

# Women and Equalities Committee

## Oral evidence: Reform of the Gender Recognition Act, HC 884

Wednesday 9 December 2020

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Members present: Caroline Nokes (Chair); Sara Britcliffe; Theo Clarke; Angela Crawley; Peter Gibson; Kim Johnson; Kate Osborne; Bell Ribeiro-Addy; Nicola Richards.

Questions 1 - 19

### Witnesses

I: Professor Stephen Whittle OBE, Professor of Equalities Law, Manchester Metropolitan University, and Vice-President and Head of Legal Services, Press for Change; Professor Alex Sharpe, School of Law, University of Warwick; Dr Ruth Pearce, Research Co-ordinator, Trans Learning Partnership, and Visiting Researcher, School of Sociology and Social Policy, University of Leeds.

II: Professor Rosa Freedman, Professor of Law Conflict and Global Development, University of Reading; Professor Kathleen Stock, Professor of Philosophy, University of Sussex; Professor Alice Sullivan, Professor of Sociology, University College, London.

Written evidence from witnesses:

[Professor Stephen Whittle OBE written evidence](#)



## Examination of witnesses

Witnesses: Professor Stephen Whittle, Professor Alex Sharpe and Dr Ruth Pearce.

Q1 **Chair:** Welcome to this afternoon's session of the Women and Equalities Select Committee and our inquiry into the reform of the Gender Recognition Act. Can I thank our witnesses for coming to give evidence this afternoon? We have Professor Stephen Whittle, Professor Alex Sharpe and Dr Ruth Pearce in this first panel this afternoon. The first question I would like to direct to Professor Whittle, please. It would be really helpful if you could explain how the process of obtaining a gender recognition certificate currently works.

**Professor Whittle:** Currently, individuals are required to go through a diagnostic procedure either privately or through the NHS. They then must live for at least two years in their preferred gender identity. They acquire various pieces of evidence for those two years and document that they are living in their preferred gender role. They have to make statutory declarations in relation to their commitment to live in their preferred gender role for the remainder of their life, and to detail various relevant issues around marriage or civil partnerships.

They are required to get a diagnostic statement from the lead clinician, usually, of their gender identity treatment and a medical statement from their GP, go through a process of getting the form, understanding the instructions and completing it, make a statutory declaration, of which the number can be one to three, and pay a fee. Currently it is a maximum of £140. People on low incomes cannot work out what their potential remission of fees might be, so they often do not do it because of that. They just do not know how much they are going to have to pay.

Q2 **Chair:** Is the fee, in your view, the biggest issue or concern about the current process or is there another area that you would specifically like to highlight as being the biggest worry for trans people seeking that certificate?

**Professor Whittle:** The fee is not the biggest issue, but the lack of transparency of the fee is a considerable issue. The biggest issue is the requirement of the diagnostic statement and the evidence of living for two years permanently in their preferred gender role. Often the instructions relating to evidence are particularly difficult for people to understand, especially those who have been living in their preferred gender role for far longer than the two years. For those people who have also been in that position, obtaining a new diagnostic statement can be very time consuming and expensive.

I think everybody would say that the key issue here is the gradual accumulation of cost. It adds up and, ultimately, somebody who is wishing to get this done in a timely fashion will find themselves with fees



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of up to £1,000 for medical costs and application costs. It is just out of the reach of many people.

Q3 **Peter Gibson:** Stephen and Alex, could you outline to us, please, the process for obtaining a diagnosis of gender dysphoria?

**Professor Whittle:** An individual is required to get a referral to a gender identity clinic or a gender identity clinical service. Current waiting lists are anywhere between 10 months and 18 months depending on where you are referred to. Once you have achieved that referral you will then go through an assessment and diagnostic process, which is probably at least a year long, with two, three or four appointments. At that point, you will have a diagnosis.

Individuals hope that they will be prescribed hormone therapy in advance of that full year, but many individuals find that the clinical service they have got involved with does not prescribe hormones. They have to be further referred to another clinical service that does or they are simply waiting for the decision of the clinician. I often meet people who have been in the process for three, four or five years before they are able to obtain a diagnostic statement.

