject safely in case they aren't. My professional body uses gender instead of sex and I've recently challenged them on this but have yet to receive a reply. My work has screensavers talking about the importance of putting pronouns in emails. **Female, 45–54, Healthcare, Other public sector**

I'm Muslim. We don't believe in gender ideology. It's frustrating that I need to even say anything to defend myself and my beliefs. I don't expect people to say "inshallah" every time we set up meetings. Why on earth should I be expected to

⁸ Matthew Smith (2022). 'Where does the British public stand on transgender rights in 2022?' *YouGov*.

participate in rituals that go completely against my belief system?

Female, 35–44, HR, Central government

For the sake of distressed children, especially neuro-diverse children, we need to be clear sex matters. **Female, 45–54, England, Healthcare, Other public sector**

I work in data collection/analysis and have had some very carefully worded discussions about collecting data based on sex not gender. I try to be sensible about this stuff. I don't think it's personal, but it's chilling.

Female, 35–44, England, Universities, Other public sector

Hostile work environments

We asked which policies respondents had encountered at work.

- Almost two-thirds (59%) said that gender ideology is promoted through internal communications (such as allyship programmes, intranet celebration of special days or lanyards).
- Over half (55%) said their employer uses 'gender' in place of sex in equality monitoring.
- Over half (53%) said that gender ideology was promoted through training.
- Over half (51%) said that in their workplace staff are encouraged staff to state pronouns (for instance on emails or in meetings).
- 41% said that in their workplace single-sex facilities have been replaced with "gender neutral" ones (mixed sex).
- Over a third (39%) said that gender-identity policies have been adopted in their organisation's client-facing or public-facing work.

Equality training does not include gender critical beliefs, there have been several events promoting trans equality but none for women's equality. My organisation has an LGBTQ+ network but none for women. The LGBTQ+ network has a Twitter account which retweets individuals such as Michael Cashman who are hostile to gender critical women while condemning gender critical voices such as Allison Bailey. I cannot risk expressing gender critical views in the workplace.

Female, 55–64, Accounting, Other public sector

Sex and gender is regularly conflated in questionnaires and reports ... Staff are disciplined if they question [trans identifying men]. Staff are captured by 'be kind' and rainbow lanyards; women and lower grades are into pronoun signatures. A few quiet rebels are gender critical.

Female, 65 and over, England, Healthcare, Other public sector

[My professional body] have recently carried out a diversity survey where sex was replaced with gender. Representatives of the profession have also blogged about the & what is a woman question suggesting it is a divisive question. It takes huge courage to say anything in opposition for fear of disciplinary sanction.

Female, 35–44, Accounting.

Since our HR dept replaced sex with gender for employee data and mandatory Stonewall-influenced training programmes, some staff now ask for sex to be replaced by gender identity, or for more categories like Intersex and Non Binary to be added to m/f in the Sex field in this data and content. I have concerns this would confuse data identifying females and males and compromise accuracy in data analysis but I do not feel I can speak up about this in work meetings.

Female, 45–54, Digital/media, Other public sector

I work in the domestic abuse sector. My immediate colleagues are all trans activists and call people with views like mine 'toxic' and 'transphobic' and they repeatedly call for us as an organisation to 'go beyond the law' and stop people with views like mine being employed in this sector. My job is data and reporting on domestic abuse statistics. We don't use data on sex. Me just mentioning the law such as PSED [Public Sector Equality Duty] and protected characteristics has caused a lot of pushback. Mentioning sex at all is considered a hostile act.

Female, 45–54, Charity

I have colleagues that won't come into the office as they feel unsafe using the toilet, they are survivors of child sexual abuse and sexual assault and also some who are concerned about sharing facilities due to their religious beliefs. The transgender allies at work are incredibly vocal, aggressive in their communication and so like all bullies no one dares to contradict them and our workplace is being pushed in their direction without any thought about the consequences on others. I spoke out and people have seen how they treated me, so no one else will openly stand up now. They're too scared. **Female, 45–54, England, Large business**

In my workplace, men use the women's toilets. They haven't been designated as gender neutral but I am afraid to challenge the men or complain to management in case I am accused of being transphobic. These are men presenting as men. We are also issued with guidance on language and terminology which tells us to use the pronoun cis, which I find extremely offensive.

Female, 35–44, England, Healthcare, Central government

The company recently introduced a "zero tolerance policy" and issued a newsletter about being supportive towards LBTQ+ folk. They highlighted a case study of a customer who is a trans-identified male. One of my first questions in a

test when I joined the company was asking what I would do if a male colleague identified as a female and started using the women's toilets. I was supposed to answer that I would embrace the transition. I did not.

Female, 35–44, Property/construction, Large business

I am very aware that the accepted view in my sector is one of respecting pronouns, trans women are women etc., gender identity is a positive thing (including for children) so do not feel able to openly express gender critical views for fear of being 'blacklisted'. **Female, 35–44, Arts, Self-employed**

We asked respondents what the attitude of managers or senior managers was towards gender-critical beliefs.

- **Nearly a quarter (23%) said that managers were hostile.**
- A quarter (26%) said attitudes were mixed.
- 22% said managers were confused.
- 13% said managers were afraid.
- Just 10% said that managers were supportive.
- One-third (33%) of respondents said they did not know.

I have challenged Diversity and Inclusion material as it was imbued with gender ideology terminology and ignored sex. It also noted that views like JKR [JK Rowling's] were hurtful and there should be no debate about this. I was met with hostility and told by two senior managers that my views were exclusionary and akin to racist views and should not be included in the literature.

Female, 45–54, Law enforcement/security/military, Central government

There's a particular group of colleagues I don't work with but still have to see their chat, and they are constantly expressing extremely hostile opinions on people with gender critical views, with comments like "back before Mumsnet decided to spearhead an anti-trans jihad" and "JK Rowling leading a hate crusade. Can't wait for the reveal that she's suffering from brain parasites ... though it's probably fairer to say the parasites are suffering from her."

Female, 55–64, Marketing/PR, Small business

A colleague and I had a whispered chat about gender critical beliefs. I worried for ages after that we'd been overheard and I might be disciplined.

Female, 35–44, Law

We asked respondents how they would describe the general environment for people with gender-critical views in their workplace.

- **A third (33%) of respondents said that people with gender-critical views face hostility from some colleagues.**
- A fifth (21%) said people who are public about gender-critical views experience hostility from management and colleagues.
- 16% said people with gender-critical views were seen as out of step with the prevailing culture but are tolerated.
- Only 4% of respondents said people with gender-critical views were respected within an environment where difference is valued.
- 23% said it is not an issue that had come up in their workplace.

It's all too late for me, despite 7 years of faithful service, they dismissed me prematurely in my view, and for speaking up. Even now I continue to suffer through their failure to sort out my pension now I am over 60. This is a desperate situation but my ex employer just doesn't seem to care.

Female, 55–64, England, Other public sector

[I left] and have not worked since and am reluctant to work in a school again. This experience took a heavy emotional toll on me – I felt guilty for leaving and not getting my voice heard; powerless; let down by people I thought were child-centred and evidence-led and frustrated by a system that has unquestioningly adopted 'affirmation-only' from the level of school to LEA to DfE, with neither OFSTED nor our safeguarding charity the NSPCC intervening to offer balance. And with Unions who are no use to employees in need of support to exercise freedom of belief and freedom of speech in trying to do their jobs – safeguard children. **Female, 45–54, England, Education, Other public sector**

My employer accepts the right to hold gender critical beliefs and opinions but not the right to state them. Insulting and hostile comments about those with gender critical beliefs, but we are tolerated.

Male, 35–44, Law enforcement/security/military, Central government

I fear for my job and social ostracism by colleagues (many of whom signed a petition against feminists, and supported the call on Twitter to 'out' gender critical publishers to prevent them from getting employed, and who regularly post on work social sites about sex being a spectrum etc). This restricts how well I can perform my job as I am expected to discuss these proposed changes.

Female, 45–54, Digital/media, Other public sector

The organisation takes its policy from the Civil Service with little understanding of the law or its impact. It is frustrating to have certain policies opposed in an organisation that is hierarchical and dissent is not tolerated. A transwoman was walked around the facility with a manager who asked all females if they were ok with the trans woman sharing their locker and shower rooms. All said yes as they felt that to say otherwise would incur some penalty.

Male, 35–44, Law enforcement/security/military, Central government

I would not feel safe speaking out openly about my gender-critical views or criticising the policies based on gender ideology, and would fear for my job if I did. I would also feel very uncomfortable working with anyone trans-identifying in this environment, as I would feel obliged to demonstrate agreement with their beliefs about themselves (even if I disagreed) or to risk career consequences.

Female, 45–54, Business, Central government

How is this affecting people?

We asked respondents how policies at work had affected them.

- **More than two-thirds (68%) said they did not express gender-critical views publicly (on social media, for example) for fear of a backlash at work.**
- Nearly half (44%) said they feel that their workplace is hostile to people like them.
- A third of respondents (34%) said they feel under pressure to say things they do not believe to keep their job.
- 17% said that they had been involved in clashes at work.
- **10% of respondents said that they had been bullied or harassed.**

Asked not to express my gender critical beliefs on social media or I will be disciplined. **Female, 55–64, Arts, Self-employed**

At the time of the GRA consultation I was accused on social media, by a male-to-female trans person, of transphobia via a multi-tweet tirade. This was retweeted by people I knew in person and who were my colleagues and there was a pile on in which others I knew, and had worked with, also condemned me. I stood my ground but the whole thing left me anxious, afraid, stressed and depressed and I feel quite certain I lost work as a result of the accusations.

Female, 45–54, Digital/media, Self-employed

I have spoken out about the word woman being erased from our policies and leaflets. But the view is seen to be against that of our NHS trust equality and

diversity guidance. I managed to get a compromise by having a caveat added to our clinical guidelines that says the use of the word 'woman' in this policy also refers to. I know that more will be more changes to language coming. I don't agree with using pronouns but this has become common practice. I have to pick my battles depending on the audience. If I was very vocal I would be fearful of jeopardising my position. I do not like or RT [retweet] anything on social media.

Female, 45–54, Healthcare, Central government

I know I can't be open – no-one is. I suspect there are more like me who don't know who else is gender critical. I would love to be able to challenge and express myself but I have been disciplined 3 times in my career for whistle blowing and it's stressful. **Female, 65 and over, Healthcare, Other public sector**

It is a very hostile environment within my government department. The "diversity" lead has openly equated gender critical beliefs with anti gay sentiment shutting down any discussion. Another senior civil servant has openly tweeted a picture of bug spray with "terf" and called gender critical colleagues "bigoted" on staff message boards. I feel unable to do my job appropriately – building systems to collect HR data including sex – for fear of reprisals.

Female, 45–54, Law enforcement/security/military, Central government

I raised some considerations (not even concerns, just very diplomatically phrased considerations) about a policy proposal around pronouns and was then contacted by my manager and asked to justify my response and asked to apologise for it. It was evident from the conversation with my manager that I had been "reported", and that someone had felt upset by the considerations I had raised. I was then excluded from a project I had been working on, on the grounds that I apparently did not have sufficient understanding of the issues and that they needed a "different approach" to other types of work we do. This is despite the fact that I had done far more consultation than anyone else in the business on this topic. **Female, 35–44, England, Universities, Other public sector**

We asked respondents how they feel about how the policies at work affect them.

- 51% of respondents said they were frustrated.
- 50% said that they were angry.
- 35% of respondents were anxious.
- 34% of respondents are worried.
- 30% feel fearful.
- 16% of respondents feel distressed.

I have lost sleep over this and as I don't have any support, I feel like I am going mad, being gaslighted. However, I'm determined to carry on challenging it where I can. I want to do this informally because I don't want to put in discrimination complaints as that would up the stress levels considerably.

Female, 45–54, Law enforcement/security/military, Central government

In the civil service the awful a:gender training has to go – it's homophobic and distressing. **Female, 45–54, England, Social care, Central government**

Sometimes I get so angry – I write considered and researched letters and get waffle back. It's the gaslighting I can't stand. I am lucky to work for a nice company but it's been totally captured. **Female, 55–64, Retail, Large business**

- 39% of respondents said they had complained or commented on their workplace policies.

We asked respondents who had not, why not.

- **68% of them said they fear being victimised if they if they speak up.**
- Another 14% said they did not think it would make a difference.

I felt if I complained, I would be ostracised further. I decided to leave.

Female, 55–64, England, Arts, Self-employed

I would never openly complain to HR about mixed sex toilets for instance for fear of being at risk of losing my job. Flags fly outside our main buildings that make us clear if I were open about this I'd be in trouble.

Female, 35–44, Energy/utilities, Small business

I haven't expressed my views fully for fear of reprisals and I believe that it won't make a difference. There was a trans woman at my workplace and they were allowed to use the female toilets, when the female staff complained to the people's forum where workers are told to take their issues, they were told there was no legal way to keep the trans woman from using the female toilets.

Female, 35–44, Engineering, Large business

I'm on a fixed term contract and am silent because I fear that if I express my annoyance at the word 'woman' being replaced with 'people with a uterus' publicly, my contract will not be renewed. I might compose a complaint to be sent anonymously to HR. **Female, 45–54, Science, Large business**

We asked those respondents who said they had complained or commented what had happened.

- Over a third (35%) said that their comments were dismissed.
- 17% said that they experienced hostility because they spoke up.
- 19% said that their comments were considered constructively.

I complained about the allowing of 'transitioning' people being able to use any facilities they wish. We have at least 1 'gender fluid' person who claims to feel differently each day and will decide daily which facilities they use. I have complained about the safety and privacy of women and men forced to share toilets and showers with the opposite sex. I was told by our equalities manager that our sex was 'assigned' at birth and we can change that later. Our policies are Stonewall policies along with the veiled threats typical of them.

Female, 55–64, Law, Large business

I complained vocally about identity-driven language and in particular to intersex being considered an identity. The head of EDI told my line manager to ask me to apologise. **Female, 55–64, England, Education, Other public sector**

During trans remembrance week a D&I team send around a memo how to be an "ally" to trans and non binaries. In it there was a terminology dictionary describing TERFS as gender critical people that weren't real Feminists and transphobic. I filed an anonymous complaint in their system, and it was logged, but I never got a reply. **Female, 45–54, England, Arts, Large business**

I made a complaint about a trans woman (male) colleague using the women's toilet and changing facilities. My complaint was ignored by management. One colleague quietly supported me and another was very vocal about how my views are wrong. I haven't said anything since.

Female, 25-34, Property/construction, Large business

My posts in the networks and letters to staff magazine are withheld. Diversity & Inclusion told me they would no longer answer letters I write to them with questions about policy (subjects closed) and the gender equality network (sic) and the magazine has banned discussion of 'gender, sex and fitting rooms'. Originally I was harangued about my 'tone' and before comments were removed in the magazine's online letters page I was called hateful, bigoted etc; also in the networks. The business announced it is going ahead with 'trans policy' and reviewing all its policies for gender neutral language. Anything I say about this is ignored, not printed. The LGBTQ+ network has a lot of power and managers are

afraid to upset them. Speaking to coworkers, they agree with me but don't want to stick their necks out. **Female, 55–64, Retail, Large business**

I complained that our menopause policy didn't mention women. After six months they put the word woman in, alongside trans and non-binary.

Female, 45–54, Charity, Voluntary sector

I raised a homophobia complaint that went nowhere, female colleagues of mine face sexual routinely, yet the *only* thing seniors seem to care about is trans / gender ideology. **Male, 35–44, Computing, Central government**

- 18% of respondents said they had experienced an incident of harassment or discrimination at work, or complaints against them because of their gender-critical views.

I believe I have lost work. I was the regular person employed for a specific role over a number of years. This employer has dropped employment and I am aware that the accounts I follow on twitter are a large tell of my views.

Female, 45–54, England, Arts, Self-employed

I was harassed by my line manager who is now non binary but not sure how much it was due to my beliefs.

