

Written evidence submitted by Reverend Alex Clare-Young (GRA0058)

GRA Consultation Response

My name is Revd. Alex Clare-Young, my pronouns are they/them, and I am a transmasculine person. I am a minister in the United Reformed Church, and minister to and alongside other people who identify as trans and/or non-binary. I will use trans as an umbrella term from here on in. I am also undertaking doctoral research into the lives and understandings of trans people. The views in this evidence are my own, and do not necessarily represent the views of the whole United Reformed Church. They draw on my own experiences of life as a trans person, and on the experiences of the many trans people I have spoken to in the course of my ministry and research. You can find out more about me and my ministry at www.transgenderchristianhuman.com.

The Government's response to the GRA consultation:

Will the Government's proposed changes meet its aim of making the process "kinder and more straight forward"?

The proposed changes will make the process very slightly 'more straightforward', due to forms being available online. There will still, however, be significant barriers to accessing a GRC for many people. The process will still be unjust, which raises the question as to whether an unjust process can ever be described as 'kind'. My reasons for believing the process to be unjust will be explained in my responses to the following questions.

Should a fee for obtaining a Gender Recognition Certificate be removed or retained? Are there other financial burdens on applicants that could be removed or retained?

There should not be a fee for obtaining a Gender Recognition Certificate. To the best of my knowledge, no other person has to pay a fee in order to have their identity recognised. This is particularly problematic for an identity which is also a protected characteristic. Other financial burdens that could potentially be removed are the cost of providing evidence of life in role, the cost of completing a statutory declaration in the presence of a solicitor, and the cost(s) of the required medical documentation.

There is a further implied cost in the requirement to be seeing medical professionals with regards to one's gender, given that GIC waiting lists are years longer than they ought to be. Many trans people seek private treatment as a result. This is not always because they desire medical treatment, but because the opinion of an approved medical specialist is required in order to be legally recognised and protected.

Should the requirement for a diagnosis of gender dysphoria be removed?

The requirement for a diagnosis of gender dysphoria should be removed, for the reasons stated above. Further, not all people who identify as trans experience gender dysphoria or wish to transition medically. There are other safeguards that are more helpful/important than the diagnosis of gender dysphoria. Although it is currently possible to obtain a GRC without having had any medical treatment I, and many others, have had the difficult experience of having my first application rejected due to not giving medical reasons for not having received particular medical treatments. This is particularly upsetting because it often equates to

discussing one's genitalia with a panel of strangers. Not all trans people choose to have all medical treatments. The requirement for any medical proof has led to confusion re this. Further, no cis person is required to provide medical proof of their sex and/or gender identity, making this a clear case of inequality.

Should there be changes to the requirement for individuals to have lived in their acquired gender for at least two years?

There should be a requirement to live in one's gender for a period of time, though I believe that it should be shorter than two years. I believe that having some such requirement safeguards against misuse of the process. I believe that there should be more flexibility regarding the evidence required. There should not, for example, be any disadvantage to those who are unemployed or isolated.

What is your view of the statutory declaration and should any changes have been made to it?

To the best of my understanding, the statutory declaration isn't particularly helpful, as it would be possible to make the opposite statutory declaration in the future, without proving the previous declaration to be false. Whilst the fee for statutory declarations is minimal, this simply feels like another hurdle that trans people are asked to clear for no substantial reason.

Does the spousal consent provision in the Act need reforming? If so, how? If it needs reforming or removal, is anything else needed to protect any rights of the spouse or civil partner?

The spousal consent provision is blatantly unjust. The implication of this provision is that one spouse has a greater right to determine a) the continuation or ending of the marriage and/or b) the gender of their spouse, than the other. This additionally implies that transitioning when one is married amounts to a 'fault' in that marriage. I would also contend that a person is very unlikely to transition without discussing their transition and its implications at length with their spouse. By the time a person is applying for a GRC, it ought to be clear to both parties whether or not it is possible for their marriage to continue.

Should the age limit at which people can apply for a Gender Recognition Certificate (GRC) be lowered?

I believe that the age limit should be lowered to sixteen in certain cases. If a sixteen-year-old is able to be independent from their parent(s)/guardian(s), and to marry, then they ought to be able to apply for a GRC. This not being the case could interact problematically with other legal provisions, such as those concerning marriage. It could also effect a young person's vocation/career path unnecessarily.

What impact will these proposed changes have on those people applying for a Gender Recognition Certificate, and on trans people more generally?

As far as I am aware, the only proposed changes are that the GRC process fee will be lower, and that it will be possible to complete the process online. I believe that these changes will have very little impact on trans people. In order to have real impact, there would need to be significant changes.

More significant changes could positively impact the lives of trans people incalculably. Some positive effects could include protection from discrimination and abuse, improved access to healthcare, de-medicalisation of trans identities, lower rates of unemployment, and a lower impact on social, mental, and physical health and wellbeing.

What else should the Government have included in its proposals, if anything?

- Significant changes to the spousal consent provision.
- Disentanglement of the GRA and the Equality Act.
- A lower age limit of 16 in certain circumstances.
- A shorter ‘living in role’ requirement, with more flexibility regarding evidence.
- Disentanglement of the GRA and medical transition.
- No financial burden.
- No statutory declaration.
- A clarification of the fact that a GRC is not required to access so-called ‘single-sex’ spaces.

Does the Scottish Government’s proposed Bill offer a more suitable alternative to reforming the Gender Recognition Act 2004?

