

**Submission
No 64**


EQUALITY LEGISLATION AMENDMENT (LGBTIQA+) BILL 2023

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Submission to the NSW Community Services Parliamentary Committee

RE: Equality Legislation Amendment (LGBTIQA+) Bill

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I am a retired resident of NSW who previously worked in NSW Health Promotion and Sexual Health Services. I am also a lesbian and member of the LGB community. My submission will address:

- The asymmetrical relationship between males and females, and how this relates to both the material reality of female sport, to male sexual offending, and to the need for female sport and women-only spaces;
- Why it is important that all laws and policies relating to women should pertain to biological sex, and that this material reality should not be overwritten by the subjective concept of 'gender identity';
- How laws such as that proposed by Mr Alex Greenwich are part of an agenda influenced by queer theory to fundamentally re-organise society, impacting every citizen; and
- How, because **same-sex** attraction is based on **sex**, the elimination of biological sex in law, and its replacement with 'gender identity' creates a bizarre situation in which lesbian and gay people are denied the ability to self-organise and to use meaningful sex-based language.

1 The asymmetrical relationship between women and men: bodies and sport

1.1 Sex differences in humans

During our long evolution, our species homo sapiens and its hominin forebears could not have survived if female bodies had not been refined for reproduction. The continuation of our species required that females could conceive, carry, birth and breastfeed infants. Female bodies are organised for these functions and for the production of large gametes, which are fertilised by the small gametes produced by males. This applies to all mammals, and no mammal has ever changed sex.

As a result of these evolutionary processes there are important differences between males and females especially relating to the reproductive role of female humans, and to the speed and strength of males. Sex is an important demographic category and there are instances in which it is important as an organising principle, particularly as it relates to the safety of girls and women, to the need for female-only spaces where females are vulnerable, to medicine, and to the need for female sport. Sex is also important for recognition of lesbian and gay people, because homosexuality is by definition same-sex attraction. If sex is eliminated in law and policy, so is the ability of homosexual people to self-organise, hold events for people of the same sex and to use meaningful language.

1.2 The queer theory policy agenda to eliminate sex in law

Queer theory seeks to disrupt 'heteronormativity' via the transgression and disruption of categories – in particular the category of sex. Since the achievement of same-sex marriage, organisations created for advancement of LGB rights pivoted to adopt queer theory concepts and now seek to eliminate sex as an organising principle in law and policy. The recent adoption of queer theory concepts by LGBTQ+ organisations has gone well beyond support for

laws to prevent discrimination against transgender people in housing, employment, education and accommodation – laws which have been achieved and are welcomed by myself and most people. The denial of biological sex is the issue now. Concern is growing amongst LGB people that the denial of biological sex harms women, children and LGB people. This is why LGB groups such as LGB Alliance Australia are springing up globally. It should also be noted that not all transgender people support queer theory and the policy agenda to eliminate sex in law and policy.

Organisations self-described as LGBTQ+ now push for laws that **eliminate sex** as a category, replacing it with the subjective concept of ‘gender identity’. The definition of ‘gender identity’ is fuzzy. On the one hand it is described as a fixed, internal sense of being male or female, or neither. On the other hand, it can be described as fluid and not fixed. Definitions are often circular. Instead of understanding sex from the perspective of evolutionary science, queer theory asserts that the material reality of biological sex is ‘socially constructed’ and therefore unimportant. Queer theory enthusiasts often state that the sex binary does not exist, and that sex is a spectrum, despite never having proved the existence of a third gamete.

Queer theory proponents are particularly keen to eliminate sex as an organising category in law and public life. This is why the Equality Bill presented to parliament by Mr Alex Greenwich is designed to remove sex from multiple pieces of legislation, and to replace it with the subjective notion of ‘gender identity’. The Equality Legislation Amendment (LGBTIQA+) Bill is an example of a legislative agenda to change how society is organised by eliminating sex in law.