**Professor Sharpe:** In addition to the obvious delays that Stephen has referred to, which are well known, we should recognise that a diagnosis for gender dysphoria, apart from mythologising and infantilising the whole trans community, runs against the grain of current medical best practice globally. We can look at WPATH, an organisation that is often neglected in debates and does not ever seem to be consulted, even though it is quite clearly the lead medical body in this field. In 2017, it issued a gender identity recognition statement, making clear that, in its view, gender recognition as a legal matter should be completely uncoupled from any of these medical considerations and it was contrary to good medical health and wellbeing to so require.

This is also consistent with the Yogyakarta principles, which were articulated by international human rights experts in 2007 and developed since that time. This body is made up of leading judges, the former United Nations High Commissioner for Human Rights and leading lawyers from around the world. They also, in principle 31, have made clear that the right to legal recognition should be something we think about as completely unrelated to and completely uncoupled from any kind of medical intervention. I would just make those points in addition to what Stephen has said.

**Professor Whittle:** From 2022, the diagnosis of gender dysphoria that is required by the Act should no longer exist. Our obligation under the World Health Organization is to move to the new standards for diagnosis in which gender dysphoria has been extinguished and there is now a new diagnosis, under a separation non-mental health condition chapter, of gender incongruence. We will be, and I feel we already are, asking



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clinicians to diagnose something that no longer exists in the medical references.

**Q4 Peter Gibson:** You anticipated my next question. Almost two-thirds of respondents to the Government's survey said that the requirement for the diagnosis of gender dysphoria should be removed. Could you outline to us what impact that being ignored in the Government's proposals will have on the trans community?

**Professor Whittle:** It is clear that the failure of Government to respond to the figures in their own consultation has meant that the community feels, as Alex said, infantilised and ignored. I have seen people who were respondents depressed, especially young people who feel that a large element of their future and their plans in life has now been taken away from them, particularly those who are on long waiting lists. The response of the Government to the consultation—and it was their consultation—has been completely lacking.

**Q5 Peter Gibson:** Alex, could you outline your views as to what the impact on the trans community would be of this being ignored as a result of the consultation?

**Professor Sharpe:** The trans community is understandably an incredibly beleaguered community. We have been through these processes endlessly. In the last round, people were fairly clear that they preferred reform. I really do not understand why we are here today going through this all again. I am just at a loss as to why we have to go through this endlessly, again and again and again.

That is a widespread feeling and sense throughout the trans community. People are beleaguered and exhausted. They are exhausted by not only the slowness of the process but the endless attacks in the media, on social media and elsewhere. We all know who we are talking about. It is exhausting; it is really exhausting.

It is easier for perhaps Stephen and me. Ruth is a younger person, but we have been around for a while. We are relatively privileged professors. Young people have to deal with this abuse all the time. We need a strong message from Government and a principled stand in favour of self-determination and not a passing of the buck yet again. That just will not do for trans people, who have waited far too long.

**Dr Pearce:** With regards to the process of consultations that we have had and the feeling of the community, in addition to the UK GRA consultation in 2018, there have also been two GRA consultations in Scotland, in which people from throughout the UK were invited to participate, and the 2015 Women and Equalities Committee inquiry, as well as numerous NHS inquiries and consultations. There have been at least nine or 10 consultations in the last five years and the feeling in the community is that people are exhausted. We have been making the case over and over again.



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To reiterate some of the problems with the diagnosis itself and why people are exhausted in making that case, it is not just about the £140 fee, which looks like it might be reduced, or the two-year waiting time. It is about the hidden costs and the hidden waiting times that Stephen alluded to. For example, if you need a diagnosis of gender dysphoria, the waiting time for the gender recognition certificate is, in reality, the amount of time that you take to wait for an appointment.

Private appointments are very expensive. An NHS appointment, as Stephen has pointed out, can be a two to four-year wait. GRC applicants, people who want a gender recognition certificate, should not be required to navigate waiting lists or pay for expensive private assessments to access a form of legal recognition, sometimes many years after they transition.

