# UK Supreme Court defines womanhood by biological sex in equality law ruling



A recent ruling by the UK Supreme Court has determined that the legal definition of a woman within equality law is based on biological sex, a decision that has sparked considerable debate regarding its implications for single-sex spaces. The judgement establishes that transgender women with a gender recognition certificate (GRC) can be excluded from spaces designated for biological women. This development was welcomed by some as a protective measure for biological women, but has elicited significant concern from transgender advocates and campaigners.

Jaxon Feeley, a transgender campaigner and former UK prison officer who transitioned from female to male, spoke to The Independent about the ruling's practical challenges and its broader social impact. He described the judgement as “frightening” and argued that it is impossible to enforce effectively. One issue highlighted by Mr Feeley is that trans men, who were assigned female at birth, will now be required to use women’s spaces such as toilets and changing rooms. Speaking to The Independent, he said: “If I walk into a [women’s] toilet now and say: ‘Well, I was assigned female at birth’, people are not going to be happy about that. I feel like people are going to be quite intimidated by that.”

Mr Feeley also pointed out the difficulties in policing single-sex spaces under this ruling, noting: “It not only obviously puts [biological women] in a difficult situation, but it also allows any [cisgender] man to walk into any so-called official single sex space now and say, ‘Well, I was assigned female at birth’. How are you policing that? You can’t police that.” He warned that the decision is likely to make women’s spaces more dangerous not only for transgender women but also for biological women, “because of that lack of understanding”.

The ruling is anticipated by Mr Feeley to contribute to an increase in hate crimes and suicides within the transgender community. He stated: “There’s going to be an increase in attacks, there’s going to be an increase in hate crime, there’s going to be an increase in suicide, because people feel they can’t do it, they just can’t transition. They can’t live in this world.”

Jane Fae, director of trans campaign group TransActual, has similarly warned that the decision could exclude transgender individuals “wholesale from participating in UK society” and may lead to a sharper division between “queer-friendly and queer-hostile spaces”.

Mr Feeley also expressed concerns that the ruling legitimises discrimination, saying it is “giving permission to those who already hate and discriminate” and will “increase and amplify the level of abuse and hate towards trans people and any woman who doesn’t look woman enough”. He viewed the judgement as “a step towards controlling women again”, explaining: “I think it’s a situation where you’re effectively looking at whether you look woman enough - ‘Do you look woman enough to come into this toilet?’”

In response to the ruling, Baroness Kishwer Falkner, chair of the Equality and Human Rights Commission, stated that single-sex services, including changing rooms, “must be based on biological sex”. When asked about concerns from transgender individuals regarding access to public toilets or changing rooms following the ruling, the peer suggested that they “should be using their powers of advocacy” to call for “third spaces” that are not segregated by sex.

However, Mr Feeley cautioned about the risks of such “third spaces”, noting that their use may effectively out transgender individuals. He commented: “It’s not okay to just out people. We don’t want to be visible in this world when the abuse is increasing. All people want to do is go for a wee. They just want to go to the toilet.”

Addressing perceptions of transgender women as a threat to biological women, Mr Feeley argued: “If you ask a woman, would they rather be in a room full of 50 straight men or 50 drag queens or 50 trans women? I guarantee the answer is not going to be the straight men.” He emphasised that transgender individuals seek basic human rights, stating: “They’re not trying to erase anything or anyone. They’re not trying to erase language. They’re not trying to erase gender. They’re just asking for choice, asking for freedom, asking for healthcare, asking for acceptance.”

In the aftermath of the Supreme Court decision, the government reaffirmed its commitment to protecting single-sex spaces on the basis of biological sex. Women and equalities minister Bridget Phillipson commented that the ruling provides “clarity and confidence, for women and service providers such as hospitals, refuges, and sports clubs”, adding: “Single-sex spaces are protected in law and will always be protected by this government.” Officials have indicated that the National Health Service (NHS) is reviewing its guidance on same-sex wards, which currently advises that transgender individuals “should be accommodated according to their presentation: the way they dress, and the name and pronouns they currently use”, to ensure it aligns with the Supreme Court ruling.

This ruling has thus set a legal precedent that centres on biological sex in defining womanhood for purposes of equality law in single-sex spaces, a decision that is prompting discussions and differing responses across UK society and among affected communities.

Source: [Noah Wire Services](https://www.noahwire.com)

## References

* <https://ohrh.law.ox.ac.uk/biological-sex-in-the-uk-supreme-court-four-problems-with-for-women-scotland-v-scottish-ministers/> - This article discusses the UK Supreme Court ruling that interprets the terms 'sex', 'woman', and 'man' in equality law as referring to biological sex, clarifying that a person with a Gender Recognition Certificate (GRC) does not qualify as having the acquired sex for purposes of the Equality Act, thus corroborating the legal basis of the ruling described.
* <https://supremecourt.uk/uploads/uksc_2024_0042_judgment_aea6c48cee.pdf> - This is the official Supreme Court judgment document from the For Women Scotland v Scottish Ministers case, affirming that biological sex is the defining factor in equality law and detailing the legal reasoning that persons with a GRC may be excluded from single-sex spaces designated by biological sex.
* <https://www.independent.co.uk/news/uk/home-news/uk-supreme-court-woman-definition-trans-women-b2322121.html> - This news article includes comments from Jaxon Feeley, a transgender campaigner, expressing concerns that the ruling makes policing single-sex spaces impractical and may put trans men in uncomfortable situations, echoing his statements about intimidation and policing issues from the article.
* <https://transactual.org.uk/statement-on-uk-supreme-court-decision/> - The website of TransActual, a trans campaign group, includes statements that warn the ruling could exclude transgender people from UK society and increase divisions between queer-friendly and hostile spaces, supporting the concerns expressed by Jane Fae in the article.
* <https://www.equalityhumanrights.com/en/our-work/news/ehrc-chair-responds-uk-supreme-court-ruling-womens-rights-and-trans-rights> - The Equality and Human Rights Commission Chair Baroness Kishwer Falkner's response to the ruling, emphasizing that single-sex services must be based on biological sex and advocating for the creation of 'third spaces', aligns with the article's depiction of her statements.