1.3 Sex differences and sport

As a result of the evolutionary pressures noted above, we are a sexually dimorphic species. There are important differences between male and female bodies and this is why female sporting categories were created. Males are faster and stronger than females and have many other physical attributes which give them the edge over women in the vast majority of sporting competitions. Male bones are bigger, stronger and have greater density. Men have longer arms and legs relative to body size, giving more leverage. *“The sex of an adult skeleton can be determined with 95% accuracy by measuring hip bones alone, 83% accuracy by the skull, and 80% accuracy by the long bones”*¹

Females generally have 40% less skeletal muscles than males, who have massive upper body strength advantage. Men have 65% more upper body muscle than women, and 50% more lower body muscle. Male muscles have a higher proportion of type 2 fast-twitch fibres. Across all speed sports, women consistently achieve 90% of male speeds. In elite sports where medals are won and lost on millisecond differences, this is why it’s crucially important to retain women-only categories. I encourage you to look at the [The Boys Vs Women](#) website which shows how pronounced these differences are when adolescent male athletes surpass elite, mature women’s records in most sports.²

¹ [Fair Play For Women](#)

² [Boys Vs Women](#)

Figure 3. The 10% performance gap between male and female world records is evident over many speed events. Time – hours:minutes:seconds.100ths. km – kilometres.

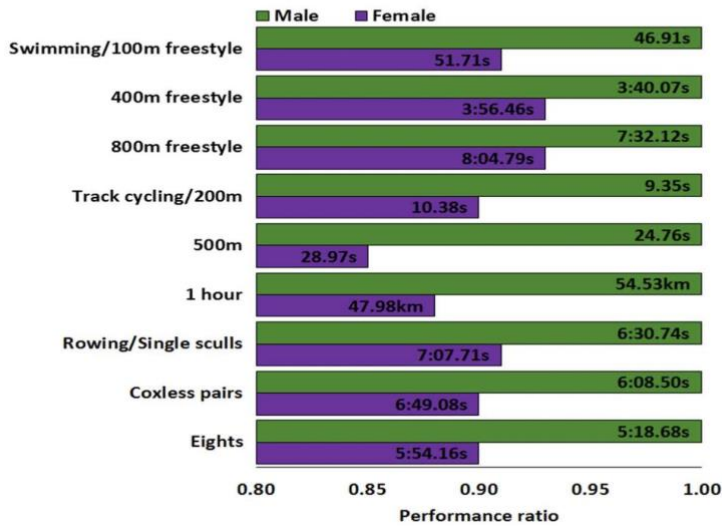


Chart from Dr Emma Hilton, developmental biologist and sport researcher.

[Why we must protect female sports](#)

1.4 The need for female-only sporting categories to ensure fairness

Around the world, queer theory laws and policies have resulted in males entering and gaining records and prizes in female sport competitions. Even though these policies have only recently been introduced, there are already many hundreds of examples which can be seen on the [She Won website](#). This site documents the achievements of female athletes who were displaced by males in women’s sporting events and other types of competitions expressly for women: ‘one day soon we hope their accomplishments will be formally recognised’.³

Because of the physical advantages of male bodies, males who are unremarkable in male sports can suddenly reach the winning podiums in female competitions. For example, the male swimmer Lia Thomas was unremarkable swimmer on US male rankings. After entering the female competition, Thomas suddenly shot to the top of female rankings against female Olympians, displacing women from the prizes, and from opportunities to be selected for teams, competitions and scholarships. When the NZ male weightlifter Laurel Hubbard entered the female competition, this middle-aged male athlete won gold in the 2017 Australian Women’s International and Australian Women’s Open, and in the women’s competition in the 2019 Pacific Games, defeating young elite Samoan female athletes half his age (I use the male pronoun where clarity is needed to distinguish male from female).



Left: Lia Thomas suddenly shot to the top of female competition.

Right: laurel Hubbard defeats elite female athletes half his age.

³ [She Won](#)

1.5 The need for clear meaningful language when discussing issues of male bodies in female sport.

It is common for queer theory enthusiasts to push for laws that criminalise citizens who use descriptive sex-based language. The Alex Greenwich 'Equality Bill' attempts this by penalising citizens who 'misgender' someone. While most people are happy to use language preferred by a transgender person, it is important that people who are 'sex-realist' ie who think that biological sex is real and important – are free to use meaningful descriptive where it is appropriate. Transactivists seek to eliminate women-only sporting competition, and then seek to follow this up by criminalising those who want to talk about the negative impacts on women from these policies using descriptive language. The criminalising of sex-descriptive language evokes the authoritarian control of George Orwell's book *Nineteen Eighty Four*. Only males can become transwomen, retaining all the physical advantages described above. The differences between females and males with respect to sport creates a marked asymmetry which enables quite mediocre male athletes to defeat and displace women from sporting competition. It is impossible to talk about this without referring to male people as male. Use of female pronouns adds confusion and no-one should be penalised for sex-based speech.