**Q6 Theo Clarke:** To pick up on my colleague's point about the Government consultation, I note that 78.4% of respondents were in favour of removing the requirement to live in the acquired gender for a period of time before applying for a GRC. I would like to ask the panel what the challenges and concerns are regarding this requirement.

**Professor Whittle:** Individuals have been quite shocked by the fact that the 78% figure has been effectively ignored by this Government. As Alex said, we need a strong statement. I have been doing this for 45 years. As I have often explained, all we want is to be fully participating, respected citizens who can get engaged.

It is really problematic that the current process of obtaining gender recognition is so time consuming and costly. Ultimately, that puts people off. I deal with a lot of people who effectively apply for gender recognition literally because they need it. They are coming up to pensionable age or their partner is having a child and they have suddenly realised they need to formalise their relationship. We should not be in that position.

All we are asking for is the same rights that everybody else has: respect and reasonable equality that comes with the responsibilities that are attached to it. Nobody is saying we are expecting secrecy out of the process, but at least a level of privacy. Nobody is expecting for it to be free, but for the cost to be reasonable. Nobody is expecting healthcare to be any quicker than under the normal situation. Even individuals like me who technically underwent gender reassignment years ago find themselves, as I am now, in a fresh waiting list for a minor piece of surgery that a local individual who went to a local hospital would get in months. I have been on that list for three years now.

That cannot be acceptable any longer. The only reason I was put on that list is that I am trans. I am considered problematic somehow and, really, I am not. The whole process has become just far too difficult for people to engage with. We have now seen, in reality, alternatives. Ireland is a classic example, but look at Malta, Argentina or even Colombia. We have seen examples of gender recognition processes that work without the



medical requirement and without the diagnostic statement being required, with, in effect, people doing what we did for years, which was to self-identify. Prior to the Gender Recognition Act, the only thing we could do was self-identify and ask the Government Departments to make concessions on certain documents like driving licences.

**Chair:** Professor Whittle, can I ask that you keep your answers succinct? I want to make sure that we hear from all the panellists.

**Professor Whittle:** Yes, sorry.

**Professor Sharpe:** I am conscious of the time too. I would just like to add to something Stephen said, with regard to those countries that have taken the step of adopting some form of gender self-declaration. I want to impress on the Committee that this is not a radical step to take. You will not be setting an international precedent. You are more in danger of being a social pariah again, like we were back in 2004. If I may remind the committee, in 2004—some of you are probably too young to remember—when the Gender Recognition Act was enacted, only four countries in the whole of greater Europe had not introduced some form of gender recognition. The others were Ireland, which has now leap-frogged us, Andorra and Albania. That is the company we were in before we were forced, kicking and screaming, into the 21st century by the European Court of Human Rights.

Here we are again: Denmark, Ireland, Malta, Norway, Belgium, Portugal, Luxembourg and Iceland. Scotland is doing it now. The Prime Minister of Finland, Sanna Marin, an example of a great feminist, is going to follow suit. Stephen mentioned all the South American and Central American countries. There are 20 countries around the world that have already done it, not to mention the American states, Canadian provinces and Australian states that have already taken this step. They have not had significant problems, yet in Britain we seem to have this panic. It is absurd.

Q7 **Theo Clarke:** Ruth, I know you want to answer, but I will ask my second question and then you can respond to both? Some of the evidence submitted to the inquiry and the Government consultation also suggested specifically that the two-year requirement was too long. I would be interested to know your opinion on the appropriate amount of time for someone to live in their acquired gender.

**Dr Pearce:** In short, I do not believe there should be a two-year requirement. It does not make any sense for there to be an arbitrary time requirement. Ultimately, that is what it is; it is arbitrary. In practice, it does not make a difference whether you know someone has transitioned a year ago, three years ago or five years ago. They will have the same needs. They will be moving through the world as a woman or as a man, or, indeed, as a non-binary person, which is an issue I hope we return to later in this discussion.



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We talked a bit about countries that offer alternatives. Alex mentioned Argentina, for example. It has a very simple process based on self-declaration, in which applicants submit a form through the national bureau of vital statistics. That process has seen, by 2018, over 13,000 people changing their legal sex and there were no reported instances of fraud. By contrast, by 2018, the UK's Government Equalities Office reported that just 4,910 trans people had been issued a gender recognition certificate. That is since 2004 as opposed to 2012 when the Argentinian law came in.