Female, 55–64, England, Digital/media, Small business

I was laid off. **Female, 45–54, Marketing/PR, Small business**

Some people – pronoun people – don't work with me because I don't share pronouns. **Female, 35–44, England, Charity, Other public sector**

I have been overlooked for promotion as I am considered not to be a good cultural fit – our work has nothing to do with sex or gender.

Female, 35–44, England, Charity, Other public sector

What is driving this?

We asked respondents what they thought had driven the adoption of gender ideology in their organisation.

- Over two-thirds (70%) of respondents said that it was seen as industry good practice by their Equality Diversity and Inclusion (EDI) function.
- More than half (53%) of respondents said it was driven by training and lobbying by activist organisations.

- Nearly half of respondents (48%) said activist staff members.
- A third (32%) said that it was the adoption of policies without due diligence.
- 18% said it was driven by a transgender member of staff.

Some mentioned international companies not respecting UK law.

The company was bought out by a large multi-national organisation last year who introduced Americanised Equality, Diversity, Inclusion and Belonging training modules which were mandatory, and brought in US type HR modules asking you to record gender rather than sex. The training gives examples of misgendering as hate speech and cause for disciplinary behaviour, pronouns and participation in trans remembrance days are good practice. The equalities part of the training misrepresented and mis-stated the Equality Act protected characteristics.

Female, 55–64, Property/construction, Small business

We are a UK company but our parent company is a US based who are fully “woke”. We have to sit through excruciating online training where gender identity is promoted as protected characteristic. The US parent company has no understanding of the EA act or UK employment law. My concern is that we have a lot of young colleagues who are frightened to speak up/out.

Female, 45–54, Computing, Large business

Over a third (37%) of those who responded said their workplace was part of the Stonewall Champions/Workplace Equality Index.

I work for a Stonewall champion, they’ve had Mermaids in to talk to staff (we have nothing to do with children as a company), we continually get what I consider to be propaganda emailed around in the guise of ‘colleague resource group’ bulletins which you can’t unsubscribe from. Most of the management in my dept have put pronouns in their bios. Even the women’s colleague resource group has sold out and redefined women to mean anyone who identifies as such. And there is no way to stop it. Women speak to each other privately about it but you can’t speak up for fear of being branded a bigot.

Female, 35–44, Accounting, Large business

My employer has recently renewed membership of Stonewall’s scheme and the staff intranet regularly has articles with misinformation about “intersex” people and LGBTQ issues. I want to challenge it but am afraid to. I have challenged it within my trade union and got an immediate backlash.

Female, 55–64, Public administration, Central government

The problem with Stonewall in particular and other Scottish orgs like Equality Network, Scottish Trans, Engender, was the monoculture they tried to create based on complete disregard for women's rights and the legal definition of sex (quite aside from factual definition of sex, which is the definition underpinning my beliefs). **Female, 25–34, Scotland, Social care, Central government**

Many mentioned the quality of equality, diversity and inclusion training.

We were given mandatory legally incorrect D&I training which said Gender Identity (rather than Sex and Gender Reassignment) was a Protected Characteristic. When I asked if staff posts calling other staff (who said sex is binary) "bigots" and describing this as "hate speech" were going to be left in the Women's Group chat without comment I had no reply from our ethics reporting service. I do not feel it is safe to state my belief in the importance of sex based data at work. I keep quiet as other brave women risk their jobs and social networks by standing up for sex based rights – and the stress and guilt I feel about this at work is the price I pay for that cowardice.

Female, 45–54, Digital/media, Other public sector

During a training session on ED&I, I challenged the (external) trainer for using 'gender' in place of 'sex' when describing protected characteristics under the Equality Act. In front of senior managers he responded by saying that the Equality Act (2010) was a 'very old piece of legislation' and that things had moved on considerably since then. **Male, 45–54, Charity, Voluntary sector**

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Company number: 12974690

Registered office: 63/66 Hatton Garden, Fifth Floor Suite 23, London, EC1N 8LE

Published 28th February 2023

From: Maya Forstater <S40(2)@s-matters.org>
Sent: 02 October 2024 18:00
To: S40(2)
Cc: S40(2)
Subject: EHRC supplemental note
Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments.
If in doubt, please contact the ICT Service Desk.

Can we get a copy of the note that was filed yesterday?

Thank you

Maya

Subject: Equality and Human Rights Commission / Sex Matters meeting
Location: Tintagel House, Meeting Room 4, Ground Floor, 92 Albert Embankment, Vauxhall SE1 7TY

Start: Fri 06/09/2024 13:00
End: Fri 06/09/2024 14:00
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Private Office Diary
Required Attendees: Maya Forstater; Helen Joyce; S40(2) @s-matters.org; Chair and CEO

Categories: In scope

Dear Maya, Helen and Fiona,

You are invited to Tintagel House to meet with the EHRC on Friday 6 September.

Date: Friday 6 September

Time: 13:00 – 14:00

Location: Meeting room 4, Ground floor, Tintagel House, 92 Albert Embankment, Vauxhall, SE1 7TY

A member of Private Office will await your arrival at the building reception and escort you to the meeting room.

Please RSVP to this invite to confirm your attendance.

Kind regards,
S40(2)

From: S40(2)
Sent: 24 June 2024 10:40
To: Maya Forstater
Cc: S40(2) @s-matters.org; S40(2) @s-matters.org; Chair and CEO
Subject: Follow up on EHRC meeting

Categories: In scope

Dear Maya

We have recently been in touch regarding our scheduled meeting between Sex Matters and EHRC that was due to occur this Friday.

We kindly request that we reschedule this meeting until following the election. Could you please advise on your availability in July?

Best wishes,

S40(2)

S40(2)
Private Secretary to the CEO and Chair
Equality and Human Rights Commission

T: +44 20 7832 S40(2)

Third Floor, Windsor House
42-50 Victoria Street
London SW1H 0TL

equalityhumanrights.com

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From: S40(2)
Sent: 31 January 2023 09:33
To: 'Helen Joyce'
Cc: S40(2) ; Maya Forstater
Subject: FW: EHRC meeting today

Categories: Duplicated information

Hi Helen,

I am just forwarding the below and copying Maya in case I've sent to the wrong email address. Just to confirm, the meeting time is 11:30am.

Please feel free to call my mobile if you need to contact me: S40(2) .

Many thanks,
S40(2)

S40(2)
Private Office – Business Support
Equality and Human Rights Commission

T: 0207 832 S40(2)

Third Floor, Windsor House
42-50 Victoria Street
London SW1H 0TL

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From: S40(2)
Sent: 31 January 2023 09:05
To: 'S40(2) @sex-matters.org'
Subject: EHRC meeting today

Good morning Helen,

Thank you for calling. Unfortunately, there was no number pop up so I was unable to call back, however, I can confirm that today's meeting will be held in person at Windsor House at 11:30. This information is reflected in the invite I sent.

Apologies, also for yourself and Maya being unable to contact us. Our systems have blockers that we believed to have been removed but unsuccessful. The issue should now be resolved for any future emails.

Many thanks,
S40(2)

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Private Office – Business Support
Equality and Human Rights Commission

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London SW1H 0TL

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From: S40(2)
Sent: 02 October 2024 19:16
To: S40(2)
Cc: Maya Forstater
Subject: FW: EHRC supplemental note
Attachments: Higgs submissions.pdf; Higgs-EHRC-CA-Note-1Oct2024 .pdf

Categories: In scope

Dear Naomi Cunningham

I understand you have requested our Note (attached). I am sharing this directly in case Maya has not yet got to my email below.

Kind regards

S40(2)

From: S40(2)
Sent: Wednesday, October 2, 2024 6:12 PM
To: Maya Forstater
Cc: S40(2)
Subject: RE: EHRC supplemental note

Dear Maya

Please find attached our written submission and subsequent note.

Kind regards

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Wednesday, October 2, 2024 6:00 PM
To: S40(2) equalityhumanrights.com>
Cc: S40(2)
S40(2)
Subject: EHRC supplemental note

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Can we get a copy of the note that was filed yesterday?

Thank you

Maya

From: Maya Forstater <S40(2) @s-matters.org>
Sent: 16 April 2023 21:45
To: Chair and CEO; Kishwer Falkner
Subject: Fwd: Letter on Non Crime Hate Crimes APP FAO: S40(2)
Attachments: College-of-police-letter.pdf

Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments.
If in doubt, please contact the ICT Service Desk.

Please find attached cc'ed letter to the College of Policing re: Non Crime Hate Incident recording

Maya Forstater
Executive Director



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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campaigning for clarity about sex in laws,
policies and language

----- Forwarded message -----

From: Maya Forstater <S40(2) @s-matters.org>
Date: Sun, 16 Apr 2023 at 21:35
Subject: Letter on Non Crime Hate Crimes APP FAO: S40(2)

Dear S40(2)

Please find a letter attached

Maya Forstater

Executive Director



S40(2) [@sex-matters.org](mailto:sex-matters.org)
S40(2) sex-matters.org

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From: Maya Forstater <S40(2) @s-matters.org>
Sent: 31 July 2024 11:13
To: Regulatory Requests
Subject: Fwd: Our Ref: CA-2023-001319-F Higgs v Farmor's School and another
Attachments: HIGGS Sex Matters submissions for hearing.pdf
Categories: In scope

You don't often get email from S40(2) @s-matters.org. [Learn why this is important](#)

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Higgs v Farmor's School and another CA-2023-001319-F

Please find attached the submissions of Sex Matters for the above named matter.

Maya Forstater
Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
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We campaign for clarity about sex in laws, policies and language

----- Forwarded message -----

From: Maya Forstater <S40(2) @s-matters.org>
Date: Wed, 31 Jul 2024 at 10:53
Subject: Our Ref: CA-2023-001319-F Higgs v Farmor's School and another
To: civilappeals.cmsB@justice.gov.uk <civilappeals.cmsb@justice.gov.uk>
S40(2)

S40(2)

Higgs v Farmor's School and another CA-2023-001319-F

Please find attached the submissions of Sex Matters for the above named matter.

Yours Sincerely

Maya Forstater

Chief Executive Officer



S40(2) [@sex-matters.org](mailto:sex-matters.org)

S40(2)
sex-matters.org

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We campaign for clarity about sex in laws, policies and language

From: Stakeholder Team
Sent: 10 March 2025 15:28
To: S40(2) @s-matters.org
Subject: Invite: Celebrating 15 years of the Equality Act
Attachments: Maya Forstater.pdf

Categories: In scope

Dear Maya Forstater,

We are delighted to enclose your invitation to attend a reception marking the 15th anniversary of the Equality Act 2010, hosted by Baroness Falkner of Margravine.

The event will take place in the River Room at the House of Lords, on Thursday 24 April 2025 at 12:30-13:45.

We kindly request that you confirm your attendance by responding directly to this email by **Friday 21 March 2025**. Please note that we cannot guarantee entry for responses received after this date.

This is a personal invitation and only named individuals will be admitted to the event. If you wish to discuss sending a deputy in your place, please contact us directly.

When confirming your attendance, please indicate if you have:

- any accessibility requirements – there is step-free access to the room. The House of Lords recommends any guests with mobility issues are accompanied by a companion; please contact us so we can issue them with a personal invitation
- any dietary requirements.

For security purposes, please bring both your invitation and photographic ID to the event, allowing 30 minutes for entry procedures.

We look forward to hearing from you.

Kind regards,

Stakeholder Engagement Team

Equality and Human Rights Commission

equalityhumanrights.com



From: Maya Forstater <S40(2)@s-matters.org>
Sent: 24 February 2023 13:28
To: Chair and CEO; Kishwer Falkner; Marcial Boo; Melanie Field
Cc: Helen Joyce
Subject: Lesbians without liberty: how the UK discriminates against women who love women
Attachments: Lesbians-without-liberty.pdf

Categories: In scope

Dear Kishwer, Marcial and Melanie

Please find attached a new report by Sex Matters which highlights how the UK legal framework and existing guidance and policy discriminates against lesbians and gay men in relation to freedom of association,

The report highlights the experience of lesbians from a survey we conducted, but the legal analysis covers both lesbians and gay men.

We are publishing it in time to submit it to the EHRC Statutory Review.

It notes that the UK government's current interpretation of the interaction between the Gender Recognition Act and the Equality Act says that lesbian associations *cannot* exclude males if they have a government certificate deeming them to be women.

We think this interpretation, which destroys freedom of association for lesbians and gay men is wrong (since it is not in line with Section 3 of the Human Rights Act).

We do not think that the correct response to this is to introduce more piecemeal exceptions to the Equality Act, making it harder to understand and implement but to clarify that sex and sexual orientation are protected characteristics in their own right, and are not modified by legal gender reassignment.

Being a trans-identifying heterosexual male and being a lesbian are two quite separate material realities, and protecting the freedom of association of lesbians requires that this is recognised in law.

Maya Forstater
Executive Director



S40(2) @sex-matters.org
S40(2)
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From: Maya Forstater <S40(2)@s-matters.org>
Sent: 04 October 2023 10:45
To: Kishwer Falkner; Chair and CEO
Subject: Letter attached - schools guidance
Attachments: Update for schools in Scotland.pdf; Update for schools in England.pdf; 20231003 Letter to EHRC.pdf

Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Dear Kishwer and Marcial

Please find a letter attached from Maya Forstater and Helen Joyce of Sex Matters

With best wishes

Maya

From: Chair and CEO
Sent: 25 March 2024 16:12
To: S40(2) @sex-matters.org; S40(2) @protonmail.com;
S40(2) @s-matters.org
Cc: Correspondence Team; Chair and CEO
Subject: Letter from EHRC Chairwoman, Baroness Falkner
Attachments: 20240325ForstaterJoyceDavies.pdf

Categories: In scope

Dear Maya, Helen and Stephanie,

Please see the attached letter sent on behalf of Chairwoman, Baroness Kishwer Falkner.

Kind regards,
S40(2)

From: S40(2)
Sent: 05 April 2024 12:39
To: Maya Forstater
Cc: Correspondence Team; Chair and CEO
Subject: Letter from the EHRC Chairwoman
Attachments: 20240405ForstaterJoyceMcAnena.pdf

Categories: In scope

Dear Ms. Forstater, Ms. Joyce, and Ms. McAnena

Please find attached a letter from the EHRC Chairwoman in response to your letter dated 21 March.

Best wishes,

S40(2)

S40(2)
Private Secretary to the CEO and Chair
Equality and Human Rights Commission

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London SW1H 0TL
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From: Maya Forstater <S40(2) @s-matters.org>
Sent: 13 November 2024 12:38
To: Kishwer Falkner; John Kirkpatrick
Cc: Naomi Cunningham; Joanne Cash; Su-Mei Thompson
Subject: Letter re: Charity Commission
Attachments: SM letter to EHRC 13_11_2024.pdf

Categories: In scope

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Dear Baroness Falkner,

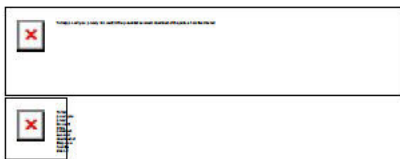
Congratulations on being reappointed, and thank you again for all your work.

Please find attached a letter from Naomi Cunningham, Chair of Sex Matters concerning the conduct of the Charity Commission which is seeking to obstruct Sex Matters in bringing a discrimination claim under the Equality Act against the National Council for Voluntary Organisations.

We hope that the EHRC will give guidance to the Charity Commission not to overstep its regulatory role and prevent rights holders seeking justice under the Equality Act.

