



London, 6 April 2023

The Gay Men's Network welcomes the response to Kemi Badenoch, Minister for Women and Equalities, from the Equality and Human Rights Commission to her request for guidance on clarifying the meaning of the protected characteristic of sex under the 2010 Act.

We welcome the Commission's recognition that a legal definition of sex has far-reaching consequences for the protected characteristic of same-sex attraction. Without a stable definition of sex as biological and not "sex and modified by a Gender Recognition Certificate", the rights of homosexuals to assembly and civic advocacy and to define our relationships are dismantled. We welcome the Commission's conclusion that defining sex as biological would bring greater legal clarity to the Equality Act 2010.

As the Commission is aware, recent caselaw suggests "legal sex" is a wide enough term to encompass a person of the opposite sex in possession of a GRC. We are concerned that this development dilutes and changes the definition of what a homosexual man is. We are further concerned by the rise of online discourse describing gay men who do not countenance opposite sex relations as "genital fetishists" and we take the view that the creation of "legal sex" feeds into such narratives. We, as gay men, have a right to define ourselves which we do according to our biological sex and same sex attraction.

The Commission identifies freedom of association for lesbians and gay men as contingent on a biological definition of sex, without which, lesbians and gay men stand to lose those rights as we have recently seen in Tasmania. We further welcome the Commission's comments regarding accurate data collection according to biological sex. Poor quality data gathering, introduced to reflect self-reported "gender", blunts the identification of trends and overall significance of information, which is particularly important for healthcare for homosexual men.

Dennis Kavanagh, legal commentator and Director of Gay Men's Network, observed:

"We thank the Commission for this measured and reasonable contribution which is mindful of the needs of male homosexuals. Nobody loses rights in a position where gay males are protected, and other protected characteristics are also respected".

We therefore support the EHRC's conclusion that a biological legal basis for the characteristic of sex is important for bringing clarity to existing equality legislation.

Gay Men's Network.