In this way, we have got a country with a smaller population than the UK seeing over twice as many people utilising its gender recognition procedure, which did not have any time requirements attached to it, over a six-year period than the UK did in 14 years. This has been seen as remarkably successful. Only earlier this year, the President of Argentina personally delivered a completed new gender recognition card to one of the applicants. This is just seen as part of everyday political life.

We need to move on from this idea of arbitrary timeframes. The two-year timeframe, for example, in the UK is linked to medical practice as was in place in 2004, when there was an expectation that people who underwent particular medical procedures were expected to wait for two years in what was called the real-life test. This is something that has been removed since then from the World Professional Association for Transgender Health standards of care, which Alex alluded to earlier. In short, I believe we do not need any such requirement.

**Professor Whittle:** I have thought long and hard about this. I originally felt that people needed a breathing space, because this is a complex process and people have to do some crisis management in the early days of their transition. I have now looked at particularly what has happened in Ireland. For example, a 17-year-old with parents can fill in the form just before going to university and two weeks later go to university in their acquired gender role and gender identity. It is just an amazing thing to watch happen, to watch people's lives flower, flourish and succeed. Having watched that situation, I am increasingly moved to the idea that it should be an instant application.

**Professor Sharpe:** I would endorse what both Stephen and Ruth have said. I personally do not favour any waiting period. The Irish do not have one. Some countries, like Denmark, have a cooling-off period and a very short waiting period. The whole idea of that suggests that we do not know our own minds, that we have not thought all our lives about this, or that we just wake up and then go and transition. People have thought about this for years and decades in some cases. It is just insulting on one level. We need to take that on board and recognise what it means to trans people.

Q8 **Kim Johnson:** Good afternoon, panel. Alex, my question is about the role of the gender recognition panel in the application process. There has



been some suggestion from the evidence we have received that it is not transparent enough. I would like to know what your feelings are on that, if any changes are needed and what changes you believe should be made to that panel.

**Professor Sharpe:** Stephen can probably answer this too. The main problem with the gender recognition panel is that it is not transparent and does not give reasons for its decisions. You will have seen from the consultative process we have just engaged in that almost 12% of trans people responding to your consultation said their applications for a GRC had been unsuccessful.

The problem with that is not just that applications are unsuccessful but that people do not know why they are unsuccessful. It is really a basic issue of due process. It is like a sort of star chamber. If we look at the Irish example, the Minister who governs the situation in Ireland must give reasons when an application is rejected. At the very least, we need something like that in terms of the appeal process. Although appeals can technically be brought, it is impossible to bring an appeal when you do not know what the case against you is. That is the main problem, as I see it. I do not know whether Stephen would add to that.

**Professor Whittle:** Alex is right that there is no transparency at all. I personally was surprised that 12% had had rejections, because on the whole the process is almost entirely administrative. The tribunal service does its best to make sure that people have provided the relevant documentation. The panel has become almost a rubber-stamping process. I sometimes wonder what they do: have a cup of tea and stamp. There should be no question at all, if somebody has provided the right paperwork, as to a decision to be made.

If people are providing incorrect paperwork, that is down partly to the poor instructions. People are asked to prove something for the last two years. They often prove something for the last 30 years, but they do not realise they need to provide paperwork from two years and one month ago. It is a simple explanatory process that has been provided. I have long wondered what the reason for the panel is. I cannot see one.

Q9 **Kim Johnson:** Stephen, my next question is to you again and touches on the international element. Several other countries including Denmark, Ireland and Norway have brought in a statutory gender recognition process based on self-declaration, which has been recognised as global best practice by a number of our own trade unions and prominent trans rights campaign groups. This has been recognised as far quicker, more transparent and more accessible than our current process. Can you outline the barriers, if any, that exist to prevent us from adopting a similar model?