The following aspects of the Scottish Government’s proposed Bill are more suitable:

- ‘Living in role’ shortened to 3 months
- No medical evidence required
- The removal of the GRP

The following aspects of the Scottish Government’s proposed Bill are problematic:

- Retaining of the statutory declaration
- Addition of a 6-month reflection period
- Criminalisation of de-transitioning
- Lack of change re
 - Spousal consent provision
 - GRA and the Equality Act
 - Age limit
 - Financial burden
 - Clarity re ‘single-sex’ spaces.

Wider issues concerning transgender equality and current legislation:

Why is the number of people applying for GRCs so low compared to the number of people identifying as transgender?

I believe that the number of people applying for GRCs is so low because of the difficulties of accessing the GRC process, many of which I have outlined above. A further two difficulties are not mentioned above. 1. The GRC process requires one to waive one’s right to privacy and dignity, allowing all sorts of people, including doctors, solicitors, and the members of the GRP, access to extremely sensitive information about one’s life and body. Many feel that this

personal cost is unacceptable. 2. The GRC process makes no provision for non-binary identities. As such, non-binary people have no legal status in the UK. In order to apply for a GRC, non-binary people are compelled to lie about their identities. Many feel that this lack of recognition and the challenges it poses to their personal morals and authenticity are unacceptable.

Are there challenges in the way the Gender Recognition Act 2004 and the Equality Act 2010 interact? For example, in terms of the different language and terminology used across both pieces of legislation.

There are significant challenges in the way the GRA and the Equality Act intersect. These relate to the fact that, with the possible exception of marriage and civil partnership, gender reassignment is the only protected characteristic which requires individuals to have gone through a prior additional legal or medical process in order to be protected. Many trans and non-binary people do not go through legal or medical gender reassignment and so, in theory, are not protected under the Equality Act. Further, trans people who do transition are at greatest risk of harm prior to medical transition. The Equality Act should simply refer to trans people and non-binary people, or to gender identity. It should not refer to gender reassignment, which is a medical and/or legal process, not a personal characteristic. Further, the interaction of these two acts necessitates the holding of separate lists of those who have a GRC, which leads to complications in systems and processes such as credit checks, taxing, pensions, DBS and voter registration.

Are the provisions in the Equality Act for the provision of single-sex and separate-sex spaces and facilities in some circumstances clear and useable for service providers and service users? If not, is reform or further guidance needed?

No, these are not clear, there is need for reform and/or further guidance. There is also a need to clarify the definitions of sex and gender being used re these spaces. Further, there needs to be separate consideration of single sex facilities – such as toilets and changing rooms – and single sex services – such as support groups and counselling services.

All new toilets and changing rooms should enable full privacy, preferably through the provision of single-stall facilities. This suggestion is not solely related to gender but, rather, is a result of my strong feeling that all people deserve privacy, dignity, and safety. If some services ought to be single sex, there must be equal provision for trans people, who may not be able to/wish to access either a male, or a female, single sex group. For example, as a trans survivor of rape, where should I access support? (See more below).

Does the Equality Act adequately protect trans people? If not, what reforms, if any, are needed?

No, it does not. The protection should be based on trans identity, not on gender reassignment (see above). Further, trans people should have equal access to support services and to public facilities. Individuals should also be required to use the correct name and pronouns for trans people, particularly in official communication.

What issues do trans people have in accessing support services, including health and social care services, domestic violence and sexual violence services?

Trans people have significant difficulties in accessing support services.

Health and social care services:

- Lack of adequate training of health and social-care professionals.
- Lack of understanding/research/training re the medical effects of cross-sex hormones, and the changes in embodiment that trans people may experience, as well as the side effects and health complications associated with denying/delaying provision of hormones.
- Common use of incorrect name/pronouns.
- False relation of all physical and mental health symptoms to trans identity.
- Inappropriate questions frequently asked in relation to trans identity/transition.
- Lack of distinction between sex and gender on NHS computer systems means that trans people regularly experience difficulty accessing healthcare tests and treatments related to their sex assigned at birth. For example, it was extremely difficult for me to access smear tests, despite the fact that I still had a cervix when I reached the eligible age. The system simply didn't recognise me because in order to change my gender to male, it also changed my sex to male.
- Lack of gender-neutral medical spaces/facilities (for example sexual health clinics with a female clinic and a male clinic with different equipment for different bodies separated between the two locations, requiring transmen to go into the female clinic and vice versa and potentially outing them).

Domestic violence and sexual violence services:

- Services separated by sex/gender.
- Gendering and/or gender stereotyping of particular crimes.
- Lack of trans specific services.
- Lack of services for trans people by trans people.
- Lack of understanding of differences in embodiment and gender (eg. like many other transmasculine people, I have experienced vaginal rape. I do not know of a service that understands these types of circumstances and is able to assist people like me in processing this.)
- Lack of understanding of the relationship between LGBTQ+ identities, homo-/trans-/bi-phobia and sexual assault.
- Lack of understanding of the relationship between so-called 'conversion therapy' and sexual assault.
- Lack of gender neutral forensic medical facilities and practices for survivors who wish to report sexual assault or rape.
- Lack of training/understanding re trans identities in police services.

Are legal reforms needed to better support the rights of gender-fluid and non-binary people? If so, how?

- Yes. Gender-fluid and non-binary people are currently completely unrepresented and unprotected, as mentioned above. This equates to a denial of their full personhood and forces them to lie for the sake of legal recognition and protection. There are also examples of gender-fluid/non-binary people who have gone through medical processes that they did not want, because they felt that this was the only way to

transition/be trans. There are also significant risks for gender-fluid/bi-gender people who have to use male/female documentation which may, at times, differ from their gender presentation. In my opinion, there is no logically sound reason for society to be divided into two genders.

- The Government should also consult people who have intersex characteristics, to assess whether our gendered systems effect understandings and treatment of people who have intersex characteristics and/or identities

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