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Equal Rights for Men and Women

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HOUSE OF LORDS BRIEFING NOTE

Crime and Disorder Act 1998 – Proposed Insertion of “Sex” as an Aggravating Characteristic

Requested Amendments

Parity respectfully invites Members to consider:

1. Omitting the proposed insertion of “sex” into Sections 28–32 of the Crime and Disorder Act 1998.
2. If the amendment proceeds, ensuring that statutory guidance expressly confirms that “sex” applies equally to male and female persons, with identical evidential thresholds and enforcement standards.
3. Ensuring consultation with equality-focused organisations, including Parity, in the drafting of statutory guidance under the Protection from Sex-Based Harassment in Public Act 2023.

About Parity

Parity is one of the UK’s longest-established equal rights charities.

We advocate for equal legal protections for men and women and oppose sex-based asymmetry in criminal law.

1. The Constitutional Context

The criminal law of England and Wales has historically been:

- conduct-based,
- harm-based,
- and sex-neutral in principle.

The proposed insertion of “sex” as an aggravated characteristic represents a significant constitutional development. Even if drafted in neutral terms, its introduction within a wider policy framework explicitly oriented around misogyny and Violence Against Women and Girls (VAWG) creates a significant risk of asymmetrical enforcement.

The issue is not whether women should be protected from hostility. They should.

The issue is whether criminal law should be structured or operationalised in a way that risks differential treatment on the basis of sex.

2. The Evidence Base

Official data demonstrate substantial male victimisation across relevant domains:

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- Although national hate crime statistics do not consistently provide a full sex breakdown, available data show that men constitute a substantial share, and in some recorded samples a majority, of hate crime victims where sex is recorded.
- Government Equalities Office (2020, n=12,200): 34% of men reported sexual harassment in the previous 12 months; 50% reported lifetime sexual harassment.
- Ofcom data indicate that men are at least as likely, and in some measures more likely, to report exposure to harmful online behaviour.
- The Internet Watch Foundation reports that 92% of online sextortion victims over the last three years were boys mostly aged 14–17. uat.iwf.org.uk/annual-data-insights-report-2025/emerging-and-persistent-harms/sexually-coerced-extortion/

These figures do not support a narrative in which sex-based hostility operates exclusively or overwhelmingly to one sex of victim.

This is relevant to proportionality and justification under Article 14 ECHR.

3. Interaction with Wider Policy Architecture

This amendment does not operate in isolation. It sits alongside:

- A Government commitment to halve violence against women and girls.
- Regulatory strategy (Ofcom) framed explicitly around “women and girls.”
- Proposals linking policing performance to alignment with VAWG strategy.
- A prison policy aimed specifically at reducing female incarceration.

From an equality perspective, this pattern of sex-specific policy construction represents a material departure from the principle of equal protection under the law. By embedding preferential framing and enforcement emphasis for one sex, notwithstanding official data demonstrating substantial male victimisation, the cumulative effect risks institutionalising differential treatment in practice.

Such an approach engages Article 14 ECHR and sits uneasily with the Equality Act 2010’s commitment to equal treatment irrespective of sex. Even where statutory language is neutral, enforcement structures shaped by sex-specific mandates may produce unequal outcomes.

That is not merely a policy concern; it is a constitutional one.

4. Law Commission Position

After extensive consultation, the Law Commission (2021) declined to recommend adding sex as a protected characteristic within hate crime law.

Parliament should proceed cautiously before reversing that conclusion without demonstrable new evidential justification.

5. Protection from Sex-Based Harassment in Public Act 2023

Parity urges careful and tightly drawn statutory guidance to ensure:

- Clear and objective thresholds for “alarm” and “distress.”
- Robust protection of Article 10 ECHR rights.

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- Equal treatment of allegations of misogyny and misandry.
- Safeguards against perception-based overreach or disproportionate recording practices.

Without precise guidance, the risk is that enforcement becomes perception-led rather than conduct-led.

6. Core Equality Principle

Parity does not accept that statistical disproportion, even if established, justifies differential legal protection.

The criminal law must remain:

- neutral in structure,
- neutral in enforcement,
- and equal in protection.

The introduction of sex as an aggravator, in the current policy environment, risks undermining that principle.

Conclusion

Parliament should proceed cautiously before:

- expanding aggravated offences,
- increasing perception-based recording,
- or embedding sex-based hostility into the hate crime framework.

The United Kingdom has sufficient criminal law to address threatening, abusive, and harassing conduct.

What is at stake is not protection.

It is the preservation of equal protection.

Yours sincerely,

Rex Bourne

Chair

Parity

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