**Professor Whittle:** Personally, I can see few barriers, if any at all, to this, apart from obviously changing the legislation. We should really think about a short piece of legislation, written completely afresh, rather than



trying to adapt what we have, which was done at its time and is now out of date. We should move away from the idea that this is some sort of judicial process, when it is not. It is primarily an administrative process and should be handled in an administrative way.

**Q10 Nicola Richards:** Will the Government's proposal of reducing the fee to a nominal amount and placing the process online make the process of applying for a GRC kinder and more straightforward?

**Professor Whittle:** If they were going to make the fee nominal, why did they not just make it nominal rather than make us wait for the nominal amount? That seems particularly harsh for the people who are currently in the process. Ireland has no fee at all. The only fee is to pay for the copy of the new certified birth certificate and even that is only €20. The fee could be reduced almost to nothing at this point.

Online is okay if you have a laptop or a tablet. We are talking about a community of people, many of whom are young and are in low-income gig economy jobs. I see kids try to do gender recognition certificate applications on smartphones and it is impossible. I see students arrive with smartphones wanting to do degrees on them and have to give them sharp words about how it is an impossibility. An online process is not going to make it easier unless it is a much simpler process than the one we have at the moment.

**Dr Pearce:** In a sense, the Government's proposals clearly aim to address common complaints about the procedure being inaccessible and expensive. What they do not address is hidden costs and hurdles, which I mentioned before, such as the requirement for medical diagnosis. They do not address community requests for a simple system based on self-declaration that is inclusive of non-binary people and under-18s.

I know we have talked a bit about this, but it is good to have a human voice here. I am going to quote a colleague I spoke to earlier today, who talked about some of the challenges and hurdles they faced, which are again these hidden costs and bureaucratic issues. They said, "So far, I am looking to spend £305 on my gender recognition certificate application". That is on top of the £140. "I am literally only doing it so I do not have to get married as a woman despite knowing I was trans since 2011. The process requires me to provide two in-depth medical reports talking about all the medical and surgical interventions I have had in minute detail to people I have never met. I can do this and pay for the privilege of doing so or I can be humiliated on my wedding day". That is a really good illustration of the issues people are facing in practice.

**Q11 Nicola Richards:** You have sort of answered my next question. First, do applicants know what the fee is used for and, secondly, are there other financial burdens that could be removed or retained?

**Dr Pearce:** In addition to the unknowns, for example, some people might think that they will pay only £5 for a solicitor, but then they only



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find someone who charges £150 to prepare a statutory declaration, so there are lots of unknowns around those. There is no transparency around the £140 fee and what it is actually paying for. There is no clarity around what people are paying for and why. The system would surely be a lot less expensive without a panel of people who have never met applicants meeting every few months to scrutinise extensive applications.

**Q12 Nicola Richards:** Ruth, would the opening of the three new gender clinics help reduce waiting times for gender identity clinics?

**Dr Pearce:** The short answer is no. I am assuming this is a reference to the comments made by the Women and Equalities Minister, Liz Truss. She referred to three new trans health projects commissioned by NHS England. It is important to note that these are not new gender dysphoria clinics. They are not going to have a large capacity, at least for some time. They are three pilot models, all in England, in London, Greater Manchester, and Cheshire and Merseyside.

I welcome these. They are an exciting new innovation. They offer an example of moving trans health services into the community and are a shift away from harmful psychiatric models, but they are woefully inadequate in terms of supporting the thousands of people still on waiting lists elsewhere in England, Wales and Scotland, and especially in Northern Ireland, where the Brackenburn clinic has taken on no new patients since 2018.

All the pilot clinics are going to have artificially small numbers of service users due to the restrictions placed on them by NHS England during the assessment process, and they will just be serving small, localised populations. For example, the Manchester service is only seeing people on existing gender clinic waiting lists and those individuals must have a Greater Manchester GP. Similarly, the new London service on Dean Street is only seeing existing service users at the 56 Dean Street service. I have been informed that clinic managers are already finding themselves turning people away.

In a further statement from the Government Equalities Office, we were told that approximately 1,000 new places would be created for people essentially knocked off the existing waiting lists, but a BBC report earlier this year stated that around 13,000 people are currently on a waiting list and more are being added all the time. In short, this is a fantastic move but it will not be sufficient.

