

## **Scotland's Second National Action Plan for Human Rights (SNAP2) Response by Forwomen.Scot, 16 December 2019**

### **About Forwomen.Scot**

Forwomen.Scot (FWS) is a women's rights group that was established in June 2018. The primary motivation for the establishment of FWS was growing concern about the Scottish Government's proposals to reform the Gender Recognition Act 2004 and its potential impact on the hard-won rights and protections of women and girls.

FWS welcomes the opportunity to respond to Scotland's National Action Plan for Human Rights. We have decided to concentrate our submission on Theme 4 ('Equality and Freedom from Discrimination'), Theme 5 ('Freedom of Expression') and Theme 25 ('Women's Rights').

### **Theme 4: Equality and Freedom from Discrimination**

FWS is concerned that a poor understanding of the law, specifically the single sex exceptions enshrined in the Equality Act 2010, is leading organisations in Scotland's public, private and voluntary sectors to discriminate against women on the basis of sex. Organisations may lawfully discriminate - for instance, offering a single sex service to women who have experienced male violence - where it is a proportionate means of achieving a legitimate aim. However, there appears to be a great deal of confusion about when these exceptions can be invoked:

<https://murrayblackburnmackenzie.org/2019/02/22/the-case-for-due-diligence-assessing-and-owning-policy-and-practice/>

A report published in October 2019 by the UK Parliament's Women and Equalities Committee recommended that the UK Government "*issue a clear statement of the law on single-sex services to all Departments*" (Recommendation 14):

<https://publications.parliament.uk/pa/cm201919/cmselect/cmwomeq/96/9602.htm>

This debate is further compounded by a lack of clarity about the interaction between the Equality Act 2010 and the Gender Recognition Act 2004.

We have also expressed concern about plans for the 2021 census and the way in which current proposals imperil the ability to generate robust sex-disaggregated data. These concerns are shared by 80 academics, who this month wrote to the three UK census authorities to register their concern that the longstanding sex question will now effectively become a question about self-declared gender identity. In short, if we do not have robust data on sex, we cannot measure and remedy sex-based discrimination against women.

[https://www.parliament.scot/S5\\_European/Inquiries/CTEEA\\_CensusBill\\_ForWomenScot\\_CT\\_EEA\\_S5\\_18\\_CB\\_10.pdf](https://www.parliament.scot/S5_European/Inquiries/CTEEA_CensusBill_ForWomenScot_CT_EEA_S5_18_CB_10.pdf)

<https://www.thetimes.co.uk/edition/news/sex-question-catapults-census-into-trans-war-vq29nfvsq>

(<http://archive.ph/cmt8S>)

## Theme 5: Freedom of Expression

Over the last couple of years, women have sought to come together to discuss the implication of proposed reforms to the Gender Recognition Act 2004 on women's sex-based rights. A number of grassroots groups, including Forwomen.Scot, have held meetings around the UK and many of these meetings have been subject to attempts to shut them down, along with protests and accusations that the groups and the invited speakers are 'transphobic'.

It is now common for organisers of these meetings to withhold details of the venue until a few hours before the event is due to commence, in order to minimise the possibility of the owners of the venue being harassed and/or being put under pressure to cancel the booking.

FWS was labelled a transphobic hate group for holding a public meeting in Edinburgh in January this year. Such was the harassment sustained by the venue demanding that the booking be cancelled, that the risk management team only allowed the meeting to go ahead if we bore the cost of employing a large security team.

Woman's Place UK, another grassroots feminist group, has now organised 25 meetings around the UK since September 2017. The majority of these meetings have been subject to attempts to shut the meeting down, protests, harassment of their speakers and, in one case, a bomb threat.

Similarly, over the past two months, attempts to hold meetings in the Scottish Parliament and the University of Edinburgh have been thwarted by trans rights activists. This is in spite of the very clear guidance issued by the Equality and Human Rights Commission about free speech on campus, published earlier this year, and their obligations under Section 26 of the Further and Higher Education (Scotland) (Act) 2005 ('Academic Freedom').

In our response to the Scottish Government's recent review of hate crime legislation, we responded that, should the scope of existing hate crime be expanded, Article 10 and Article 11 rights must be upheld. Even where a particular activity does not meet the threshold for potential prosecution, public perceptions of the law can have a chilling effect. Women must be able to exercise their rights to freedom of speech and assembly, and the basis on which the law upholds these rights must be clearly articulated to all citizens.

Relevant links to news stories and blogs:

<https://www.thenational.scot/news/16031254.only-good-faith-debate-can-break-the-impasse-on-gender-identity/>

<https://morningstaronline.co.uk/article/f/wpuk-fringe-report>

<https://womansplaceuk.org/a-record-of-womans-place-uk-meetings/>

<https://www.thetimes.co.uk/article/trans-lobby-has-sent-me-death-threats-says-professor-rosa-freedman-0bl8cpcqh>

<https://blogs.ed.ac.uk/academicfreedom/2019/12/10/sexgender/>

## Theme 25: Women's Rights

We have already highlighted our concerns about plans for the 2021 census and the conflation of data on sex with data on gender identity. Other Scottish public authorities have also changed their data collection methods. For example, the Scottish Household Survey now asks respondents for their gender identity and not their sex:

<https://scottish-women.com/2019/09/10/how-would-you-describe-your-gender-identity-replaces-the-question-for-sex-updated/>

Police Scotland too have changed their recording practices and records incidents based on self-declared gender identity, unless evidentially relevant to the crime:

<https://www.scotland.police.uk/assets/pdf/434027/434083/492220/18-2179-response?vie w=Standard>

Guidance to support trans pupils in Scottish schools has been developed without considering the potential impact on girls:

<https://www.heraldscotland.com/news/16311379.schools-forget-girls-in-rush-to-adopt-pro-trans-guidance-campaigners-claim-as-christian-group-threatens-legal-action/>

There is mounting evidence that these changes, which have obvious implications for tackling the disadvantage and discrimination experienced by women on the basis of their sex, have been introduced with minimal scrutiny and due process:

<https://murrayblackburnmackenzie.org/losing-sight-of-womens-rights-scottish-affairs-vol-2-8-3/>

We would, of course, be happy to discuss any of the issues raised in our submission with the Scottish Human Rights Commission.

Forwomen.Scot  
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