

# Input for SR SOGI's report to the 56th session of the United Nations Human Rights Council.

## The Lesbian Project

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## 1. Who we are

1.1 The Lesbian Project was launched in 2023 as a not-for-profit organisation. Our organisational mission is to build a knowledge base about lesbian lives, to promote sensible and evidence-based policy about lesbians, and to contribute to building lesbian community in the UK and internationally. The focus of our work is the group of females exclusively sexually oriented towards other females.

## 2. Some background

2.1 The definition of “sexual orientation” in the UK Equality Act 2010 is premised on the concept of binary biological sex<sup>1</sup>. Lesbians, understood as females exclusively sexually oriented towards those of the same biological sex, thus are understood to be protected under two characteristics specified in the Equality Act: “sex” and “sexual orientation”.

2.2 Following the logic of intersectionality, there may be special problems or issues that lesbians face in virtue of being both female and same-sex-attracted: double costs of discrimination and exclusion potentially relevant to service-provision, life chances, and opportunities.

2.3 Despite this useful and – until recently – uncontroversial form of categorisation for same-sex-attracted females, since 2015 at least a different understanding of lesbianism has become popular in the UK. It is particularly prevalent within mainstream LGBT+ organisations and the institutions over which they have influence. This defines a “lesbian” as a psychological *gender identity*. On this new view, a “lesbian” is anyone of a female gender identity who is attracted to others of a female gender identity. Biological sex membership is irrelevant to this definition.

2.4 On either such view, then, some biological males legitimately can be counted as lesbians (those who have female gender identities, and who are attracted to others with female gender identities); while some exclusively same-sex-attracted biological females do not and cannot count as lesbians, because they do not have the requisite female gender identities. (That is, they have male or non-binary gender identities instead).

2.5 This new interpretation of “lesbian” is the official position of mainstream UK LGBT+ charities Stonewall, LGBT Foundation, Pride, and many others. Such organisations also suggest it is “transphobic” to define being lesbian in terms of a sexual orientation towards females, only possessed by females. It is now supposedly transphobic to say things like “a lesbian is a female homosexual” or “lesbians do not have penises”, on the assumption that this discriminates against males who identify as lesbians. (Indeed, lesbian protestors at recent Pride parades in the UK have been removed by the police for holding banners that make such statements<sup>2</sup>).

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2010/15/section/12>

<sup>2</sup> <https://www.dailymail.co.uk/news/article-11153811/Police-remove-LESBIANS-Pride-march-Cardiff-Officer-tells-gender-critical-women-leave.html>

- 2.6 The influence of mainstream LGBT+ organisations has made it extremely difficult to challenge this new narrative about who can and cannot count as a lesbian, since to question or criticise it is treated as “transphobia”, “bigotry”, or “hate speech”. Stonewall in particular has deep influence in the UK public and private sectors, partly due to its management of HR kitemarks and equality awards schemes for decades. It sponsors LGBT+ staff networks in thousands of workplaces, distributing campaign material through these networks. Stonewall’s broad definition of “transphobia” as including “denying gender identity or refusing to accept it”<sup>3</sup>– including the gender identities of trans-identified males/ transwomen who say they are lesbians – has had a demonstrable chilling effect in workplaces, schools, and universities.
- 2.7 We submit that this new, and to our mind flawed understanding of who may count as a lesbian – heavily promoted by influential organisations, while dissenting voices are stigmatised – has increased the exposure of exclusively same-sex attracted females in the UK to various forms of discrimination and intimidation. In particular it has adversely affected their rights to freedom of expression and freedom of assembly.

### **3. Freedom of expression and assembly**

- 3.1 At the moment in the UK, it is extremely difficult for lesbians to have lesbian-only public meetings or events. This affects both their right to freedom of expression, and to freedom of assembly, both supposed to be protected under the Human Rights Act 1998.
- 3.2 One factor is hostility from critics who interpret any attempt to defend the right to lesbian-only spaces as transphobic. Lesbians at Pride marches, carrying banners saying “Lesbian Visibility” and “Lesbian (Not Queer)”, have reported harassment and aggression<sup>4</sup>. When our organisation, the Lesbian Project, had a research day in London in March 2023, a large and noisy protest by transactivists closed the road outside, intimidating attendees with smoke bombs as they tried to leave.
- 3.3 A second factor is a lack of clarity about whether the acquisition of a gender recognition certificate (sometimes referred to as a “legal sex change”) entitles a biological male who is heterosexual (sexually attracted to females) to attend lesbian-only events on the grounds that this too is a “lesbian”. In November 2023, a judgment at the Scottish Court of Session<sup>5</sup> seemed to many legal commentators to imply necessarily that a change of legal sex changes the holder’s sexual orientation as well; so that a heterosexual male who changed his legal sex to “female” would also have changed his sexual orientation, for legal purposes, to lesbian. If this interpretation is correct, it follows under UK law<sup>6</sup> that an association of 25 or more lesbians (in the traditional sense of same-sex

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<sup>3</sup> <https://www.stonewall.org.uk/list-lgbtq-terms>

<sup>4</sup> <https://womansplaceuk.org/2019/06/23/lesbians-at-edinburgh-pride-a-personal-account/>  
<https://forwomen.scot/22/06/2019/pride-edinburgh/>

<sup>5</sup> For Women Scotland Limited v The Scottish Ministers [2023] CSIH 37

<sup>6</sup> Equality Act 2010 Part 7

attracted females) cannot lawfully exclude a male who has acquired a gender recognition certificate. In general, the fact that a male can acquire a gender recognition certificate arguably throws up confusion about the proper scope of the protected characteristic of sexual orientation as it applies to same-sex attracted people.

- 3.4 The fact that effectively, lesbians cannot easily meet each other in large groups to discuss issues of political importance to them, without the presence of certain males who wish to be there, is an impediment to their equal participation in public life. The fact they cannot socialise without the presence of such males potentially reduces a valuable source of social support. Generally, the hostile environment for lesbians who want to have female-only events is discriminatory and damaging to lesbian interests.
- 3.5 A further issue, which also falls under freedom of assembly (loosely defined), is that currently nearly all data apps have algorithms which allow males who identify as lesbians to appear as potential sexual and romantic partners to females exclusively seeking females. In practice this means a female exclusively seeking females cannot remove males from her suggested matches; and that lesbian dating sites are nearly always mixed sex. For instance, the CEO of dating site HER, Robyn Exton, is on record as saying that attempts to confine the category of lesbians to “only those assigned female at birth” involves a “twisted and erroneous” belief “about what being a lesbian can or cannot entail”. She has also said that: “The future of lesbian is trans” and that “we must all affirm trans and nonbinary lesbians... we must all become better informed and put in the work”<sup>7</sup>. A trans-identified male is currently suing one of the only female-only dating apps, Giggle for Girls, on the grounds of alleged exclusion<sup>8</sup>. The fact that, unlike other groups, same-sex-attracted females cannot have easy access to dating technology in line with their sexual orientation is discriminatory.

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<sup>7</sup> <https://unherd.com/2023/05/why-should-lesbians-sleep-with-men/>

<sup>8</sup> <https://www.theguardian.com/media/2023/jun/01/female-only-app-giggle-for-girls-transgender-discrimination-suit-roxanne-tickle>