Maya

Maya Forstater
Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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Sex Matters is a human-rights charity
We campaign for clarity about sex in laws, policies and language

From: Maya Forstater <S40(2) @s-matters.org>
Sent: 21 March 2024 19:45
To: Kishwer Falkner
Cc: BADENOCH, S40(2) (TRADE); S40(2) (TRADE);
laura.farris.mp@parliament.uk; Helen Joyce; Fiona McAnena;
gillian.keegan.mp@parliament.uk; S40(2) @education.gov.uk
Subject: Letter to Kishwer Falkner re: EHRC response to DfE Guidance
Attachments: 20240321Letter to Kishwer Falkner EHRC.pdf; On-the-EHRC-response-to-schools-guidance.pdf
Categories: In scope

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Dear Kishwer Falkner

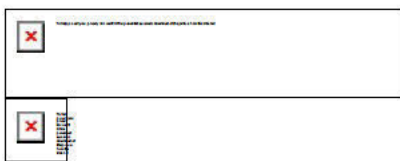
cc: Kemi Badenoch, Gillian Keegan, Laura Farris.

Please find attached a letter from Sex Matters and our analysis and concerns about the EHRC response to the DfE guidance, in particular in relation to safeguarding.

Also published today <https://sex-matters.org/posts/updates/has-the-ehrc-forgotten-about-children-and-safeguarding>

With best wishes

Maya Forstater
Executive Director



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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campaigning for clarity about sex in laws,
policies and language

From: Maya Forstater <S40(2) @s-matters.org>
Sent: 10 April 2023 20:18
To: Kishwer Falkner; FALKNER OF MARGRAVINE, Baroness
Cc: Chair and CEO; Helen Joyce; Naomi Cunningham
Subject: Letter to Kishwer Falkner
Attachments: Letter to Kishwer April 2023.docx.pdf

Categories: In scope

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Letter attached with all our best wishes.

Maya Forstater
Executive Director



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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policies and language

From: Helen Joyce <S40(2) @s-matters.org>
Sent: 02 May 2024 13:56
To: S40(2)
Subject: Out of office RE: Request for a meeting

Categories: In scope

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Thank you for your email. I am OOO until Friday 3rd May and not reading my emails.
If your query is urgent, please email info@s-matters.org. Otherwise I will respond on my return.

--
[Helen Joyce](#)
[Director of Advocacy](#)



Personal website: thehelenjoyce.com

From: Maya Forstater <S40(2) @s-matters.org>
Sent: 05 September 2024 16:49
To: S40(2)
Cc: Civil Appeals - CMSC; S40(2) ; S40(2)
S40(2)

Subject: Re: CA-2023-001319 Higgs v Farmor's School and another (ref: 8731357)
Attachments: HIGGS Sex Matters submissions for hearing.pdf

Categories: In scope

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Maya Forstater
Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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We campaign for clarity about sex in laws, policies and language

On Fri, 16 Aug 2024 at 16:08, S40(2) <S40(2) @equalityhumanrights.com> wrote:

OFFICIAL-SENSITIVE

Dear Sir/Madam

Further to the below, the EHRC will be grateful to interveners if you will share substantive submissions with us, to enable our consideration of the necessity for any further written responses from us.

Kind regards

S40(2)

OFFICIAL-SENSITIVE

From: Civil Appeals - CMSC <civilappeals.cmsC@justice.gov.uk>

Sent: Friday, August 16, 2024 3:31 PM

To: 'S40(2)

S40(2)

S40(2)

<S40(2) @equalityhumanrights.com>; S40(2)

<S40(2) @equalityhumanrights.com>; S40(2) @sex-matters.org

<S40(2) @sex-matters.org>; S40(2) k'

<S40(2) >

Subject: CA-2023-001319 Higgs v Farmor's School and another

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Dear Sir/Madam

Lady Justice Elisabeth Laing has increased the time allocation for the appeal to two days to accommodate the EHRC's intervention, for which she has given permission.

As you will see from the order she has made, the appeal bundle deadline is extended to 4 pm on 16 September 2024..

Any written responses to the written interventions are to be filed by 4 pm on 16 September 2024.

Yours sincerely

S40(2)

S40(2)


Court of Appeal, Civil Division | Royal Courts of Justice | Strand | London WC2A 2LL

Telephone: S40(2)

Please note my non working days are Wednesdays and Thursdays

Civilappeals.cmssc@justice.gov.uk

gov.uk/hmcts

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From: Civil Appeals - CMSC

Sent: 16 August 2024 10:28

To: S40(2)

<S40(2)

S40(2)

S40(2)

S40(2)

'S40(2) @equalityhumanrights.com' <S40(2) @equalityhumanrights.com>

Subject: Order CA-2023-001319-G

Good Morning

Please see attached order for your information


Regards

S40(2)

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From: S40(2)
Sent: 06 September 2024 08:48
To: Maya Forstater
Cc: Civil Appeals - CMSC; S40(2)
S40(2)
S40(2)
S40(2)
S40(2)
Subject: RE: CA-2023-001319 Higgs v Farmor's School and another (ref: 8731357)
Categories: In scope

OFFICIAL-SENSITIVE

The attached submissions from Sex Matters have been received.

Many thanks

S40(2)

OFFICIAL-SENSITIVE

From: Maya Forstater
Sent: Thursday, September 5, 2024 4:49 PM
To: S40(2)
Cc: Civil Appeals - CMSC ; S40(2)
S40(2)
S40(2)
S40(2)
Subject: Re: CA-2023-001319 Higgs v Farmor's School and another (ref: 8731357)

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Maya Forstater
Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
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On Fri, 16 Aug 2024 at 16:08, S40(2) <S40(2) @equalityhumanrights.com> wrote:

OFFICIAL-SENSITIVE

Dear Sir/Madam

Further to the below, the EHRC will be grateful to interveners if you will share substantive submissions with us, to enable our consideration of the necessity for any further written responses from us.

Kind regards

S40(2)

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From: Civil Appeals - CMSC <civilappeals.cmsC@justice.gov.uk>

Sent: Friday, August 16, 2024 3:31 PM

To: S40(2)

<S40(2)

S40(2)

<S40(2)

<S40(2)

S40(2)

<S40(2) @equalityhumanrights.com>; S40(2) <S40(2) @equalityhumanrights.com>;

S40(2) @sex-matters.org' <S40(2) @sex-matters.org>; S40(2)

<S40(2) >

Subject: CA-2023-001319 Higgs v Farmor's School and another

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Dear Sir/Madam

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Any written responses to the written interventions are to be filed by 4 pm on 16 September 2024.

Yours sincerely

S40(2)


Court of Appeal, Civil Division | Royal Courts of Justice | Strand | London WC2A 2LL

Telephone: S40(2)

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gov.uk/hmcts

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From: Civil Appeals - CMSC
Sent: 16 August 2024 10:28
To: S40(2)
S40(2)
S40(2)
S40(2)
S40(2) @equalityhumanrights.com <S40(2) @equalityhumanrights.com>
Subject: Order CA-2023-001319-G

Good Morning

Please see attached order for your information


Regards

S40(2)

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From: Helen Joyce <S40(2) @s-matters.org>
Sent: 31 January 2023 09:55
To: S40(2)
Cc: Maya Forstater; S40(2)
Subject: Re: FW: EHRC meeting today

Categories: In scope

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Great, thanks.

On Tue, 31 Jan 2023 at 09:33, VenS40(2) <S40(2) @equalityhumanrights.com> wrote:

Hi Helen,

I am just forwarding the below and copying Maya in case I've sent to the wrong email address. Just to confirm, the meeting time is 11:30am.

Please feel free to call my mobile if you need to contact me: S40(2) .

Many thanks,

S40(2)

S40(2)

Private Office – Business Support
Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House
42-50 [Victoria Street](#)
[London SW1H 0TL](#)

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Commission

From: S40(2)
Sent: 31 January 2023 09:05
To: 'S40(2) @sex-matters.org' <S40(2) @sex-matters.org>
Subject: EHRC meeting today

Good morning Helen,

Thank you for calling. Unfortunately, there was no number pop up so I was unable to call back, however, I can confirm that today's meeting will be held in person at Windsor House at 11:30. This information is reflected in the invite I sent.

Apologies, also for yourself and Maya being unable to contact us. Our systems have blockers that we believed to have been removed but unsuccessful. The issue should now be resolved for any future emails.

Many thanks,

S40(2)

S40(2)
Private Office – Business Support
Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House
42-[50 Victoria Street](#)
[London SW1H 0TL](#)

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--

[Helen Joyce](#)
[Director of Advocacy](#)



Personal website: thehelenjoyce.com

From: S40(2)
Sent: 18 September 2024 14:21
To: S40(2) Maya Forstater; S40(2)
S40(2)
S40(2)
Cc: S40(2)
Subject: RE: Higgs v Farmor's School - authorities
Attachments: EHRC list of authorities.docx

Categories: In scope

OFFICIAL-SENSITIVE

Dear S40(2)

Please find attached a list of authorities the Commission for Equality and Human Rights would wish to rely on.

Kind regards

S40(2)

OFFICIAL-SENSITIVE

From: S40(2)
Sent: Monday, September 16, 2024 4:38 PM
To: S40(2) ; S40(2) ; Maya Forstater ; S40(2) ;
S40(2)
S40(2)
Cc: S40(2)
Subject: Higgs v Farmor's School - authorities
Importance: High

OFFICIAL-SENSITIVE

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Dear All,

We are expected to agree and prepare a single bundle of authorities. This is an issue already raised by some of the interveners.

This will need some well-choreographed cooperation given that there are as many as seven parties. The Appellant is ultimately responsible for the preparation so we propose to take the lead.

No doubt all parties will be mindful of the provisions of CPR PD 52C, and all Counsel will need to sign a certificate of compliance with it in the end.

We hope we can all agree that the issues in this appeal justify a bundle of more than 10 authorities. However, people will be mindful that the Rules discourage having too many authorities.

We would suggest the following timetable and process going forward:

By 4 pm on Wednesday 18 September, each party is to circulate a full list of authorities it requires to be included.

By 10 am on Friday 20 September, we hope to circulate the draft bundle, which we anticipate will be in several volumes.

After that, each volume will need to travel through the hands of seven Counsel teams, each of whom will need to side-bar the relevant passages in the authorities on which they respectively rely (as required by PD 52C para 29(2)). We will see how many volumes we have and we will then endeavour to work out the most efficient system for achieving that. We will address this again on Friday morning. We shall be aiming to complete the process in good time before Friday the 27th.

We hope this is clear and is convenient for everyone.

Berts regards,

S40(2)



Address: 92 London Street, Reading, Berkshire, RG1 4SJ

Tel: S40(2) **Mobile:** S40(2) **Fax:** S40(2)

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From: S40(2)

Sent: 16 September 2024 15:59

To: S40(2)

<S40(2) @equalityhumanrights.com>; Maya Forstater <S40(2) @s-matters.org>;

S40(2)

S40(2)

S40(2) <S40(2) @equalityhumanrights.com>

Cc: S40(2)

Subject: RE: CA-2023-001319 Higgs v Farmor's School

Dear All,

Please find attached the Appellant's Replacement Skeleton and the Core and Supplementary Bundles as just e-filed.
Please acknowledge receipt and please let us know by return if you require hard copies being served by post.
Kind regards,

S40(2)



Andr

Address: 92 London Street, Reading, Berkshire, RG1 4SJ

Tel: S40(2) **Mobile:** S40(2) **Fax:** S40(2)

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From: S40(2)

Sent: 13 September 2024 10:44

To: S40(2) <S40(2)>; S40(2) S40(2) @equalityhumanrights.com; Maya

Forstater <S40(2) @s-matters.org>; S40(2)

<S40(2)

S40(2)

<S40(2) @equalityhumanrights.com>

Cc: S40(2)

Subject: RE: CA-2023-001319 Higgs v Farmor's School

S40(2)

Attached are the Respondent's submissions.

No concerns with the updated bundle indices.

Regards

S40(2)

**Browne
Jacobson**

m+S40(2)

t S40(2)

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From: S40(2)
Sent: 12 September 2024 17:51
To: S40(2) S40(2)
<S40(2) @equalityhumanrights.com>; Maya Forstater <S40(2) @s-matters.org>;
S40(2)
S40(2) S40(2) @equalityhumanrights.com>
Cc: S40(2)
Subject: CA-2023-001319 Higgs v Farmor's School
Importance: High

Dear All,

The extended deadline for appeal bundles is 4 pm on Monday 16 September.

As the replacement skeletons/submissions have to be included in the bundle, we will need to receive those tomorrow latest to ensure we have sufficient time to prepare and file the bundles on Monday.

We shall be grateful for a confirmation by all parties whether any updated submissions are to be expected, and if so, ETA.

We attach the slightly updated bundle indices. The changes are hopefully not controversial, but if anyone has any concerns or additions, please let us know asap. This particularly applies to the Respondent as the bundles have to be agreed with the Respondent.

You will see we have inserted page numbers where possible. As we are well within the 350-pages size limit for the Supplementary Bundle, we have assumed 25 pages + front page + last page for each Intervener even where the submission as it currently stands is shorter. To preserve the numbering, we envisage adding blank pages where necessary. It should therefore be possible at this stage to make page references to interveners' submissions.

Best regards,

S40(2)

S40(2)



Andr

Address: 92 London Street, Reading, Berkshire, RG1 4SJ

Tel: S40(2) **Mobile:** S40(2) **Fax:** S40(2)

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From: Maya Forstater <maya.forstater@s-matters.org>
Sent: 31 July 2024 10:39
To: Regulatory Requests
Subject: Re: Higgs v Farmor's School EHRC application to intervene N244 with attachments (ref: 8731357)

Categories: In scope

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electronic is great thanks.

Maya

Maya Forstater
Chief Executive Officer



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S40(2)
sex-matters.org

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We campaign for clarity about sex in laws, policies and language

On Wed, 31 Jul 2024 at 09:27, Litigation and Advisory Team 2
<regulatory.request@equalityhumanrights.com> wrote:

Dear Maya Forstater

Our application has been sealed by the court and is now due for service. I will be grateful if you can confirm if you will accept service electronically or do you require postal service?

Kind regards

S40(2)

From: Litigation and Advisory Team

2<regulatory.request@equalityhumanrights.com>

Sent: 25/07/2024 17:14

To: S40(2) @sex-matters.org

CC: S40(2) @equalityhumanrights.com

Subject: Higgs v Farmor's School EHRC application to intervene N244 with attachments (ref: 8731357)

(Attachments:) Email from S40(2) @equalityhumanrights.com - Higgs N244 with attachments .pdf, EHRC N244 service contacts.docx, Higgs bundle.pdf, EHRC N244 Higgs-1.pdf

Dear Maya Forstater

This afternoon the Commission for Equality and Human Rights filed an application for permission to intervene in this matter by way of oral and written submissions.

Please find attached the materials filed with the court. We will serve formally once our application has been issued. I will be grateful if you will confirm that you will accept service electronically?

Kind regards

S40(2)

From: Helen Joyce <S40(2) @s-matters.org>
Sent: 05 September 2024 15:13
To: S40(2)
Cc: Maya Forstater; Fiona McAnena
Subject: Re: Information for accessing Tintagel House

Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Thanks S40(2) - looking forward to it.

On Thu, 5 Sept 2024, 15:03 S40(2) <S40(2) @equalityhumanrights.com> wrote:
Dear Maya, Helen and Fiona,

We look forward to welcoming at our new London office location tomorrow at 1pm. I have added your names to reception and myself and Miriam will be on hand to escort you to the meeting room.

Please note, when arriving to the building there is a buzzer to the right hand side of the door. Please use this to gain access and sign in with reception.

As a reminder, the office address is FORA, Tintagel House, [92 Albert Embankment, Vauxhall, SE1 7TY](#).

Many thanks,
S40(2)

Our vision and purpose

We're here to stand up for freedom, compassion and justice in our changing times. We do it by promoting and upholding equality and human rights ideals and laws across England, Scotland and Wales. Our work is driven by a simple belief; if everyone gets a fair chance in life, we all thrive.

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From: Maya Forstater <S40(2)@s-matters.org>
Sent: 11 March 2025 19:58
To: Stakeholder Team
Subject: Re: Invite: Celebrating 15 years of the Equality Act
Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments.
If in doubt, please contact the ICT Service Desk.

Dear Stakeholder Team,

Many thanks for the invitation. I will attend. No accessibility or dietary requirements.