**Q13 Nicola Richards:** Do you see that waiting list coming down in any way other than scrapping the panel and the process as it is?

**Dr Pearce:** People are still going to be accessing gender services regardless of what happens with the Gender Recognition Act. The main issue with the interplay is that people have to access a diagnosis in order to access legal recognition. However, regardless of whether people want to change the sex on their birth certificate, which is what the Gender



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Recognition Act is all about, they may want to access medical services. These waiting lists are going to remain.

I see two main ways we can reduce them. One is in investment and opening more services, especially if the NHS England pilots are successful. The second one is changing how the services operate. Something I have looked at a lot in my work is the psychiatric model that is employed, which Stephen described briefly, where people have to undergo multiple assessments for gender dysphoria. This is less common now but they are usually by a psychiatrist, so someone with a very particular set of specialisms. That is really slowing the system down. There is a lot of unnecessary red tape around how gender identity clinics operate at present, so reducing numbers is a case of not just investing in services, but thinking about how current services are provided.

**Q14 Nicola Richards:** Do you think the changes should have included a change in spousal consent and what changes would you have wanted to see for non-binary people, if any?

**Professor Whittle:** With the same-sex marriage Act now being in force, there is no necessity for this. We should not call it spousal consent. It has never been spousal consent. It has been about informing the spouse of a change in their legal contract. If we think about it in that way, the real requirement is making sure that the spouse is informed and has the opportunity to change their relationship to that legal contract. They are not giving permission for somebody to undergo gender reassignment. As it currently exists, it should not be there.

There should be a method by which people are informed. I like the Scottish proposal for that, because it does not trap people into begging their spouse to sign the form. We should move away completely from any sense that somebody else has to give permission for this process. People transition anyway. Often the clinics will see people who have been living in their new gender identity for one or two years by the time they get there. As Ruth has referred to, the assessment and diagnostic process is almost irrelevant at that point. That person is highly unlikely to change back.

We need to think differently about how we approach the service. I really hope the new pilot model will work. I have worked extensively here with the Manchester model and I think it has potential, but Liverpool, for example, is only going to provide a therapy service and individuals will still have to be referred on to a gender identity clinic at one of the main clinics. It is not going to change the waiting list at all.

**Professor Sharpe:** I broadly agree. Spouses should be informed. That is right. It is a very difficult situation for all involved, but no person and no British citizen should be able to exercise a veto over the self-determination of another person. We can surely arrive at a consensus on that without too much trouble, I would have thought. In relation to non-binary people, which was the other part of the question posed, of course



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non-binary people should be recognised as part of any change to the Gender Recognition Act. There should be some mechanism for that recognition. You should consult non-binary people and let them speak for themselves on that question.

**Dr Pearce:** Regarding spousal consent, the anti-violence charity Galop has noted that this provision, as it is currently worded, has the potential to offer abusive partners a tool for control that can be specifically wielded against trans people, by offering them power over their partner's ability to obtain a form of legal recognition. This is particularly concerning given that research indicates that trans people disproportionately experience high rates of domestic abuse. For example, in a 2017 survey conducted by YouGov, 28% of trans respondents who were in a relationship reported experiencing domestic abuse within the past year alone.

Nobody is suggesting that anybody should remain stuck in a marriage with a trans person if they do not want to. Rather, the process of applying for gender recognition should be able to take place alongside the process for a divorce, if that is what somebody wants. As the other speakers have already referred to briefly, the spousal consent clause was removed from the Gender Recognition Act in Scotland with the introduction of equal marriage legislation.

With regards to non-binary people, it is worth noting that 51.7% of trans respondents in the Government Equalities Office's national LGBT survey in 2018 identified as non-binary. That is about half of the trans population. If the Gender Recognition Act is to be in any way relevant to trans people, it must offer recognition to all. Non-binary people are also not protected within the permanence assumptions that underpin the Gender Recognition Act at present. For example, the GRA requires trans people to affirm that they will remain in the gender identified on their new birth certificate "until death". This does not take into account the possibility of gender fluidity or detransition for a minority of individuals who decide that transition is not right for them.

