

Volume 35, issue 1, September 2025

UK politics

The Supreme Court ruling on the legal definition of a woman

This case study is useful for UK politics essays on a variety of topics, including the relationship between the executive and the judiciary, the methods and effectiveness of pressure groups, the protection of rights, and the devolution settlement.

What did the Supreme Court rule, and why?

In April 2025 the UK Supreme Court ruled that the references to 'men', 'women' and 'sex' in the Equalities Act 2010 referred to biological sex (the sex assigned at birth) and not what might be stated on a Gender Recognition Certificate. Therefore, a transgender woman (i.e. someone assigned male at birth) would not be considered legally a woman under the provisions of the Act.

This judicial review was brought to the Supreme Court by the pressure group For Women Scotland after they lost their case in the Scottish courts. They opposed a Scottish law of 2018 which said that 50% of public board members should be female, but this included trans women. For Women Scotland argued that this was in contravention of the Equalities Act.

Both the prime minister, Keir Starmer and opposition leader, Kemi Badenoch welcomed the decision, describing it as resolving the issue.

Background

There has been a long and often difficult debate about the definition of terms such as 'woman' and 'sex'. On the one side, some argue that these terms should be based on self-identification. On the opposing side, others argue that this could lead to the end of safe spaces for women, such as in women's prisons or refuges and that sex is an unchangeable fact. There are many opinions between these two standpoints, for example the belief that with surgery and/or medications, it is possible to change from one sex to another.

The Equalities Act is a key piece of rights legislation in UK law. It prohibits discrimination on the basis of nine 'protected characteristics', which include sex and gender reassignment. Since the act was introduced, there has been a debate about what the definition of 'sex' meant and how this could be interpreted in relation to those with a gender recognition certificate (the Gender Recognition Act 2004). This became particularly difficult in relation to the provision of separate and single-sex services.

What does the ruling mean?

The court ruled that any definition of 'men' and 'women' other than that of biological sex was impossible and 'unworkable' when applied to the Equalities Act. Under the ruling, single-sex spaces such as hospital wards may now exclude trans men or women. However, it is not yet clear what the

full implications of the judgement are. For example, how do you know whether someone is biologically male or female? How do you enforce this definition in real life?

It is important to note that, as the Supreme Court judgement stated, trans people do remain protected as a specific group under the Equalities Act 2010, so they cannot be discriminated against in law. However, the Equality and Human Rights Commission issued a statement noting that the decision has implications for many workplaces, schools, sports clubs and other public bodies and spaces. Some fear that this could lead trans people, a vulnerable group in society, to further exclusion and discrimination.

Pressure groups

For Women Scotland

This group is 'gender critical'. This means they see gender as a social construct: a patriarchal construction to oppress women. They see sex as biological and unchangeable. After a lengthy and unsuccessful battle in the Scottish courts, they crowdfunded to raise the money to go to the UK Supreme Court, raising £300,000 including a large donation from Harry Potter author J.K. Rowling. They were delighted with the ruling, describing it as 'common sense'.

Stonewall

Created in 1989 to protect the rights of LGBTQ+ people, Stonewall has been campaigning for the rights of the trans community for many years, particularly since 2015. They argue for self-identification: that anyone who identifies as being a woman or a man should be regarded as one, regardless of biology. Stonewall described the Supreme Court's ruling as 'incredibly worrying'. Although they were not directly involved in the case, they are at the heart of the debate.

Other pressure groups involved in the court case include Amnesty International, Sex Matters and groups representing lesbians.

The role and powers of the Supreme Court

This case shows both the power and the limitations of the Supreme Court. The judgement has already led to significant changes, for example in sports. However, it is not a change in the law, as the Supreme Court cannot create or strike out laws. It is an *interpretation* of the law, clarifying the original intentions of the creators of the Equalities Act (politicians). The judgement was not about whether trans women are women, but about the definition of terms in the Equalities Act. Only Parliament can amend the act. As the Supreme Court is the highest court in the UK, there is no right to appeal. However, there may yet be an appeal to the European Court of Human Rights.

Devolution

This case shows the limits of the devolution settlement: the Supreme Court is the final court of appeal for all civil cases in the UK, so it was able to overrule the decisions made by Scottish courts. Equal opportunities is a reserved area, so it falls under the responsibility of the UK Parliament. This is outlined in the Scotland Act of 1998.

Rights

The Supreme Court ruling shows the difficulty of protecting individual rights. Those who agree with the judgement argued that this definition is needed to protect the rights of women, for example vulnerable women in prison. However, to protect the rights of cis women, they have arguably damaged the rights of trans men and women and created huge distress.

Student task

1 Research three other useful examples of judicial reviews brought to the UK Supreme Court.

Jessica Hardy is the editor of Politics Review online extras.

This resource is part of POLITICS REVIEW, a magazine written for A-level students by subject experts. To subscribe to the full magazine go to: www.hachettelearning.com/politicsreview