Kind regards,

Maya Forstater

On Mon, Mar 10, 2025, 3:27 PM Stakeholder Team <Stakeholderteam@equalityhumanrights.com> wrote:

Dear Maya Forstater,

We are delighted to enclose your invitation to attend a reception marking the 15th anniversary of the Equality Act 2010, hosted by Baroness Falkner of Margravine.

The event will take place in the River Room at the House of Lords, on Thursday 24 April 2025 at 12:30-13:45.

We kindly request that you confirm your attendance by responding directly to this email by **Friday 21 March 2025**. Please note that we cannot guarantee entry for responses received after this date.

This is a personal invitation and only named individuals will be admitted to the event. If you wish to discuss sending a deputy in your place, please contact us directly.

When confirming your attendance, please indicate if you have:

- any accessibility requirements – there is step-free access to the room. The House of Lords recommends any guests with mobility issues are accompanied by a companion; please contact us so we can issue them with a personal invitation
- any dietary requirements.

For security purposes, please bring both your invitation and photographic ID to the event, allowing 30 minutes for entry procedures.

We look forward to hearing from you.

Kind regards,

Stakeholder Engagement Team

Equality and Human Rights Commission



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From: Melanie Field
Sent: 24 February 2023 19:11
To: Maya Forstater
Cc: Helen Joyce; Chair and CEO; Kishwer Falkner; Marcial Boo
Subject: RE: Lesbians without liberty: how the UK discriminates against women who love women

Categories: In scope

Dear Maya

Kishwer and Marcial have asked me to send you our thanks for this report, which we will read with interest. I will share it with relevant colleagues, including those working on our Statutory Review.

You may also wish to be aware of the current call for inputs prior to the forthcoming visit to the UK by the UN Independent Expert on SOGI on 24 April to 5 May. <https://www.ohchr.org/en/calls-for-input/2023/call-inputs-un-independent-expert-protection-against-violence-and>

Best wishes

Melanie

Melanie Field
Chief Strategy and Policy Officer
Equality and Human Rights Commission

T: 020 7832 S40(2) **M:** S40(2)

Third Floor, Windsor House,
42-50 Victoria Street,
London, SW1H 0TL

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From: Maya Forstater
Sent: 24 February 2023 13:28
To: Chair and CEO ; Kishwer Falkner ; Marcial Boo ; Melanie Field
Cc: Helen Joyce
Subject: Lesbians without liberty: how the UK discriminates against women who love women

Dear Kishwer, Marcial and Melanie

Please find attached a new report by Sex Matters which highlights how the UK legal framework and existing guidance and policy discriminates against lesbians and gay men in relation to freedom of association,

The report highlights the experience of lesbians from a survey we conducted, but the legal analysis covers both lesbians and gay men.

We are publishing it in time to submit it to the EHRC Statutory Review.

It notes that the UK government's current interpretation of the interaction between the Gender Recognition Act and the Equality Act says that lesbian associations *cannot* exclude males if they have a government certificate deeming them to be women.

We think this interpretation, which destroys freedom of association for lesbians and gay men is wrong (since it is not in line with Section 3 of the Human Rights Act).

We do not think that the correct response to this is to introduce more piecemeal exceptions to the Equality Act, making it harder to understand and implement but to clarify that sex and sexual orientation are protected characteristics in their own right, and are not modified by legal gender reassignment.

Being a trans-identifying heterosexual male and being a lesbian are two quite separate material realities, and protecting the freedom of association of lesbians requires that this is recognised in law.

Maya Forstater
Executive Director



S40(2) @sex-matters.org
S40(2)
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campaigning for clarity about sex in laws,
policies and language

Please consider the environment before printing this e-mail.

From: Maya Forstater <S40(2)@s-matters.org>
Sent: 28 February 2023 14:48
To: Melanie Field
Cc: Helen Joyce; Chair and CEO; Kishwer Falkner; Marcial Boo
Subject: Re: Lesbians without liberty: how the UK discriminates against women who love women
Attachments: EHRC workplace survey.pdf
Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Thank you Melanie, Kishwer and Marcial

We have submitted it to the statutory review together with our [Single Sex Services](#) survey report from earlier in the year. and an early version of of analysis from our survey on the experience of being gender critical at work (also attached here). We have also submitted the lesbians report to Victor Madrigal.

The headlines from the workplace survey (which will be published in Q2 2023) are:

2,203 people responded. While this is not a representative survey, the strength of the response highlights that high-profile cases of people being bullied and harassed at work for gender-critical views are just the tip of an iceberg. The stories of are harrowing tales of people being made to feel afraid and isolated at work, and in some cases being driven out of jobs.

- Nearly a quarter (23%) said that managers were hostile towards people with gender-critical beliefs. Just 10% said that managers were supportive.
- Over half (54%) of respondents said that people with gender-critical views face hostility from management or colleagues. Only 4% said that people with gender-critical views were respected within an environment where difference is valued.
- More than two-thirds (68%) said they did not express gender-critical views publicly (such as on social media) for fear of a backlash at work.
- Nearly a half (44%) said they feel like their workplace is hostile to people like them.
- A third of respondents (34%) said they feel under pressure to say things they do not believe to keep their job.
- 17% said that they had been involved in clashes at work.
- 10% of respondents said that they had been bullied or harassed.

87% female of respondents were female and most were between 35 and 64, with the 45–54 age group most represented. A significant minority (44%) said that their belief about sex relate to their religion,

We are doing further work to pull out key themes and experiences in different sectors and in relation to professional bodies and trades unions.

We would be keen to come and present the study to staff at the EHRC, and to invite you to take part in

one of the launch events. This study for the first time sets out how belief discrimination on this issue is endemic in many sectors, and is undermining relations between groups with different protected characteristics.

With best wishes

Maya

On Fri, 24 Feb 2023, 19:11 Melanie Field, <Melanie.Field@equalityhumanrights.com> wrote:

Dear Maya

Kishwer and Marcial have asked me to send you our thanks for this report, which we will read with interest. I will share it with relevant colleagues, including those working on our Statutory Review.

You may also wish to be aware of the current call for inputs prior to the forthcoming visit to the UK by the UN Independent Expert on SOGI on 24 April to 5 May. <https://www.ohchr.org/en/calls-for-input/2023/call-inputs-un-independent-expert-protection-against-violence-and>

Best wishes

Melanie

Melanie Field
Chief Strategy and Policy Officer
Equality and Human Rights Commission

T: 020 7832 S40(2) **M:** S40(2)

Third Floor, Windsor House,
42-50 Victoria Street,
London, SW1H 0TL

equalityhumanrights.com

From: Maya Forstater <S40(2) @s-matters.org>

Sent: 24 February 2023 13:28

To: Chair and CEO <ChairandCEO@equalityhumanrights.com>; Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>; Marcial Boo <Marcial.Boo@equalityhumanrights.com>; Melanie Field <Melanie.Field@equalityhumanrights.com>

Cc: Helen Joyce <S40(2) @sex-matters.org>

Subject: Lesbians without liberty: how the UK discriminates against women who love women

Dear Kishwer, Marcial and Melanie

Please find attached a new report by Sex Matters which highlights how the UK legal framework and existing guidance and policy discriminates against lesbians and gay men in relation to freedom of association,

The report highlights the experience of lesbians from a survey we conducted, but the legal analysis covers both lesbians and gay men.

We are publishing it in time to submit it to the EHRC Statutory Review.

It notes that the UK government's current interpretation of the interaction between the Gender Recognition Act and the Equality Act says that lesbian associations *cannot* exclude

males if they have a government certificate deeming them to be women.

We think this interpretation, which destroys freedom of association for lesbians and gay men is wrong (since it is not in line with Section 3 of the Human Rights Act).

We do not think that the correct response to this is to introduce more piecemeal exceptions to the Equality Act, making it harder to understand and implement but to clarify that sex and sexual orientation are protected characteristics in their own right, and are not modified by legal gender reassignment.

Being a trans-identifying heterosexual male and being a lesbian are two quite separate material realities, and protecting the freedom of association of lesbians requires that this is recognised in law.

Maya Forstater

Executive Director



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From: Maya Forstater <S40(2) >
Sent: 20 November 2023 13:39
To: Kishwer Falkner; FALKNER OF MARGRAVINE, Baroness
Cc: BADENOCH, Kemi; Bryony BONNER (TRADE); Daniel EL-GAMRY (TRADE);
laura.farris.mp@parliament.uk;
childrens.commissioner@childrenscommissioner.gov.uk; inbox@cypcs.org.uk; Helen
Joyce; Stephanie Davies-Arai; S40(2)
Subject: Re: Letter to Kishwer Falkner re: inappropriate recommendation to collect data on
sexual orientation and gender reassignment of children in schools
Attachments: 20231117-Letter-to-Kishwer-Falkner-EHRC.pdf
Categories: In scope

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Here is the final published version of the letter (with a couple of typos corrected). Please use this version

It is published here <https://sex-matters.org/posts/publications/letter-to-kishwer-falkner-chair-of-the-equality-and-human-rights-commission/>

It was picked up by the Telegraph and the Express over the weekend
<https://www.telegraph.co.uk/news/2023/11/18/ehrc-plans-incompatible-with-safeguarding-gender-critical/>
<https://www.express.co.uk/news/politics/1836627/ehrc-sex-matters-transgender-trend>

With best wishes

Maya Forstater
Executive Director



S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)
S40(2)
[sex-matters.org](mailto:S40(2)@sex-matters.org)

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On Fri, 17 Nov 2023 at 16:51, Maya Forstater <S40(2) @s-matters.org> wrote:
Dear Kishwer

Please find letter attached from Sex Matters and Transgender Trend.

We are very concerned about recommendation 1 in the Equality and Human Rights Monitor report.

With best wishes

Maya

Maya Forstater
Executive Director



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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From: Helen Joyce <S40(2) @s-matters.org>
Sent: 30 January 2023 17:37
To: S40(2)
Cc: Chair and CEO; S40(2) ; S40(2)
Subject: Re: Meeting with EHRC Chair and CEO

Categories: In scope

Dear S40(2) - we've replied several times saying that, as per Kishwer's email a while ago, we are happy with the time but will be meeting in person, not via videolink.
I'll try sending this email from my personal address too, in case there's some problem with your filter, and also to phone you.
Helen

On Mon, 30 Jan 2023 at 17:33, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Hello Maya and Helen,

I hope you are both doing well.

To follow up from my previous email, I will assume tomorrow's proposed meeting will not be going ahead. Please do let me know if otherwise.

I would be grateful if you could let me know of your next known availability at your earliest convenience.

Kind regards,

S40(2)

S40(2)
Private Office – Business Support
Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House
42-50 Victoria Street
London SW1H 0TL

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From: S40(2)
Sent: 25 January 2023 12:36
To: Chair and CEO <ChairandCEO@equalityhumanrights.com>; 'S40(2)' <S40(2)>
Cc: 'S40(2)' <@sex-matters.org> 'S40(2)' <@sex-matters.org>
Subject: RE: Meeting with EHRC Chair and CEO

Hi Maya,

I hope you are well.

I'm just emailing to follow up on this as I am now back from leave. Do you have availability 11:30 – 12:00 on 31st Jan? If so, please do let me know and I will happily send over a Teams invite.

Kind regards,

S40(2)

S40(2)
Private Office – Business Support
Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House
42-50 Victoria Street
London SW1H 0TL

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From: S40(2) <S40(2)@equalityhumanrights.com>
Sent: 13 January 2023 18:12
To: Maya Forstater <S40(2)>
Cc: Chair and CEO <ChairandCEO@equalityhumanrights.com>; Helen Joyce <S40(2)@sex-matters.org>
Subject: RE: Meeting with EHRC Chair and CEO

Hello Maya,

No worries, thank you for coming back to me.

Is 11am on 31st January suitable for you? If so, I am happy to send over a Teams invite.

Many thanks,

S40(2)

S40(2)
Private Office – Business Support
Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House
42-50 Victoria Street
London SW1H 0TL

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From: Maya Forstater <S40(2) >
Sent: 13 January 2023 17:54
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Chair and CEO <ChairandCEO@equalityhumanrights.com>; Helen Joyce <S40(2) @sex-matters.org>
Subject: Re: Meeting with EHRC Chair and CEO

Apologies for delay - Monday or Tuesday are best for us.

Maya

Maya Forstater

Mobile: +S40(2)
Skype: S40(2)
Web: www.hiymaya.net
Twitter: MForstater

On Fri, 13 Jan 2023 at 16:52, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Good afternoon Maya,

I will be on leave next week until 22nd Jan so I'm copying our Private Office email for one of my colleagues to take forward your response.

We look forward to hearing from you.

Many thanks,

S40(2)

S40(2)

Private Office – Business Support
Equality and Human Rights Commission

T: S40(2)

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From: S40(2)

Sent: 12 January 2023 16:52

To: 'Maya Forstater' <S40(2)>

Subject: Meeting with EHRC Chair and CEO

Dear Maya,

I hope you are well.

I am reaching out on behalf of our Chair and CEO, who you met with in September, to set up another meeting with yourself and Helen. I'd be grateful if you could let me know of your availability from week commencing 30th January.

Many thanks,

S40(2)

S40(2)

Private Office – Business Support
Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House
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--

[Helen Joyce](#)
[Director of Advocacy](#)



Personal website: thehelenjoyce.com

From: Maya Forstater <S40(2) @s-matters.org>
Sent: 02 August 2024 17:18
To: Regulatory Requests
Subject: Re: Our Ref: CA-2023-001319-F Higgs v Farmor's School and another (ref: 8731357)
Categories: In scope

You don't often get email from S40(2) s-matters.org. [Learn why this is important](#)

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Yes, we have received this.

Thank you

On Fri, Aug 2, 2024, 3:56 PM Litigation and Advisory Team 2

<regulatory.request@equalityhumanrights.com> wrote:

Dear Maya Forstater

Can you confirm effective service of our sealed N244 application for permission to intervene?

Many thanks

S40(2)

From: S40(2) @s-matters.org
Sent: 31/07/2024 11:13
To: regulatory.request@equalityhumanrights.com
Subject: Fwd: Our Ref: CA-2023-001319-F Higgs v Farmor's School and another
(Attachments:) HIGGS Sex Matters submissions for hearing.pdf, Email from S40(2) @s-matters.org - Fwd: Our Ref: CA-2023-001319-F Higgs v Farmor's School and another.pdf, Email (original message) from S40(2) @s-matters.org received on 31/07/2024.eml

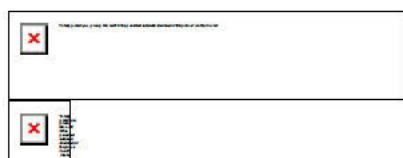
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If in doubt, please contact the ICT Service Desk.

Higgs v Farmor's School and another CA-2023-001319-F

Please find attached the submissions of Sex Matters for the above named matter.

Maya Forstater

Chief Executive Officer



S40(2) @sex-matters.org

S40(2)

sex-matters.org

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We campaign for clarity about sex in laws, policies and language

----- Forwarded message -----

From: **Maya Forstater** <S40(2) @s-matters.org>

Date: Wed, 31 Jul 2024 at 10:53

Subject: Our Ref: CA-2023-001319-F Higgs v Farmor's School and another

To: civilappeals.cmsB@justice.gov.uk <civilappeals.cmsb@justice.gov.uk>

Cc: S40(2)

<S40(2)

>, S40(2)

<S40(2)

S40(2)

>

Higgs v Farmor's School and another CA-2023-001319-F

Please find attached the submissions of Sex Matters for the above named matter.

Yours Sincerely

Maya Forstater

Chief Executive Officer



S40(2)

@sex-matters.org

S40(2)

sex-matters.org

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We campaign for clarity about sex in laws, policies and language

From: Maya Forstater <S40(2) @s-matters.org>
Sent: 05 September 2024 16:48
To: S40(2)
Subject: Re: Request for a meeting

Categories: In scope

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Thanks

Maya Forstater
Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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We campaign for clarity about sex in laws, policies and language

On Tue, 3 Sept 2024 at 12:10, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

Apologies, there was a slight error in the address there. It is FORA, Tintagel House, 92 **Albert** Embankment, London SE1 7TY. The address will also be included in the invite!