2 The asymmetrical relationship between men and women: male sexual offending

2.1 The Alex Greenwich 'Equality' bill ignores the fact of male sexual offending and violence against women

Sex is an exceptionally reliable demographic indicator and must not be erased from law and policy. Nowhere is this more apparent than sexual offences. In Australia and New Zealand, males are responsible for 99% of convicted sexual assaults and the overwhelming majority of sexual assault victims are female. This statistic is reproduced in Canada, United States, Switzerland, Ireland, Germany, England, Wales and Scotland.⁴ The elimination of sex in law, policy, institutions and intimate spaces without broad consultation is reckless and dismissive of women who are on the receiving end of male violence. It is truly remarkable that radical



amendments to an 'Equality Bill' have been proposed that totally ignore male sexual offending and its impacts on half the population: women and girls.

This material reality of male sexual offending and violence does not change when males subjectively identify as women. In UK prisons, nearly half of trans-identified males are sexual offenders. This rate is significantly higher than the sexual offending rate amongst the non-trans male prison population.⁵ Similar high ratios of sexual offending are found for trans-identified males in Canadian prisons⁶ It is not known how much this elevated rate of sexual offending amongst trans-identified male prisoners is due to male sexual offenders making opportunistic

⁴ Clare B Dimyon <https://www.sexsegregation.org.uk>

⁵ <https://fairplayforwomen.com/transgender-prisoners/>

⁶ <https://torontosun.com/news/national/study-finds-nearly-45-of-trans-women-inmates-convicted-of-sex-crimes>

use of 'Self Identification' laws such as that proposed by Mr Greenwich, that would enable any male aged 16+ to be legally recognised as female simply by getting a friend to sign a statutory declaration. In the UK and North America, there have been many instances of male sexual offenders doing this to get transfers to the female prison. Female prisoners, who in many cases have been subjected to rape and male violence in the past, are forced to endure a frightening situation in which they must share intimate spaces with dangerous male prisoners. In Scotland, the double-rapist Isla Bryson assumed a female identity after being sentenced, and was sent to a female prison. When the public found out about this, the Scottish National Party government which had just passed 'Self Identification' laws suffered a sharp decline in the public approval. The vast majority of the public do not subscribe to queer theory and know that biological sex is important, and that sex should not be eliminated in law.



Male rapist Isla Bryson who made a sudden switch to female identity prior to sentencing.

2.2 The 'Equality Bill' will make it easier for predatory males to access women and children in intimate spaces

Paraphilias are overwhelmingly a male phenomenon. Paraphilias are 'frequent, intense, sexually arousing fantasies or behaviors that involve inanimate objects, children or non-consenting adults, or suffering or humiliation of the person or a partner'.⁷ A man may have more than one paraphilia. Fetishistic cross-dressing is a paraphilia, involving sexual gratification.^{8 9} Other paraphilias are voyeurism, exhibitionism, sexual sadism, sexual masochism, bestiality and paedophilia. Some men with paraphilias also have narcissistic or antisocial personality disorders. If any male can identify as a woman, it becomes easier for predatory males to access spaces where children and women are vulnerable. For example, it becomes impossible for parents to challenge a male who follows their 10-year old daughter into female toilets or changerooms. They have no way of knowing his intent, and any challenge will see them accused of bigotry. Predatory males are already making use of this opportunity. In addition, as a result of queer theory laws and policies, male sexual crimes are being recorded and reported by the media as female crimes.

One of many instances where male crimes are reported as female crime in the UK.