There are a number of countries that offer some form of legal recognition for people who are not female or male. These include, for example, Argentina, Australia, some jurisdictions in Canada and the United States, Iceland, India, Nepal and Uruguay. We are talking about countries all over the world.

Q15 **Angela Crawley:** Stephen and Alex, I appreciate you may have covered some of this already, but what countries should the UK look to for best practice, when considering how to progress the legislation relating to gender identity and expression?

**Professor Whittle:** I have already talked about the Irish model. It is a four-page application form. The first page is an explanation; the second one is your name and address and birth certificate details; the third one is your statutory declaration; and the fourth one is the statutory declaration by the notary that they have proven your identity. That is it.



It clearly works. It is incredibly simple and successful. They have not seen any form of backlash, as we have seen here in the media and from gender-critical feminists. That makes me question why we think our predatory men are so different from men around the world that we cannot provide this small group of people, citizens, their full rights, because apparently it is not a problem with us, but predatory men might take advantage of any system that we have. That begs the whole question of how we think about and educate boys and men in our society. We can look to the Irish model. It is an easily recognisable piece of legislation that we could use here. Scotland has clearly done that.

In terms of the gender identity clinic, I particularly note the changes that have taken place in Denmark in recent years, where now somebody can access a clinic within one month of first seeing their general practitioner. There is just a waiting list of one month, and three months later they can get hormone therapy and change their identity—simple.

**Professor Sharpe:** Again, I will keep my answer brief. Ireland is a good model for us to use generally. The only difficulty I have with the Irish model is this requirement of statement of sole intent for life, which is a bit like the “until death” that Ruth referred to earlier. That is not necessary. Otherwise, the rest of it is fine. It is just a very simple administrative procedure and we could well look to Ireland for a template. It is our closest relative and that would be a good place to look.

Q16 **Angela Crawley:** What is your view on self-identification for gender recognition and how would self-identification work in practice? I appreciate that you have touched on that, but would you like to elaborate any further?

**Professor Whittle:** Self-identification is not a new process. We think of it now because we are talking about it in the context of the legislation, but we must understand it was the system that I, for example, and people of my generation lived under for many, many years without any major issues, except that, legally, I could not marry my wife or adopt our children. There were various elements like that that were really needed for family security.

I remember, the night I married my wife, thinking, “What did I ever gain from the gender recognition certificate?” I gained very little but, for my wife, my family and my mother—for her sense of herself as the mother of somebody who was trans—knowing that the treatment I received through the NHS was finally being respected by the state made a huge difference. Self-identification is not new. We have had it before and we can have it again.

Q17 **Angela Crawley:** Thank you, Stephen. I appreciate the point you are making. You touched on this point earlier, but you will appreciate that the Committee has received evidence highlighting fears that, if this was ever used, it could threaten women’s access to single-sex spaces. What would you say in response to those concerns?



**Professor Whittle:** The current Equality Act provisions are acceptable. We have a problem with language between the two pieces of legislation and we need to clarify that we are talking about individuals' lived gender identity. That would be helpful. We should provide a range. The Yogyakarta principles have advised that states should offer a wide range of gender identities for all their citizens to adopt and to live in. We should move to that and recognise that, as trans people, we know what we are doing; we are not the danger; and we should not be looking to address any issues around predatory men by marginalising a small community, which itself is all too often victimised by predatory men. We are totally understanding, as a community, of the issues raised by gender-critical feminists, because we are also victims.

**Dr Pearce:** In a sense, there has been a lot of confusion over the language of self-identification. That is why, like Alex, I prefer the term "self-declaration" when it comes to the law. We can see lots of examples of this in the UK. For example, you can change your name simply by declaring that you intend to do so. If you can wish, you can also produce a deed poll and have a couple of people witness it. That is a simple procedure that places no burden on the state as well as no burden on the individual. We already have laws to protect against fraud.

With regards to self-identification, as Stephen says, this is something that trans people do regardless and we will always do regardless of what the law is. In practice, however, trans people already access various forms of legal, social or corporate recognition on the basis of self-identification whether it is the sex marker on a driving licence, on bank details or on NHS records, which we can change on the basis of simply writing a letter and requesting a change. This existing self-declaration, in fact, is generally required as evidence for a gender recognition certificate.