Many thanks,

S40(2)

From: S40(2)

Sent: Tuesday, September 3, 2024 11:59 AM

To: Maya Forstater <S40(2) @s-matters.org>

Cc: Helen Joyce <S40(2) @s-matters.org>; S40(2) @s-matters.org; Chair and CEO <ChairandCEO@equalityhumanrights.com>; S40(2) <S40(2) @equalityhumanrights.com>

Subject: RE: Request for a meeting

Good morning Maya,

I hope you are well.

Apologies, I see you were not copied into the chain between Helen and my colleague where this was confirmed. The meeting is due to take place 1-2pm on Friday 6 September at our new office location - FORA, Tintagel House, 92 Embankment, London SE1 7TY. I will be sending a calendar invite this afternoon.

Kind regards,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>

Sent: Tuesday, September 3, 2024 11:22 AM

To: S40(2) <S40(2) @equalityhumanrights.com>

Cc: Helen Joyce <S40(2) @s-matters.org>; S40(2) @s-matters.org; Nicholas Joseph <S40(2) @equalityhumanrights.com>

Subject: Re: Request for a meeting

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S40(2) and S40(2)

We have this held in our calendars - is it confirmed?

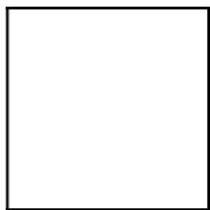
Thanks

Maya

Maya Forstater

Chief Executive Officer





S40(2) @sex-matters.org

S40(2)

sex-matters.org

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On Fri, 16 Aug 2024 at 17:08, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Hi Helen,

No problem. I hope you're all having/had a great time away!

By way of update, I am testing 13:00 on 6 September with the Chair. I will be on leave for the next 2 weeks so I'm copying my colleague, S40(2) who will be able to provide an update once the Chair responds. In the meantime, I'd be grateful if you could hold this time.

Many thanks,

S40(2)

From: Helen Joyce <S40(2) @s-matters.org>

Sent: Friday, August 16, 2024 12:02 PM

To: S40(2) <S40(2) @equalityhumanrights.com>

Cc: Maya Forstater <S40(2) @s-matters.org>; S40(2) @s-matters.org

Subject: Re: Request for a meeting

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Hi S40(2)

sorry for slow reply - first I was away, and now Maya is away, and Fiona has been away a bit too!

We can all do pretty much anytime 5th or 6th. We all come in from outside London, so first thing is a challenge - although if that's necessary for you we will accommodate. Does Kishwer still have availability on those days, and if so what times?

On Mon, 5 Aug 2024 at 10:20, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Good morning Maya,

I hope you are well.

Please see the Chairwoman's September availability below.

5 September, 6 September, 9 September, 11 September and 12 September, preferably between 10:00 and 13:30, however we can look into accommodating an afternoon meeting if the morning would not be feasible.

Many thanks,

S40(2)

From: S40(2)

Sent: Monday, July 29, 2024 3:00 PM

To: Maya Forstater <S40(2) @s-matters.org>; S40(2)

<S40(2) @equalityhumanrights.com>

Cc: S40(2) @s-matters.org; S40(2) @s-matters.org; Chair and CEO

<ChairandCEO@equalityhumanrights.com>

Subject: RE: Request for a meeting

Dear Maya,

Thank you for your letter. Please take this email as confirmation of receipt.

I will be back in touch shortly to suggest some meeting dates.

Kind regards,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>

Sent: Friday, July 26, 2024 3:04 PM

To: S40(2) <S40(2) @equalityhumanrights.com>

Cc: S40(2) <S40(2) @equalityhumanrights.com>; S40(2) @s-matters.org;

S40(2) @s-matters.org; Chair and CEO <ChairandCEO@equalityhumanrights.com>

Subject: Re: Request for a meeting

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Dear S40(2)

Sorry I missed this message before the election (but in any case the meeting was delayed). Can we rearrange it now?

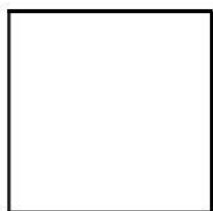
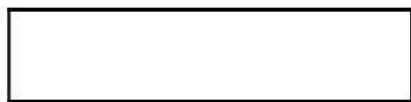
I am attaching a letter to Baroness Falkner including our position on the Equality Act definition of sex, and also comments on the recent updated guidance on discriminatory advertising.

We don't have a general principle against fully private meetings. We would prefer a meeting in person if possible.

With best wishes

Maya Forstater

Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
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On Wed, 5 Jun 2024 at 17:09, Cihan Altan <S40(2) @equalityhumanrights.com> wrote:

Dear Maya

We haven't met yet, but I'd like to introduce myself as S40(2) to the Chair and Chief Executive, since October. Hello!

I have been discussing with Kishwer the guidance issued to all public bodies about propriety considerations in relation to activities during this politically sensitive pre-election period. While stakeholder meetings are generally routine work that should broadly continue, I'm sure you'll recognise that our subjects of discussion are potentially politically sensitive, particularly in light of very recent media activity, so I wanted to check with you ahead of our meeting whether you would be content for this to be a fully private meeting, with no material or information published or shared?

If you have a policy of transparency or other reasons to reserve the right to share or publicise information, could I please request that we delay this meeting until after the election? (With apologies that finding dates is never straightforward!)

If your preference is to proceed as planned (privately), please note that I think Kishwer can only attend virtually on this date.

Best wishes,

S40(2)

S40(2)

S40(2)

Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House,
42-50 Victoria Street,
London, SW1H 0TL

equalityhumanrights.com



The way I manage my workload may sometimes mean I send emails out of office hours. There is no expectation that you should respond outside of your normal working hours.

From: Helen Joyce <S40(2) @s-matters.org>

Sent: Monday, June 3, 2024 12:12 PM

To: S40(2) <S40(2) @equalityhumanrights.com>

Cc: Maya Forstater <S40(2) @s-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>

Subject: Re: Request for a meeting

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That's fine. Could you send a hold the date calendar invite to the 3 of us?

On Mon, 3 Jun 2024, 12:05 S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Helen and Maya,

Apologies for my delay coming back to you. I'd be grateful if we could confirm this meeting tentatively. I will be meeting with Baroness Falkner to confirm she will definitely be available to take this meeting in person on 28th June. Please do let me know if you are content with this and I do apologise again for the delay in confirming this date.

Many thanks,

S40(2)

From: Helen Joyce <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Friday, May 31, 2024 11:18 AM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Re: Request for a meeting

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Dear S40(2) - can we confirm this, please? I will send an email from my personal account as well, in case this one is (once again, sigh) being trapped in your spam filters.

Helen

On Tue, 28 May 2024 at 14:00, Helen Joyce <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)> wrote:

Dear S40(2) - we can do that! Could you please send a calendar invite to all three of us?

Helen

On Fri, 24 May 2024 at 13:01, S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)> wrote:

Dear Maya,

I can offer 28th at 10am? Please do let me know if that's suitable.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Friday, May 24, 2024 12:52 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Helen Joyce S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org); Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Re: Request for a meeting

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Dear S40(2)

One of our number is now unavailable on that date (though if it is the only availability we will make it with just two of us)

Could you check whether the 10th, 13th, 26th or 28th are any good?

Thank you.

Maya Forstater

Chief Executive Officer

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S40(2) @sex-matters.org

S40(2)

sex-matters.org

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On Fri, 24 May 2024 at 11:44, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Good morning Maya,

Thank you for your reply. Please could we confirm the 25th June at 10:00? We of course are happy to host at our EHRC offices in Victoria Street.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>

Sent: Tuesday, May 21, 2024 7:38 PM

To: S40(2) <VS40(2) @equalityhumanrights.com>

Cc: Helen Joyce <S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>

Subject: Re: Request for a meeting

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We can do any of those mornings except Wed 26th June. On 12th June I can do up to 3pm.

We would prefer in person.

Thank you

Maya

On Thu, May 9, 2024, 1:20 PM S40(2) <S40(2)@equalityhumanrights.com> wrote:

Dear Maya,

The Chairwoman has availability 10th, 12th, 13th June and w/c 24th June between 10:30 and 13:00.

Please do let me know if any of these days are suitable for you. Do you have a preference for the meeting to take place in person or online?

Many thanks,

S40(2)

From: Maya Forstater <S40(2)@s-matters.org>
Sent: Thursday, May 2, 2024 3:33 PM
To: S40(2) <S40(2)@equalityhumanrights.com>
Cc: Helen Joyce <S40(2)@sex-matters.org>; Fiona McAnena <S40(2)@sex-matters.org>
Subject: Re: Request for a meeting

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Thank you for getting back to me. Yes please do send some dates!

Maya Forstater

Executive Director

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policies and language

On Thu, 2 May 2024 at 13:55, S40(2)
wrote:

<S40(2)

@equalityhumanrights.com>

Dear Maya,

Apologies for my delayed reply. I hope you are well.

Many thanks for your email. Baroness Falkner would be delighted to meet with you to discuss the issues raised.

Due to diary constraints and a very busy time at the commission, it's unlikely we will be available to meet before June. Please do let me know if that's suitable for you and I will send over some dates.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>

Sent: Friday, April 19, 2024 3:36 PM

To: Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>

Cc: S40(2) <S40(2) @equalityhumanrights.com>; Helen Joyce

<S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>

Subject: Request for a meeting

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Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!)

With best wishes

Maya Forstater

Executive Director

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S40(2) [@sex-matters.org](mailto:sex-matters.org)
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campaigning for clarity about sex in laws,

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Our vision and purpose

We're here to stand up for freedom, compassion and justice in our changing times. We do it by promoting and upholding equality and human rights ideals and laws across England, Scotland and Wales. Our work is driven by a simple belief; if everyone gets a fair chance in life, we all thrive.

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[Helen Joyce](#)

[Director of Advocacy](#)

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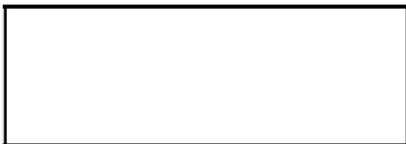
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[Helen Joyce](#)

[Director of Advocacy](#)



Personal website: thehelenjoyce.com

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From: S40(2)
Sent: 03 September 2024 12:10
To: Maya Forstater
Cc: S40(2) @s-matters.org
Subject: RE: Request for a meeting

Categories: In scope

Dear Maya,

Apologies, there was a slight error in the address there. It is FORA, Tintagel House, 92 **Albert** Embankment, London SE1 7TY. The address will also be included in the invite!

Many thanks,

S40(2)

From: S40(2)
Sent: Tuesday, September 3, 2024 11:59 AM
To: Maya Forstater
Cc: Helen Joyce ; S40(2) @s-matters.org; Chair and CEO ; S40(2)
Subject: RE: Request for a meeting

Good morning Maya,

I hope you are well.

Apologies, I see you were not copied into the chain between Helen and my colleague where this was confirmed. The meeting is due to take place 1-2pm on Friday 6 September at our new office location - FORA, Tintagel House, 92 Embankment, London SE1 7TY. I will be sending a calendar invite this afternoon.

Kind regards,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Tuesday, September 3, 2024 11:22 AM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Helen Joyce <S40(2) @s-matters.org>; S40(2) @s-matters.org; S40(2) <S40(2) @equalityhumanrights.com>
Subject: Re: Request for a meeting

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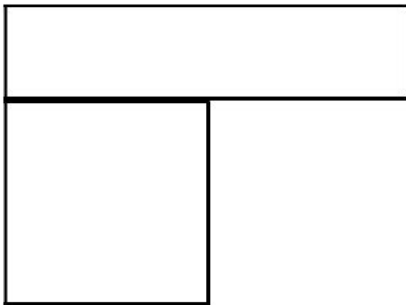
S40(2) and S40(2)

We have this held in our calendars - is it confirmed?

Thanks

Maya

Maya Forstater
Chief Executive Officer



S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)
S40(2)
[sex-matters.org](mailto:S40(2)@sex-matters.org)

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On Fri, 16 Aug 2024 at 17:08, VeneS40(2) <S40(2)@equalityhumanrights.com> wrote:

Hi Helen,

No problem. I hope you're all having/had a great time away!

By way of update, I am testing 13:00 on 6 September with the Chair. I will be on leave for the next 2 weeks so I'm copying my colleague, S40(2) who will be able to provide an update once the Chair responds. In the meantime, I'd be grateful if you could hold this time.

Many thanks,

S40(2)

From: Helen Joyce <S40(2) @s-matters.org>
Sent: Friday, August 16, 2024 12:02 PM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Maya Forstater <S40(2) @s-matters.org>; S40(2) @s-matters.org
Subject: Re: Request for a meeting

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Hi S40(2)

sorry for slow reply - first I was away, and now Maya is away, and Fiona has been away a bit too!

We can all do pretty much anytime 5th or 6th. We all come in from outside London, so first thing is a challenge - although if that's necessary for you we will accommodate. Does Kishwer still have availability on those days, and if so what times?

On Mon, 5 Aug 2024 at 10:20, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Good morning Maya,

I hope you are well.

Please see the Chairwoman's September availability below.

5 September, 6 September, 9 September, 11 September and 12 September, preferably between 10:00 and 13:30, however we can look into accommodating an afternoon meeting if the morning would not be feasible.

Many thanks,

S40(2)

From: S40(2)
Sent: Monday, July 29, 2024 3:00 PM
To: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>; S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: S40(2) [s-matters.org](mailto:S40(2)@s-matters.org); S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org); Chair and CEO <ChairandCEO@equalityhumanrights.com>
Subject: RE: Request for a meeting

Dear Maya,

Thank you for your letter. Please take this email as confirmation of receipt.

I will be back in touch shortly to suggest some meeting dates.

Kind regards,

S40(2)

From: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Friday, July 26, 2024 3:04 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>; S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org); S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org); Chair and CEO <ChairandCEO@equalityhumanrights.com>
Subject: Re: Request for a meeting

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Dear S40(2)

Sorry I missed this message before the election (but in any case the meeting was delayed). Can we rearrange it now?

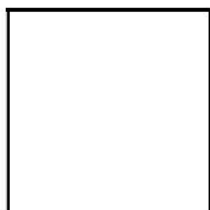
I am attaching a letter to Baroness Falkner including our position on the Equality Act definition of sex, and also comments on the recent updated guidance on discriminatory advertising.

We don't have a general principle against fully private meetings. We would prefer a meeting in person if possible.

With best wishes

Maya Forstater

Chief Executive Officer



S40(2) @sex-matters.org

S40(2)

sex-matters.org

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On Wed, 5 Jun 2024 at 17:09, Cihan Altan <S40(2) @equalityhumanrights.com> wrote:

Dear Maya

We haven't met yet, but I'd like to introduce myself as S40(2) to the Chair and Chief Executive, since October. Hello!

I have been discussing with Kishwer the guidance issued to all public bodies about propriety considerations in relation to activities during this politically sensitive pre-election period. While stakeholder meetings are generally routine work that should broadly continue, I'm sure you'll recognise that our subjects of discussion are potentially politically sensitive, particularly in light of very recent media activity, so I wanted to check with you ahead of our meeting whether you would be content for this to be a fully private meeting, with no material or information published or shared?

If you have a policy of transparency or other reasons to reserve the right to share or publicise information, could I please request that we delay this meeting until after the election? (With apologies that finding dates is never straightforward!)

If your preference is to proceed as planned (privately), please note that I think Kishwer can only attend virtually on this date.

Best wishes,

S40(2)

S40(2)

S40(2)
Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House,
42-50 Victoria Street,
London, SW1H 0TL

equalityhumanrights.com

 Equality and
Human Rights
Commission

The way I manage my workload may sometimes mean I send emails out of office hours. There is no expectation that you should respond outside of your normal working hours.