⁷ <https://www.msmanuals.com/home/mental-health-disorders/paraphilias-and-paraphilic-disorders/overview-of-paraphilias-and-paraphilic-disorders>

⁸ <https://www.msmanuals.com/home/mental-health-disorders/paraphilias-and-paraphilic-disorders/fetishistic-disorder>

⁹ <https://transcrimeuk.com>

3 LGBT people are same-sex attracted

One of the more bizarre impacts of queer theory - and its denial of sex - is that LGBT people are now being redefined as 'same-gender attracted'. Queer ideologues are now badgering lesbians to accept 'lady dick' ie males who identify as lesbians. Gay men now find themselves unable to specify same-sex attraction in gay male dating apps, without the risk of being thrown off the app for being 'transphobic'. In Victoria, the Lesbian Action Group was denied the right to organise a public event for same-sex attracted women on International Lesbian Day, because they did not include males who identify as lesbians. In contrast, events and spaces are regularly organised for transgender people (as is entirely appropriate). It is only seven years since LGBT people were granted same-sex marriage. It is quite bizarre that LGBT people are now losing the right to define themselves as same-sex attracted. Meaningful language is important. Glossaries should refer to gay, lesbian and homosexual people as same-sex attracted, and LGBT people should be free to associate and self-organise.

4 Public discourse and the criminalisation of speech

The criminalisation of 'misgendering' will make it impossible to discuss - in clear language - the consequences of queer agenda policies. It is impossible to discuss male advantage in sport without referring to male trans athletes as male. The criminalisation of clear descriptive language is authoritarian and anti-democratic. If the Greenwich law criminalises 'misgendering', citizens who use sex-based language to *discuss risks to children and women* will become vulnerable to AVOs brought by transactivists. Similarly, the criminalisation of 'outing' of sex work or sexual orientation are other examples of unnecessary, authoritarian over-reach.

Authoritarian laws that criminalise the use of words such as 'male' have serious consequences. When a woman was raped by a male patient in a UK hospital she was told the rape did not occur because '*no male was present*'. Hospital staff lied to police because of a policy which forbade 'misgendering' the rapist.¹⁰

'Sex Realist' or 'Gender Critical' refers to people who understand biological sex as real and important. This is the vast majority of the NSW population. Many Gender Critical people such as myself also have a critique of restrictive and archaic gender stereotypes.

I am a left-aligned person. An atheist when it comes to religion, I am a non-believer when it comes to queer theory. Just as atheism is legal and acceptable, the expression of gender critical thinking must be legal and acceptable. Unless this is made clear in law, we will have instances where people lose jobs and opportunities because of their gender critical or sex-realist beliefs.¹¹ In the UK a major court case established that Gender Critical belief was 'worthy of respect in a democratic society'.¹²

¹⁰ <https://www.gbnews.com/news/hospital-staff-told-police-their-patient-was-not-raped-as-alleged-attacker-was-transgender-despite-cctv-showing-assault-in-ward/250941>

¹¹ [Gender Critical social worker wins harassment claim](#)

¹² [Gender Critical beliefs are protected beliefs](#)

5 Recommendations

- 5.1** The 'Equality Bill' proposed by Mr Alex Greenwich should be rejected.
- 5.2** Because sex is such an important democratic category, care should be taken to preserve it in all law reform.
- 5.3** Data collection by the NSW government and health services should retain clear biological sex categories, and 'gender identity' should not be conflated with sex.
- 5.4** Data is important for transgender people. A separate question about gender identity should follow the question on sex.
- 5.5** No males should be sent to female prisons – regardless of how they identify.
- 5.6** Male crimes should never be recorded as female crime – regardless of how they identify.
- 5.7** Single-sex spaces are important for women and girls where they are vulnerable: toilets and changerooms, domestic violence shelters, rape crisis facilities and hospital wards.
- 5.8** Glossaries should define gay, lesbian and homosexual people as 'same-sex attracted'.
- 5.9** Citizens should be able to use clear sex-based language, and Sex Realist and Gender Critical thinking and speech should be protected.
- 5.10** The bulk of the population is 'in the dark' with respect to the intent of and extreme consequences of the Equality Legislation Amendment (LGBTIQA+) Bill. It is inconceivable that a law could be introduced with such extensive impacts across society without the public being aware of what is being proposed and how it would impact them. The introduction of laws by stealth is bad law-making.