Part of the confusion over the language of self-identification as well is that we all self-identify all the time. We might identify as beer drinkers, as EastEnders fans, as vegetarians, as young or middle-aged, as a woman or as British. When a person walks into a woman's toilet, for example, they are usually effectively self-identifying as a woman regardless of whether they are trans. That is something that everybody does, not just trans people, unless of course they are a male janitor. There are other reasons that men may enter women's toilets.

Similarly I would like to briefly discuss the census because this is a question that often comes up in these debates. If the question for example on the census about sex is simply "what is your sex?", no amount of philosophical commentary about sex and gender will stop trans women from answering "female", trans men from answering "male" and non-binary people from wondering where they fit. This is the reality of trans people's lives. For example, as a trans woman, my lived sex is female regardless of what I have on my birth certificate, which nobody ever sees. We understand ourselves as female and, especially if we are in a supportive social environment, we are usually perceived by others



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around us as female for good and for ill when we encounter discrimination. Many of us also have female biological sex characteristics, for example, if we have taken hormones.

In this way, as a social researcher, if I am designing a good survey question, I need to take into account how people would understand it, their everyday understanding, rather than trying to tell research participants that their understanding is wrong. Similarly, if the law is to work and we are not to have trans people casually breaking the law just by living their lives in the way they have always done, it needs to work with the lived reality of our sex and our gender. Self-identification works, so thank you for raising that quite complex issue.

Q18 **Angela Crawley:** Alex, in your article entitled, “Will Gender Self-Declaration Undermine Women's Rights and Lead to an Increase in Harms?”, you argue that there is a mistaken understanding of the proper legal relationship between the GRA and the Equality Act, and that harm claims lack a proper evidential basis. Could you elaborate on that for me please?

**Professor Sharpe:** We might think of the Equality Act and the Gender Recognition Act as two streams of water that rarely touch, certainly in this particular context. There are sex-based exceptions in the Equality Act. We all know that. They currently operate when they are proportional and that will continue. Theresa May has made that clear and every politician who has talked about that has made it clear. There is nothing that is going to change.

Why is that not going to change? First, the fear itself has no basis empirically. There are a handful of cases out of a population of hundreds of thousands. There is no sound empirical basis for thinking that harm is a problem. There is no problem. Gender-critical feminism is a solution in search of a problem. We should recognise this. There is not a problem to begin with.

If we look to the technical law, let us take somebody who has a gender recognition certificate, like me or Stephen. I am trans woman; I have a gender recognition certificate, but I am still subject to the sex-based exceptions, if it can be shown that they are proportionate. At the moment, all trans women—and the focus tends to be on trans women in this panic—are subject to the sex-based exceptions. If we have more trans women with a GRC in the future, all of those people will be subject to the sex-based exceptions. The status quo will remain the same in that respect. People can argue about whether the law as it currently exists is good or should be changed, but there will be no change in the way that I have just outlined. The people who suggest there will be are just creating alarm when there is no legal or empirical basis for it, as people keep telling them if they are willing to listen.

**Angela Crawley:** You explained that very well there, Alex, so thank you for doing that.



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Q19 **Peter Gibson:** The Government have been vocal in their support for a ban on conversion therapy for gay men and women. Does each of the panellists believe that such a ban on conversion therapy should also include a ban on conversion therapy for trans people?

**Professor Whittle:** The answer is simple: yes.

**Professor Sharpe:** Obviously.

**Dr Pearce:** To that, I would add that the national LGBT survey showed that trans people are more likely to experience conversion therapy than any other LGBT people and especially black trans boys, who were the most likely to experience conversion therapy. We have to bear in mind that this is unequally experienced as a form of, effectively, discrimination within LGBT communities.

**Chair:** Can I take this opportunity to thank all our panellists for coming and giving evidence today? It is hugely appreciated. Your answers have been incredibly helpful and the message given about the level of exhaustion—I think it was Alex who used that word—was received loud and clear. I really appreciate you contributing today and I am sure all the Committee members do. Thank you very much.