From: Helen Joyce <S40(2) @s-matters.org>
Sent: Monday, June 3, 2024 12:12 PM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Maya Forstater <S40(2) @s-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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That's fine. Could you send a hold the date calendar invite to the 3 of us?

On Mon, 3 Jun 2024, 12:05 S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Helen and Maya,

Apologies for my delay coming back to you. I'd be grateful if we could confirm this meeting tentatively. I will be meeting with Baroness Falkner to confirm she will definitely be available to take this meeting in person on 28th June. Please do let me know if you are content with this and I do apologise again for the delay in confirming this date.

Many thanks,

S40(2)

From: Helen Joyce <S40(2) @s-matters.org>
Sent: Friday, May 31, 2024 11:18 AM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Maya Forstater <S40(2) @s-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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Dear S40(2) - can we confirm this, please? I will send an email from my personal account as well, in case this one is (once again, sigh) being trapped in your spam filters.

Helen

On Tue, 28 May 2024 at 14:00, Helen Joyce <S40(2) @s-matters.org> wrote:

Dear S40(2) - we can do that! Could you please send a calendar invite to all three of us?

Helen

On Fri, 24 May 2024 at 13:01, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

I can offer 28th at 10am? Please do let me know if that's suitable.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Friday, May 24, 2024 12:52 PM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Helen Joyce <S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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Dear S40(2)

One of our number is now unavailable on that date (though if it is the only availability we will make it with just two of us)

Could you check whether the 10th, 13th, 26th or 28th are any good?

Thank you.

Maya Forstater

Chief Executive Officer

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On Fri, 24 May 2024 at 11:44, S40(2) <S40(2)@equalityhumanrights.com> wrote:

Good morning Maya,

Thank you for you reply. Please could we confirm the 25th June at 10:00? We of course are happy to host at our EHRC offices in Victoria Street.

Many thanks,

S40(2)

From: Maya Forstater S40(2) @s-matters.org
Sent: Tuesday, May 21, 2024 7:38 PM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Helen Joyce <S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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We can do any of those mornings except Wed 26th June. On 12th June I can do up to 3pm.

We would prefer in person.

Thank you

Maya

On Thu, May 9, 2024, 1:20 PM S40(2) S40(2) @equalityhumanrights.com wrote:

Dear Maya,

The Chairwoman has availability 10th, 12th, 13th June and w/c 24th June between 10:30 and 13:00.

Please do let me know if any of these days are suitable for you. Do you have a preference for the meeting to take place in person or online?

Many thanks,

S40(2)

From: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Thursday, May 2, 2024 3:33 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Helen Joyce <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Re: Request for a meeting

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Thank you for getting back to me. Yes please do send some dates!

Maya Forstater

Executive Director

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On Thu, 2 May 2024 at 13:55, S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)> wrote:

Dear Maya,

Apologies for my delayed reply. I hope you are well.

Many thanks for your email. Baroness Falkner would be delighted to meet with you to discuss the issues raised.

Due to diary constraints and a very busy time at the commission, it's unlikely we will be available to meet before June. Please do let me know if that's suitable for you and I will send over some dates.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Sent: Friday, April 19, 2024 3:36 PM
To: Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>
Cc: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>; Helen Joyce <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Request for a meeting

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Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and

work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!!)

With best wishes

Maya Forstater

Executive Director

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[Helen Joyce](#)

[Director of Advocacy](#)

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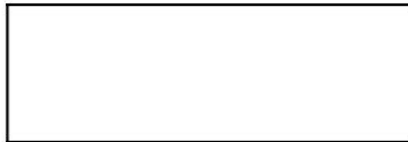
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[Director of Advocacy](#)



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From:
Sent: 28 August 2024 10:51
To: Helen Joyce
Cc: Chair and CEO
Subject: RE: Request for a meeting

Categories: In scope

Dear Helen,

That's great, we look forward to seeing you. We have very recently vacated our Windsor st office and are in a temporary location here.

Please also note there is a slight typo on the below as we are 92 **Albert** Embankment (still getting used to typing the new address!)

Best,

S40(2)

From: Helen Joyce
Sent: Wednesday, August 28, 2024 10:47 AM
To: S40(2)
Cc: Chair and CEO
Subject: Re: Request for a meeting

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Great, we will be there, and yes it's me, Fiona and Maya.
I didn't realise your offices had moved! Last time we met the Chair it was at that building near Victoria Station...
Helen

On Wed, 28 Aug 2024 at 10:11, S40(2) <S40(2)@equalityhumanrights.com> wrote:

Good morning Helen

To confirm, the Chair is available and we would be happy to host you at our office space next week Friday 6 September from 1-2pm.

Our Office is at FORA, Tintagel House, 92 Embankment, London SE1 7TY.

We look forward to seeing you then. Can I confirm that it will be you, Maya, and Fiona attending?

Thanks

S40(2)

From: Helen Joyce <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Friday, August 16, 2024 9:27 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>; Fiona McAnena <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>; S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Subject: Re: Request for a meeting

You don't often get email from S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org). [Learn why this is important](#)

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Am holding in our calendars, thanks!

On Fri, 16 Aug 2024, 17:08 S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)> wrote:

Hi Helen,

No problem. I hope you're all having/had a great time away!

By way of update, I am testing 13:00 on 6 September with the Chair. I will be on leave for the next 2 weeks so I'm copying my colleague, S40(2) who will be able to provide an update once the Chair responds. In the meantime, I'd be grateful if you could hold this time.

Many thanks,

S40(2)

From: Helen Joyce <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Friday, August 16, 2024 12:02 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>; S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)
Subject: Re: Request for a meeting

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Hi S40(2)

sorry for slow reply - first I was away, and now Maya is away, and Fiona has been away a bit too!

We can all do pretty much anytime 5th or 6th. We all come in from outside London, so first thing is a challenge - although if that's necessary for you we will accommodate. Does Kishwer still have availability on those days, and if so what times?

On Mon, 5 Aug 2024 at 10:20, S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)> wrote:

Good morning Maya,

I hope you are well.

Please see the Chairwoman's September availability below.

5 September, 6 September, 9 September, 11 September and 12 September, preferably between 10:00 and 13:30, however we can look into accommodating an afternoon meeting if the morning would not be feasible.

Many thanks,

S40(2)

From: S40(2)
Sent: Monday, July 29, 2024 3:00 PM
To: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>; S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org); S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org); Chair and CEO
<ChairandCEO@equalityhumanrights.com>
Subject: RE: Request for a meeting

Dear Maya,

Thank you for your letter. Please take this email as confirmation of receipt.

I will be back in touch shortly to suggest some meeting dates.

Kind regards,

S40(2)

From: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Friday, July 26, 2024 3:04 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>; S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org);
S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org); Chair and CEO <ChairandCEO@equalityhumanrights.com>
Subject: Re: Request for a meeting

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Dear S40(2)

Sorry I missed this message before the election (but in any case the meeting was delayed). Can we rearrange it now?

I am attaching a letter to Baroness Falkner including our position on the Equality Act definition of sex, and also comments on the recent updated guidance on discriminatory advertising.

We don't have a general principle against fully private meetings. We would prefer a meeting in person if possible.

With best wishes

Maya Forstater

Chief Executive Officer

S40(2) @sex-matters.org
S40(2)
sex-matters.org

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On Wed, 5 Jun 2024 at 17:09, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya

We haven't met yet, but I'd like to introduce myself as S40(2) to the Chair and Chief Executive, since October. Hello!

I have been discussing with Kishwer the guidance issued to all public bodies about propriety considerations in relation to activities during this politically sensitive pre-election period. While stakeholder meetings are generally routine work that should broadly continue, I'm sure you'll recognise that our subjects of

discussion are potentially politically sensitive, particularly in light of very recent media activity, so I wanted to check with you ahead of our meeting whether you would be content for this to be a fully private meeting, with no material or information published or shared?

If you have a policy of transparency or other reasons to reserve the right to share or publicise information, could I please request that we delay this meeting until after the election? (With apologies that finding dates is never straightforward!)

If your preference is to proceed as planned (privately), please note that I think Kishwer can only attend virtually on this date.

Best wishes,

S40(2)

S40(2)

S40(2)
Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House,
[42-50 Victoria Street,](#)
[London, SW1H 0TL](#)

equalityhumanrights.com

The way I manage my workload may sometimes mean I send emails out of office hours. There is no expectation that you should respond outside of your normal working hours.

From: Helen Joyce <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>

Sent: Monday, June 3, 2024 12:12 PM

To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>

Cc: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>

Subject: Re: Request for a meeting

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That's fine. Could you send a hold the date calendar invite to the 3 of us?

On Mon, 3 Jun 2024, 12:05 S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Helen and Maya,

Apologies for my delay coming back to you. I'd be grateful if we could confirm this meeting tentatively. I will be meeting with Baroness Falkner to confirm she will definitely be available to take this meeting in person on 28th June. Please do let me know if you are content with this and I do apologise again for the delay in confirming this date.

Many thanks,

S40(2)

From: Helen Joyce <S40(2) @s-matters.org>
Sent: Friday, May 31, 2024 11:18 AM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Maya Forstater <S40(2) @s-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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Dear S40(2) - can we confirm this, please? I will send an email from my personal account as well, in case this one is (once again, sigh) being trapped in your spam filters.

Helen

On Tue, 28 May 2024 at 14:00, Helen Joyce <S40(2) @s-matters.org> wrote:

Dear S40(2) - we can do that! Could you please send a calendar invite to all three of us?

Helen

On Fri, 24 May 2024 at 13:01, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

I can offer 28th at 10am? Please do let me know if that's suitable.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Friday, May 24, 2024 12:52 PM
To: S40(2) <S40(2) @equalityhumanrights.com>

Cc: Helen Joyce <S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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Dear S40(2)

One of our number is now unavailable on that date (though if it is the only availability we will make it with just two of us)

Could you check whether the 10th, 13th, 26th or 28th are any good?

Thank you.

Maya Forstater

Chief Executive Officer

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S40(2)

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On Fri, 24 May 2024 at 11:44, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Good morning Maya,

Thank you for your reply. Please could we confirm the 25th June at 10:00? We of course are happy to host at our EHRC offices in Victoria Street.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>

Sent: Tuesday, May 21, 2024 7:38 PM

To: S40(2) <S40(2) @equalityhumanrights.com>

Cc: Helen Joyce S40(2) @sex-matters.org; Fiona McAnena <S40(2) @sex-matters.org>

Subject: Re: Request for a meeting

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We can do any of those mornings except Wed 26th June. On 12th June I can do up to 3pm.

We would prefer in person.

Thank you

Maya

On Thu, May 9, 2024, 1:20 PM S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

The Chairwoman has availability 10th, 12th, 13th June and w/c 24th June between 10:30 and 13:00.

Please do let me know if any of these days are suitable for you. Do you have a preference for the meeting to take place in person or online?

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Thursday, May 2, 2024 3:33 PM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Helen Joyce <S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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Thank you for getting back to me. Yes please do send some dates!

Maya Forstater

Executive Director

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policies and language

On Thu, 2 May 2024 at 13:55, S40(2) <S40(2)@equalityhumanrights.com> wrote:

Dear Maya,

Apologies for my delayed reply. I hope you are well.

Many thanks for your email. Baroness Falkner would be delighted to meet with you to discuss the issues raised.

Due to diary constraints and a very busy time at the commission, it's unlikely we will be available to meet before June. Please do let me know if that's suitable for you and I will send over some dates.

Many thanks,

S40(2)

From: Maya Forstater <S40(2)@s-matters.org>
Sent: Friday, April 19, 2024 3:36 PM
To: Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>
Cc: S40(2) <S40(2)@equalityhumanrights.com>; Helen Joyce <S40(2)@sex-matters.org>; Fiona McAnena S40(2)@sex-matters.org
Subject: Request for a meeting

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Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!!)

With best wishes

Maya Forstater

Executive Director

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S40(2) [@sex-matters.org](mailto:sex-matters.org)
S40(2)
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[Helen Joyce](#)

[Director of Advocacy](#)

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[Helen Joyce](#)

[Director of Advocacy](#)

Personal website: thehelenjoyce.com

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--

[Helen Joyce](#)

[Director of Advocacy](#)



Personal website: thehelenjoyce.com

From: Helen Joyce <S40(2) @s-matters.org>
Sent: 16 August 2024 12:02
To: S40(2)
Cc: Maya Forstater; S40(2) @s-matters.org
Subject: Re: Request for a meeting

Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments.
If in doubt, please contact the ICT Service Desk.

Hi S40(2)

sorry for slow reply - first I was away, and now Maya is away, and Fiona has been away a bit too!
We can all do pretty much anytime 5th or 6th. We all come in from outside London, so first thing is a challenge - although if that's necessary for you we will accommodate. Does Kishwer still have availability on those days, and if so what times?

On Mon, 5 Aug 2024 at 10:20, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Good morning Maya,

I hope you are well.

Please see the Chairwoman's September availability below.

5 September, 6 September, 9 September, 11 September and 12 September, preferably between 10:00 and 13:30, however we can look into accommodating an afternoon meeting if the morning would not be feasible.

Many thanks,

S40(2)

From: S40(2)
Sent: Monday, July 29, 2024 3:00 PM
To: Maya Forstater <S40(2) @s-matters.org>; S40(2) <S40(2) @equalityhumanrights.com>
Cc: S40(2) @s-matters.org; S40(2) @s-matters.org; Chair and CEO <ChairandCEO@equalityhumanrights.com>
Subject: RE: Request for a meeting

Dear Maya,

Thank you for your letter. Please take this email as confirmation of receipt.

I will be back in touch shortly to suggest some meeting dates.

Kind regards,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>

Sent: Friday, July 26, 2024 3:04 PM

To: S40(2) <S40(2) @equalityhumanrights.com>

Cc: S40(2) <S40(2) @equalityhumanrights.com>; S40(2) @s-matters.org;

S40(2) @s-matters.org; Chair and CEO <ChairandCEO@equalityhumanrights.com>

Subject: Re: Request for a meeting

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Dear S40(2)

Sorry I missed this message before the election (but in any case the meeting was delayed). Can we rearrange it now?

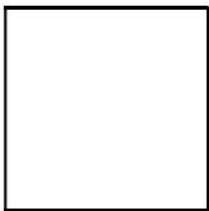
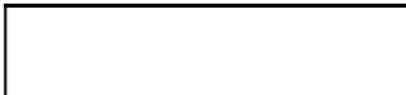
I am attaching a letter to Baroness Falkner including our position on the Equality Act definition of sex, and also comments on the recent updated guidance on discriminatory advertising.

We don't have a general principle against fully private meetings. We would prefer a meeting in person if possible.

With best wishes

Maya Forstater

Chief Executive Officer



S40(2) @sex-matters.org

S40(2)

sex-matters.org

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Sex Matters is a human-rights charity

We campaign for clarity about sex in laws, policies and language

On Wed, 5 Jun 2024 at 17:09, S40(2) <S40(2)@equalityhumanrights.com> wrote:

Dear Maya

We haven't met yet, but I'd like to introduce myself as S40(2) to the Chair and Chief Executive, since October. Hello!

I have been discussing with Kishwer the guidance issued to all public bodies about propriety considerations in relation to activities during this politically sensitive pre-election period. While stakeholder meetings are generally routine work that should broadly continue, I'm sure you'll recognise that our subjects of discussion are potentially politically sensitive, particularly in light of very recent media activity, so I wanted to check with you ahead of our meeting whether you would be content for this to be a fully private meeting, with no material or information published or shared?

If you have a policy of transparency or other reasons to reserve the right to share or publicise information, could I please request that we delay this meeting until after the election? (With apologies that finding dates is never straightforward!)

If your preference is to proceed as planned (privately), please note that I think Kishwer can only attend virtually on this date.

Best wishes,

S40(2)

S40(2)

S40(2)

Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House,
42-50 Victoria Street,
London, SW1H 0TL

equalityhumanrights.com



The way I manage my workload may sometimes mean I send emails out of office hours. There is no expectation that you should respond outside of your normal working hours.

