

Lesbian Persistence

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Peter Kyle
Secretary of State for Science, Innovation and Technology

By email to: parliamentary.correspondence@dsit.gov.uk

Dear Secretary of State

Data (Use and Access) Bill

I am writing to express our concern at the current proposals for acquiring data about someone's sex for the purposes of digital verification services. As it currently stands, we understand that data about someone's sex is at risk of being collected from sources which have become corrupted and may confuse sex with gender identity.

We know that, for example, DVLA, the NHS and even the passport office, all allow people to change their sex markers on the basis of self-ID. As a result it is estimated that up to 100,000 people have some records which falsify their sex, which might be drawn into the new verification system.

As lesbians, we (and I, personally as the architect of the lesbian intervention) are extremely relieved that the recent Supreme Court ruling in the FWS case has confirmed our right to single-sex, lesbian only associations. But there will be times when we acknowledge it may be difficult to immediately establish the sex of someone asking to join Lesbian Persistence, or other lesbian groups. For us, and for all single-sex services, digital verification could provide a quick and simple solution to this issue.

There is likely to be a particular problem in the case of detransitioners, who are a group we would like to be able to support. Many young women who transition are, in fact, lesbians, and there is a growing cohort of those women who are now detransitioning. Unfortunately, if they have taken testosterone this is likely to have a permanent impact on their appearance. They will in many cases retain their facial hair, and their voice will remain deeper permanently. If they have also been subjected to breast removal, identifying them as women becomes even more problematic.

There are, of course, other lesbians who have a relatively masculinised appearance (As a young lesbian, I myself was regularly taken for a man despite my long hair!) And others who have an androgynous appearance.

Rather than having to depend on visual cues, especially for one-off events where there is no opportunity for discussion, some lesbian and other single-sex organisations might decide it

would be simpler to require everyone to show their verified ID. This would enable us to confidently prevent men from accessing our groups and events, whilst also ensuring that we did not inadvertently exclude some women.

If the digital sex data cannot be relied on, it will make such checks impossible to implement. Even if we do not make digital ID a general condition of entry (and I cannot say whether we would want to do that or not until we have seen the final Bill) if a man wants to attend an event and provides digital verification falsely IDing him as a woman it will be very difficult for us to refuse him entry. This would have a seriously detrimental effect on lesbian rights of freedom of association which have so recently been confirmed.

The failure of the Government to ensure that the plans for this system will exclusively record accurate details is, frankly, astonishing. The FWS ruling discusses in some detail the requirement on public authorities to collect accurate data on sex (see paras 238 - 244). In addition, the Sullivan report set out very clearly the need for accurate data collection.

We are therefore writing to request you to accept amendment NC21 which provides a straightforward mechanism for ensuring that digital verification is accurate and trustworthy. Without such guarantees, there will undoubtedly be a legal challenge to the system, which we believe would be highly likely to succeed. In addition, it would bring the entire system into disrepute before it even got off the ground.

Best regards

A handwritten signature in black ink, appearing to read 'Sally Wainwright', with a small flourish at the end.

Sally Wainwright