



# Women and Equalities Committee

House of Commons London SW1A 0AA  
Tel 020 7219 6123 Email womeqcom@parliament.uk Website www.parliament.uk

From the Chair

Kemi Badenoch MP  
Minister for Equalities and Exchequer Secretary to the Treasury  
Government Equalities Office  
Correspondence via email

29 June 2021

Dear Kemi,

## **Re: Inquiry into the Reform of the Gender Recognition Act**

Further to your letter of 7 June, in which you again declined my Committee's invitation to provide oral evidence to our inquiry into the Reform of the Gender Recognition Act, I am writing to request written answers to the questions that went unanswered in your absence.

This outcome was particularly frustrating given your "full confidence in the Minister [for Prevention, Public Health and Primary Care] to represent the government's position and appropriately respond". Instead, we were on numerous occasions informed by the Minister that the policy decisions under scrutiny were a matter for the Government Equalities Office (GEO) and its Ministers. On several other occasions, representatives from the EHRC also informed us that questions relating to GRA policy should be put to the Ministers responsible for its development and delivery. This frustration was further exacerbated when we were told by Minister Churchill that the GEO would be "listening in" on the session.

In recent months, and since the Minister for Women and Equalities' Statement on the GRA consultation on 22 September, the GEO has made a number of significant policy announcements that will meaningfully affect the lives of Trans people and other stakeholders in the UK. You will be aware that under the Ministerial Code, Ministers of the Crown have a duty to Parliament to account, and be held to account, for the policies, decisions and actions of their departments and agencies (para 1.3 (b)). Your refusal to attend has undermined your credibility with stakeholders and has, at a minimum, demonstrated a lack of courtesy towards my Committee and its work. Ultimately, my Committee does not feel that GEO ministers have met their duty to Parliament in relation to this inquiry.

I would be grateful for a response to the below questions by 14 July. In accordance with our usual practice, this letter and your response will be published on the Committee's webpage. I am also copying it to the Leader of the House, Mr Speaker, and the Chair of the Liaison Committee, to whom I have also written separately to express the concerns outlined in this letter.

### **The Gender Recognition Act**

- The GRA consultation analysis highlighted that nearly two-thirds of respondents were in favour of removing the diagnosis of gender dysphoria from the GRC process. Why did the Government not address this in its proposed changes?
- In 2018, the WHO formally moved 'gender identity disorder' from 'mental and behavioural disorders' to 'conditions related to sexual health' because classifying



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them as mental ill health can “cause enormous stigma”. What considerations, if any, has the GEO given to this move?

- 78.6% of respondents to the consultation argued for the removal of the requirement to live in the “acquired gender”. Can you explain how one proves they have lived in the acquired gender and given the support for its removal, why it was not addressed in the Governments proposals?
- 84.9% of the consultation response also indicated that they did not agree with the current spousal consent arrangements. Given such a big majority supported its reform, why did the Government not address it in its proposals?
- Evidence to this Committee has expressed concern about the Gender Recognition Panel, stating that there is “no real transparency” in “what feels like a panel of strangers”. Why does the Government feel the Panel is necessary and what steps could be taken to improve transparency?

## **The Government’s response to the GRA consultation**

- GRA reform was a priority for the previous Government under Theresa May. How committed was this Government to bringing forward meaningful proposals for reform?
- Why did it take nearly two years for the GEO to respond to the Government’s consultation on the Gender Recognition Act?
- Evidence to our Committee has argued that the Government has proposed “minor administrative changes that do not address the fact that this is an unnecessary difficult and degrading process”. Why did the Government not make any legislative changes given that there was a majority in support of it in its consultation analysis?
- Can the Department give us an update on plans and timescales for placing the process online? Can you confirm what the online process will look like and whether a non-digitalised process will also be available for those without access to a computer?

## **Interaction between the Equality Act and the Gender Recognition Act**

- How, if at all, are the exemptions in the Equality Act regulated in relation to those with the protected characteristic of gender reassignment?
- The Equality Act allows for exemptions where it is “a proportionate means of achieving a legitimate aim”, but witnesses have highlighted the lack of clarity of this phrase. What is a “proportionate means of achieving a legitimate aim” and what steps has the GEO taken to provide information on its meaning?
- We have heard concerns about service providers being unclear on when it is lawful to exclude trans people. What guidance does the GEO currently hold on this and does it have any plans to produce more detailed guidance with clear examples?

Yours sincerely,

**Rt Hon Caroline Nokes MP**  
**Chair, Women and Equalities Committee**