From: Helen Joyce <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Monday, June 3, 2024 12:12 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Re: Request for a meeting

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

That's fine. Could you send a hold the date calendar invite to the 3 of us?

On Mon, 3 Jun 2024, 12:05 S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)> wrote:

Dear Helen and Maya,

Apologies for my delay coming back to you. I'd be grateful if we could confirm this meeting tentatively. I will be meeting with Baroness Falkner to confirm she will definitely be available to take this meeting in person on 28th June. Please do let me know if you are content with this and I do apologise again for the delay in confirming this date.

Many thanks,

S40(2)

From: Helen Joyce <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Friday, May 31, 2024 11:18 AM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>; Fiona McAnena S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Re: Request for a meeting

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Dear S40(2) - can we confirm this, please? I will send an email from my personal account as well, in case this one is (once again, sigh) being trapped in your spam filters.

Helen

On Tue, 28 May 2024 at 14:00, Helen Joyce <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)> wrote:

Dear S40(2) - we can do that! Could you please send a calendar invite to all three of us?

Helen

On Fri, 24 May 2024 at 13:01, S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)> wrote:

Dear Maya,

I can offer 28th at 10am? Please do let me know if that's suitable.

Many thanks,

S40(2)

From: Maya Forstater S40(2) @s-matters.org
Sent: Friday, May 24, 2024 12:52 PM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Helen Joyce <S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Dear S40(2)

One of our number is now unavailable on that date (though if it is the only availability we will make it with just two of us)

Could you check whether the 10th, 13th, 26th or 28th are any good?

Thank you.

Maya Forstater

Chief Executive Officer

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S40(2) @sex-matters.org
S40(2)
sex-matters.org

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We campaign for clarity about sex in laws, policies and language

On Fri, 24 May 2024 at 11:44, Ven S40(2) <S40(2) @equalityhumanrights.com> wrote:

Good morning Maya,

Thank you for your reply. Please could we confirm the 25th June at 10:00? We of course are happy to host at our EHRC offices in Victoria Street.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Tuesday, May 21, 2024 7:38 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Helen Joyce <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Re: Request for a meeting

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We can do any of those mornings except Wed 26th June. On 12th June I can do up to 3pm.

We would prefer in person.

Thank you

Maya

On Thu, May 9, 2024, 1:20 PM S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)> wrote:

Dear Maya,

The Chairwoman has availability 10th, 12th, 13th June and w/c 24th June between 10:30 and 13:00.

Please do let me know if any of these days are suitable for you. Do you have a preference for the meeting to take place in person or online?

Many thanks,

S40(2)

From: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Thursday, May 2, 2024 3:33 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Helen Joyce <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Re: Request for a meeting

You don't often get email from S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org). [Learn why this is important](#)

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Thank you for getting back to me. Yes please do send some dates!

Maya Forstater

Executive Director

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S40(2)

sex-matters.org

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campaigning for clarity about sex in laws,

policies and language

On Thu, 2 May 2024 at 13:55, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

Apologies for my delayed reply. I hope you are well.

Many thanks for your email. Baroness Falkner would be delighted to meet with you to discuss the issues raised.

Due to diary constraints and a very busy time at the commission, it's unlikely we will be available to meet before June. Please do let me know if that's suitable for you and I will send over some dates.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>

Sent: Friday, April 19, 2024 3:36 PM

To: Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>

Cc: S40(2) <S40(2) @equalityhumanrights.com>; Helen Joyce
<S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Request for a meeting

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Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!)

With best wishes

Maya Forstater

Executive Director

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Error! Filename not specified.

S40(2) @sex-matters.org
S40(2)
sex-matters.org

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Our vision and purpose

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[Helen Joyce](#)

[Director of Advocacy](#)

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Personal website: thehelenjoyce.com

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--

[Helen Joyce](#)
[Director of Advocacy](#)



Personal website: thehelenjoyce.com

From: S40(2)
Sent: 29 July 2024 15:00
To: Maya Forstater; S40(2)
Cc: S40(2) @s-matters.org; S40(2) @s-matters.org; Chair and CEO
Subject: RE: Request for a meeting

Categories: In scope

Dear Maya,

Thank you for your letter. Please take this email as confirmation of receipt.

I will be back in touch shortly to suggest some meeting dates.

Kind regards,
S40(2)

From: Maya Forstater
Sent: Friday, July 26, 2024 3:04 PM
To: S40(2)
Cc: S40(2) ; S40(2) @s-matters.org; S40(2) @s-matters.org; Chair and CEO
Subject: Re: Request for a meeting

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Dear S40(2)

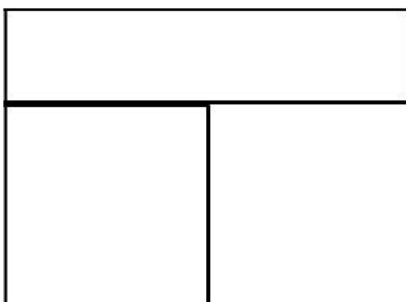
Sorry I missed this message before the election (but in any case the meeting was delayed). Can we rearrange it now?

I am attaching a letter to Baroness Falkner including our position on the Equality Act definition of sex, and also comments on the recent updated guidance on discriminatory advertising.

We don't have a general principle against fully private meetings. We would prefer a meeting in person if possible.

With best wishes

Maya Forstater
Chief Executive Officer



S40(2) @sex-matters.org
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I have been discussing with Kishwer the guidance issued to all public bodies about propriety considerations in relation to activities during this politically sensitive pre-election period. While stakeholder meetings are generally routine work that should broadly continue, I'm sure you'll recognise that our subjects of discussion are potentially politically sensitive, particularly in light of very recent media activity, so I wanted to check with you ahead of our meeting whether you would be content for this to be a fully private meeting, with no material or information published or shared?

If you have a policy of transparency or other reasons to reserve the right to share or publicise information, could I please request that we delay this meeting until after the election? (With apologies that finding dates is never straightforward!)

If your preference is to proceed as planned (privately), please note that I think Kishwer can only attend virtually on this date.

Best wishes,

S40(2)

S40(2)

S40(2)

Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House,
42-50 Victoria Street,
London, SW1H 0TL

equalityhumanrights.com



The way I manage my workload may sometimes mean I send emails out of office hours. There is no expectation that you should respond outside of your normal working hours.

From: Helen Joyce <S40(2) @s-matters.org>
Sent: Monday, June 3, 2024 12:12 PM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Maya Forstater <S40(2) @s-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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That's fine. Could you send a hold the date calendar invite to the 3 of us?

On Mon, 3 Jun 2024, 12:05 S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Helen and Maya,

Apologies for my delay coming back to you. I'd be grateful if we could confirm this meeting tentatively. I will be meeting with Baroness Falkner to confirm she will definitely be available to take this meeting in person on 28th June. Please do let me know if you are content with this and I do apologise again for the delay in confirming this date.

Many thanks,

S40(2)

From: Helen Joyce <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Friday, May 31, 2024 11:18 AM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Subject: Re: Request for a meeting

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Dear S40(2) - can we confirm this, please? I will send an email from my personal account as well, in case this one is (once again, sigh) being trapped in your spam filters.

Helen

On Tue, 28 May 2024 at 14:00, Helen Joyce <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)> wrote:

Dear S40(2) - we can do that! Could you please send a calendar invite to all three of us?

Helen

On Fri, 24 May 2024 at 13:01, S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)> wrote:

Dear Maya,

I can offer 28th at 10am? Please do let me know if that's suitable.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
Sent: Friday, May 24, 2024 12:52 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Helen Joyce <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
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Dear S40(2)

One of our number is now unavailable on that date (though if it is the only availability we will make it with just two of us)

Could you check whether the 10th, 13th, 26th or 28th are any good?

Thank you.

Maya Forstater

Chief Executive Officer

Error! Filename not specified.

Error! Filename not specified.

S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)

S40(2)

sex-matters.org

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Sex Matters is a human-rights charity

We campaign for clarity about sex in laws, policies and language

On Fri, 24 May 2024 at 11:44, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Good morning Maya,

Thank you for your reply. Please could we confirm the 25th June at 10:00? We of course are happy to host at our EHRC offices in Victoria Street.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Tuesday, May 21, 2024 7:38 PM
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Subject: Re: Request for a meeting

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We can do any of those mornings except Wed 26th June. On 12th June I can do up to 3pm.

We would prefer in person.

Thank you

Maya

On Thu, May 9, 2024, 1:20 PM S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

The Chairwoman has availability 10th, 12th, 13th June and w/c 24th June between 10:30 and 13:00.

Please do let me know if any of these days are suitable for you. Do you have a preference for the meeting to take place in person or online?

Many thanks,

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Thank you for getting back to me. Yes please do send some dates!

Maya Forstater

Executive Director

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Error! Filename not specified.

S40(2) @sex-matters.org
S40(2)
sex-matters.org

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campaigning for clarity about sex in laws,
policies and language

On Thu, 2 May 2024 at 13:55, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

Apologies for my delayed reply. I hope you are well.

Many thanks for your email. Baroness Falkner would be delighted to meet with you to discuss the issues raised.

Due to diary constraints and a very busy time at the commission, it's unlikely we will be available to meet before June. Please do let me know if that's suitable for you and I will send over some dates.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Friday, April 19, 2024 3:36 PM
To: Kishwer Falkner <S40(2) @equalityhumanrights.com>
Cc: S40(2) <S40(2) @equalityhumanrights.com>; Helen Joyce <S40(2) @sex-

matters.org>; Fiona McAnena S40(2)

@sex-matters.org>

Subject: Request for a meeting

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Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!)

With best wishes

Maya Forstater

Executive Director

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S40(2) @sex-matters.org

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Our vision and purpose

We're here to stand up for freedom, compassion and justice in our changing times. We do it by promoting and upholding equality and human rights ideals and laws across England, Scotland and Wales. Our work is driven by a simple belief; if everyone gets a fair chance in life, we all thrive.

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--

[Helen Joyce](#)

[Director of Advocacy](#)

Error! Filename not specified.

Personal website: thehelenjoyce.com

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[Director of Advocacy](#)

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From: Maya Forstater <S40(2) @s-matters.org>
Sent: 26 July 2024 15:04
To: S40(2)
Cc: S40(2) S40(2) @s-matters.org; S40(2) @s-matters.org; Chair and CEO
Subject: Re: Request for a meeting
Attachments: Letter to Kishwer Falkner August 2024.pdf
Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Dear S40(2)

Sorry I missed this message before the election (but in any case the meeting was delayed). Can we rearrange it now?

I am attaching a letter to Baroness Falkner including our position on the Equality Act definition of sex, and also comments on the recent updated guidance on discriminatory advertising.

We don't have a general principle against fully private meetings. We would prefer a meeting in person if possible.

With best wishes

Maya Forstater
Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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Sex Matters is a human-rights charity
We campaign for clarity about sex in laws, policies and language

Dear Maya

We haven't met yet, but I'd like to introduce myself as S40(2) to the Chair and Chief Executive, since October. Hello!

I have been discussing with Kishwer the guidance issued to all public bodies about propriety considerations in relation to activities during this politically sensitive pre-election period. While stakeholder meetings are generally routine work that should broadly continue, I'm sure you'll recognise that our subjects of discussion are potentially politically sensitive, particularly in light of very recent media activity, so I wanted to check with you ahead of our meeting whether you would be content for this to be a fully private meeting, with no material or information published or shared?

If you have a policy of transparency or other reasons to reserve the right to share or publicise information, could I please request that we delay this meeting until after the election? (With apologies that finding dates is never straightforward!)

If your preference is to proceed as planned (privately), please note that I think Kishwer can only attend virtually on this date.

Best wishes,

S40(2)

S40(2)

S40(2)

Equality and Human Rights Commission

T: S40(2)

Third Floor, Windsor House,
42-50 Victoria Street,
London, SW1H 0TL

equalityhumanrights.com



The way I manage my workload may sometimes mean I send emails out of office hours. There is no expectation that you should respond outside of your normal working hours.

From: Helen Joyce <S40(2)@s-matters.org>

Sent: Monday, June 3, 2024 12:12 PM

To: S40(2) <S40(2)@equalityhumanrights.com>

Cc: Maya Forstater <S40(2) @s-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>

Subject: Re: Request for a meeting

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That's fine. Could you send a hold the date calendar invite to the 3 of us?

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Dear Helen and Maya,

Apologies for my delay coming back to you. I'd be grateful if we could confirm this meeting tentatively. I will be meeting with Baroness Falkner to confirm she will definitely be available to take this meeting in person on 28th June. Please do let me know if you are content with this and I do apologise again for the delay in confirming this date.

Many thanks,

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Cc: Maya Forstater <S40(2) @s-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>

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Maya Forstater

Chief Executive Officer

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Maya Forstater

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[Helen Joyce](#)

[Director of Advocacy](#)

Personal website: thehelenjoyce.com

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From: Helen Joyce <S40(2) @s-matters.org>
Sent: 03 June 2024 12:12
To: S40(2)
Cc: Maya Forstater; Fiona McAnena
Subject: Re: Request for a meeting
Attachments: image001.jpg

Categories: In scope

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If in doubt, please contact the ICT Service Desk.

That's fine. Could you send a hold the date calendar invite to the 3 of us?

On Mon, 3 Jun 2024, 12:05 S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Helen and Maya,

Apologies for my delay coming back to you. I'd be grateful if we could confirm this meeting tentatively. I will be meeting with Baroness Falkner to confirm she will definitely be available to take this meeting in person on 28th June. Please do let me know if you are content with this and I do apologise again for the delay in confirming this date.

Many thanks,

S40(2)

From: Helen Joyce <S40(2) @s-matters.org>
Sent: Friday, May 31, 2024 11:18 AM
To: S40(2) <S40(2) @equalityhumanrights.com>
Cc: Maya Forstater <S40(2) @s-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Re: Request for a meeting

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Dear S40(2) - can we confirm this, please? I will send an email from my personal account as well, in case this one is (once again, sigh) being trapped in your spam filters.

Helen

On Tue, 28 May 2024 at 14:00, Helen Joyce <S40(2) @s-matters.org> wrote:

Dear S40(2) - we can do that! Could you please send a calendar invite to all three of us?

Helen

On Fri, 24 May 2024 at 13:01, S40(2) <S40(2)@equalityhumanrights.com> wrote:

Dear Maya,

I can offer 28th at 10am? Please do let me know if that's suitable.

Many thanks,

S40(2)

From: Maya Forstater <S40(2)@s-matters.org>
Sent: Friday, May 24, 2024 12:52 PM
To: S40(2) <S40(2)@equalityhumanrights.com>
Cc: Helen Joyce <S40(2)@sex-matters.org>; Fiona McAnena <S40(2)@sex-matters.org>
Subject: Re: Request for a meeting

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Dear S40(2)

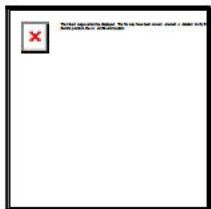
One of our number is now unavailable on that date (though if it is the only availability we will make it with just two of us)

Could you check whether the 10th, 13th, 26th or 28th are any good?

Thank you.

Maya Forstater

Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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We campaign for clarity about sex in laws, policies and language

On Fri, 24 May 2024 at 11:44, S40(2) <S40(2)@equalityhumanrights.com> wrote:

Good morning Maya,

Thank you for your reply. Please could we confirm the 25th June at 10:00? We of course are happy to host at our EHRC offices in Victoria Street.

Many thanks,

S40(2)

From: Maya Forstater <S40(2)@s-matters.org>
Sent: Tuesday, May 21, 2024 7:38 PM
To: S40(2) <S40(2)@equalityhumanrights.com>
Cc: Helen Joyce <S40(2)@sex-matters.org>; Fiona McAnena <S40(2)@sex-matters.org>
Subject: Re: Request for a meeting

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We can do any of those mornings except Wed 26th June. On 12th June I can do up to 3pm.

We would prefer in person.

Thank you

Maya

On Thu, May 9, 2024, 1:20 PM S40(2) <S40(2)@equalityhumanrights.com> wrote:

Dear Maya,

The Chairwoman has availability 10th, 12th, 13th June and w/c 24th June between 10:30 and 13:00.

Please do let me know if any of these days are suitable for you. Do you have a preference for the meeting to take place in person or online?

Many thanks,

S40(2)

From: Maya Forstater <S40(2)@s-matters.org>
Sent: Thursday, May 2, 2024 3:33 PM
To: S40(2) <S40(2)@equalityhumanrights.com>
Cc: Helen Joyce <S40(2)@sex-matters.org>; Fiona McAnena S40(2)@sex-

matters.org>

Subject: Re: Request for a meeting

You don't often get email from S40(2) @s-matters.org. [Learn why this is important](#)

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Thank you for getting back to me. Yes please do send some dates!

Maya Forstater

Executive Director



S40(2) @sex-matters.org
S40(2)
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campaigning for clarity about sex in laws,

policies and language

On Thu, 2 May 2024 at 13:55, S40(2) <S40(2) @equalityhumanrights.com>
wrote:

Dear Maya,

Apologies for my delayed reply. I hope you are well.

Many thanks for your email. Baroness Falkner would be delighted to meet with you to discuss the issues raised.

Due to diary constraints and a very busy time at the commission, it's unlikely we will be available to meet before June. Please do let me know if that's suitable for you and I will send over some dates.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Friday, April 19, 2024 3:36 PM
To: Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>
Cc: S40(2) <S40(2) @equalityhumanrights.com>; Helen Joyce <S40(2) @sex-matters.org>; Fiona McAnena <S40(2) @sex-matters.org>
Subject: Request for a meeting

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Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!)

With best wishes

Maya Forstater

Executive Director



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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[Helen Joyce](#)

[Director of Advocacy](#)



Personal website: thehelenjoyce.com

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From: Maya Forstater <S40(2) @s-matters.org>
Sent: 24 May 2024 16:57
To: S40(2)
Cc: Helen Joyce; Fiona McAnena
Subject: Re: Request for a meeting

Categories: In scope

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Yes please!
Thank you

Maya Forstater
Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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We campaign for clarity about sex in laws, policies and language

On Fri, 24 May 2024 at 13:01, S40(2) <S40(2) @equalityhumanrights.com> wrote:

Dear Maya,

I can offer 28th at 10am? Please do let me know if that's suitable.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Friday, May 24, 2024 12:52 PM
To: S40(2) <S40(2) @equalityhumanrights.com>
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Subject: Re: Request for a meeting

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Dear S40(2)

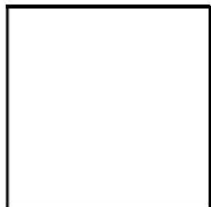
One of our number is now unavailable on that date (though if it is the only availability we will make it with just two of us)

Could you check whether the 10th, 13th, 26th or 28th are any good?

Thank you.

Maya Forstater

Chief Executive Officer



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S40(2)
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Sent: Tuesday, May 21, 2024 7:38 PM
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Cc: Helen Joyce <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
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We would prefer in person.

Thank you

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From: Maya Forstater <S40(2) [@s-matters.org](mailto:S40(2)@s-matters.org)>
Sent: Thursday, May 2, 2024 3:33 PM
To: S40(2) <S40(2) [@equalityhumanrights.com](mailto:S40(2)@equalityhumanrights.com)>
Cc: Helen Joyce <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>; Fiona McAnena <S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)>
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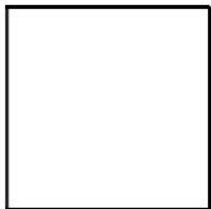
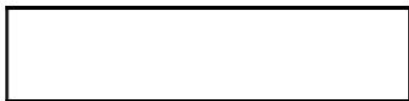
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Thank you for getting back to me. Yes please do send some dates!

Maya Forstater

Executive Director



S40(2) @sex-matters.org
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policies and language

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Dear Maya,

Apologies for my delayed reply. I hope you are well.

Many thanks for your email. Baroness Falkner would be delighted to meet with you to discuss the issues raised.

Due to diary constraints and a very busy time at the commission, it's unlikely we will be available to meet before June. Please do let me know if that's suitable for you and I will send over some dates.

Many thanks,

S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: Friday, April 19, 2024 3:36 PM
To: Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>
Cc: S40(2) <S40(2) @equalityhumanrights.com>; Helen Joyce <S40(2) @sex-matters.org>; Fiona McAnena S40(2) @sex-matters.org>
Subject: Request for a meeting

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Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

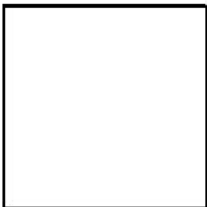
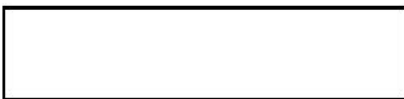
We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!)

With best wishes

Maya Forstater

Executive Director



S40(2) [@sex-matters.org](mailto:S40(2)@sex-matters.org)

S40(2)

sex-matters.org

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campaigning for clarity about sex in laws,

policies and language

Our vision and purpose

We're here to stand up for freedom, compassion and justice in our changing times. We do it by promoting and upholding equality and human rights ideals and laws across England, Scotland and Wales. Our work is driven by a simple belief; if everyone gets a fair chance in life, we all thrive.

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The Equality and Human Rights Commission was established by the Equality Act 2006 as the Commission for Equality and Human Rights.

From: Maya Forstater <S40(2) @s-matters.org>
Sent: 06 September 2024 10:54
To: Kishwer Falkner
Cc: S40(2) S40(2); Helen Joyce; Fiona McAnena
Subject: Re: Request for a meeting
Attachments: Schools-model-policy-on-sex-based-rules.pdf

Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments.
If in doubt, please contact the ICT Service Desk.

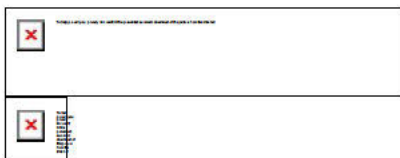
Dear Kishwer,

We are looking forward to seeing you this afternoon.
I am attaching our model policy for schools which we launched this week

<https://sex-matters.org/posts/updates/a-model-policy-that-protects-all-childrens-wellbeing/>

With best wishes
Maya

Maya Forstater
Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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Sex Matters is a human-rights charity
We campaign for clarity about sex in laws, policies and language

On Fri, 19 Apr 2024 at 15:36, Maya Forstater <S40(2) @s-matters.org> wrote:
Dear Kishwer,

We last met in January 2023. Much has happened since then (including Sex Matters becoming registered as a human rights charity!).

We would like to request another meeting. We would like to discuss the issue of safeguarding due diligence which we have raised in our recent letters, the school's guidance, key cases we are supporting and intervening in, what we are seeing externally in terms of misunderstanding of the Equality Act, and work we are doing on the Data Protection and Digital Information Bill (on Digital Verification Services, and the potential for sex verification).

Please can you/your office confirm receipt of this email? (last time we were blocked by the firewall!)

With best wishes

Maya Forstater
Executive Director



S40(2) [@sex-matters.org](mailto:sex-matters.org)
S40(2)
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campaigning for clarity about sex in laws,
policies and language

From: Kishwer Falkner
Sent: 04 October 2024 07:58
To: Maya Forstater; Chair and CEO; John Kirkpatrick
Cc: Fiona McAnena; Helen Joyce
Subject: RE: Response to EHRC strategy

Categories: In scope

Dear Maya,

Many thanks for letting me know. We look forward to reading it.

Kind regards,

Kishwer

From: Maya Forstater
Sent: Thursday, October 3, 2024 5:13 PM
To: Kishwer Falkner ; Chair and CEO ; John Kirkpatrick
Cc: Fiona McAnena ; Helen Joyce
Subject: Response to EHRC strategy

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Dear Kishwer and John,

Please find attached our response to the EHRC strategy consultation. Also submitted (along with multiple choice answers) via the online consultation site.

With best wishes

Maya

Maya Forstater
Chief Executive Officer



S40(2) @sex-matters.org
S40(2)
sex-matters.org

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From: Chair and CEO
Sent: 13 September 2023 17:57
To: S40(2) @s-matters.org; 'Helen Joyce'
Cc: Chair and CEO; Correspondence Team
Subject: RE: Review of Technical Schools Guidance
Attachments: 2094Forstater.pdf

Categories: In scope

Dear Ms Forstater,

Please see the attached letter sent on behalf of Marcial Boo, Chief Executive, pp Cath Denholm.

Kind regards,
S40(2)

From: Maya Forstater <S40(2) @s-matters.org>
Sent: 08 August 2023 10:07
To: Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>; Chair and CEO <ChairandCEO@equalityhumanrights.com>
Cc: Akua Reindorf <S40(2) >; S40(2) ; Helen Joyce <S40(2) @sex-matters.org>
Subject: Review of Technical Schools Guidance

Caution: This is an external email. Please take care when clicking links or opening attachments. If in doubt, please contact the ICT Service Desk.

Dear Kishwer and Marcial,

Thank you for all the work you are doing to clarify the Equality Act and improve relations between people with different protected characteristics.

I had not realised that the EHRC Technical Guidance to schools on the Equality Act is being reviewed separately from the development of DFE guidance for gender questioning children.

I want to make sure you are aware of the commentary we have written on this:

<https://sex-matters.org/posts/updates/ehrc2/>

It is our view that the technical guidance is wrong in saying that it would be direct GR discrimination not to refer to a girl as a boy or a boy as a girl in school.

In fact we think it **would be direct discrimination to do so**. Schools (and every staff member in them) have a duty of care towards all their pupils. It is not possible to fulfil this duty of care while pretending that a child is the opposite sex and misleading others with a duty of care about this.

For example

- a ten year old child has a bloodstain on the groin

- a child says "I know I am a boy"
- a child asks which tent they should sleep in for an away trip
- a child is challenged by another child about being in the "wrong" toilets
- a child tells a teacher that when they grow up they hope to get pregnant and have a baby and they believe this is possible

In each of these situations if the staff member involved has been misled about the actual sex of the child they will not be able to interpret the situation or respond to it safely and responsibly within their duty of care.

It is imperative that schools understand that if a child has the protected characteristic of gender reassignment **their sex had not changed**. It will be direct discrimination against them because they have or are perceived to have the protected characteristic of gender reassignment they are **not included** within the ordinary standards of duty of care and safeguarding which depend on having accurate information, and sharing it. It will also be a failure in their duty of care and safeguarding for other children to lie about the child's sex.

We also think it is wrong to say that schools are required on a case by case (daily? annually? per child?) basis to consider whether to allow a child to use opposite sex facilities. It is not highly questionable that it is a detriment not to let a child use opposite sex facilities (for the reasons stated above). But even if it is it would be justified by the need to have clear rules for the benefit of all.

Recognising that the previous EHRC technical guidance was wrong is an important step in enabling the DFE to develop sound guidance.

Making clear that the protected characteristic of gender reassignment does not mean that a child must be treated as the opposite sex, but only that they must have the same access to education as other children is a critical role for the EHRC.

We know that it will be extremely difficult for the EHRC to explicitly recognise this error in the guidance (which it was strongly defending as recently as 2021), but it is necessary in order to create a safe environment for children in schools.

It is a core principle of safeguarding that lessons are learnt and made explicit.

I am attaching our analysis of the legal framework in which schools operate and the reasons why it is not possible for schools to comply with these responsibilities while pretending that some children are not the sex that they are.

We have also sent this to the Secretary of State and to Dr Cass.

With best wishes

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From: Maya Forstater <S40(2)@s-matters.org>
Sent: 14 September 2023 08:54
To: Chair and CEO
Cc: Helen Joyce; Correspondence Team
Subject: Re: Review of Technical Schools Guidance
Categories: In scope

Caution: This is an external email. Please take care when clicking links or opening attachments.
If in doubt, please contact the ICT Service Desk.

Thank you.

Maya Forstater
Executive Director



S40(2)@sex-matters.org
S40(2)
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policies and language

On Wed, 13 Sept 2023 at 17:57, Chair and CEO <ChairandCEO@equalityhumanrights.com> wrote:

Dear Ms Forstater,

Please see the attached letter sent on behalf of Marcial Boo, Chief Executive, pp Cath Denholm.

Kind regards,

S40(2)

From: Maya Forstater <S40(2)@s-matters.org>
Sent: 08 August 2023 10:07

To: Kishwer Falkner <Kishwer.Falkner@equalityhumanrights.com>; Chair and CEO <ChairandCEO@equalityhumanrights.com>
Cc: Akua Reindorf <S40(2)>; S40(2); Helen Joyce <S40(2) @sex-matters.org>
Subject: Review of Technical Schools Guidance

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Dear Kishwer and Marcial,

Thank you for all the work you are doing to clarify the Equality Act and improve relations between people with different protected characteristics.

I had not realised that the EHRC Technical Guidance to schools on the Equality Act is being reviewed separately from the development of DFE guidance for gender questioning children.

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In fact we think it **would be direct discrimination to do so**. Schools (and every staff member in them) have a duty of care towards all their pupils. It is not possible to fulfil this duty of care while pretending that a child is the opposite sex and misleading others with a duty of care about this.

For example

- a ten year old child has a bloodstain on the groin
- a child says "I know I am a boy"
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In each of these situations if the staff member involved has been misled about the actual sex of the child they will not be able to interpret the situation or respond to it safely and responsibly within their duty of care.

It is imperative that schools understand that if a child has the protected characteristic of gender reassignment **their sex had not changed**. It will be direct discrimination against them because they have or are perceived to have the protected characteristic of gender reassignment they are **not included** within the ordinary standards of duty of care and safeguarding which depend on having accurate information, and sharing it. It will also be a failure in their duty of care and safeguarding for other children to lie about the child's sex.

We also think it is wrong to say that schools are required on a case by case (daily? annually? per child?) basis to consider whether to allow a child to use opposite sex facilities. It is not highly questionable that it is a detriment not to let a child use opposite sex facilities (for the reasons stated above). But even if it is it would be justified by the need to have clear rules for the benefit of all.

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I am attaching our analysis of the legal framework in which schools operate and the reasons why it is not possible for schools to comply with these responsibilities while pretending that some children are not the sex that they are.

We have also sent this to the Secretary of State and to Dr Cass.

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From: Maya Forstater <S40(2)@sex-matters.org>
Sent: 03 October 2024 17:13
To: Kishwer Falkner; Chair and CEO; John Kirkpatrick
Cc: Fiona McAnena; Helen Joyce
Subject: Response to EHRC strategy
Attachments: Response-to-EHRC-strategy.pdf

Categories: In scope

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Dear Kishwer and John,

Please find attached our response to the EHRC strategy consultation. Also submitted (along with multiple choice answers) via the online consultation site.

With best wishes

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Chief Executive Officer



S40(2)@sex-matters.org
S40(2)
sex-matters.org

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From: Maya Forstater <S40(2)@s-matters.org>
Sent: 08 August 2023 10:07
To: Kishwer Falkner; Chair and CEO
Cc: Akua Reindorf; S40(2) Helen Joyce
Subject: Review of Technical Schools Guidance
Attachments: Keeping children safe (1).pdf

Categories: In scope

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We have also sent this to the Secretary of State and to Dr Cass.

With best wishes

From: S40(2)
Sent: 16 October 2023 12:45
To: S40(2) @s-matters.org
Cc: Chair and CEO; Correspondence Team
Subject: Technical Guidance for Schools
Attachments: 2109ForstaterJoyce.pdf

Categories: In scope

Dear Ms Forstater & Ms Joyce

Please find attached a letter from Melanie Field, Chief Strategy & Policy Officer.

Kind Regards

S40(2)

S40(2)
Senior Associate to the Chief Strategy & Policy Officer & COO
Equality and Human Rights Commission

T: 0207 S40(2)

3rd Floor, Windsor House
50 Victoria Street, London SW1H 0TL

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