

Written evidence submitted by Jane Berrie (GRA0074)

Thank you for considering my input, which concerns some of the *wider issues concerning transgender equality and current legislation* listed in your call for evidence.

To give some background, I am over 60 years old and employed in the computer software industry. Earlier this year, my employer, via internal policy, allowed me to present as myself, and to be known by my female name. This includes being addressed and treated in ways traditionally-minded people tend to associate with birth-assigned females. I do not have a Gender Recognition Certificate. I had to wait almost 50 years of my working life to be myself in this way. Even now, being able to do so relied partly upon the modernity, enlightenment and valued cooperation of my employer. Everyone at work adapted easily and immediately to this situation – especially younger staff who did so without even apparently noticing anything unusual from day one.

Having said all this, there are still some important issues that affect many trans people, so here they are, as seen from my point of view.

- Why is the number of people applying for GRCs so low compared to the number of people identifying as transgender?
 - Being transgender in its broad sense can mean any degree of incongruity with gender-associated social assumptions – especially when those assumptions are coercively enforced or promoted. Those assumptions encompass how one is addressed, how one presents oneself and how one is expected to act. In this sense the situation is similar to historic sexism, where women were not expected to be surgeons, to be awarded degrees or to wear trousers. There is no reason a trans person should not be treated in the way that feels right without requiring a de-facto “licence” in the form of a GRC.
The GRC process is long and degrading for those who need it, as though a trans person is a lesser human being than those who sit in judgement.
- 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.
 - The Single Equality Act uses very dated terminology: “Transsexual Person”, with no mention of “Transgender People”, “Gender Identity” or “Gender Expression”. The Act explicitly protects only to those who have, or plan to have, gender reassignment. Although many transgender people need gender reassignment, with or without surgery, in the worst case, this amounts to forcing them down this path in order to obtain the right to be themselves and to be treated accordingly.
- 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?
 - Whatever we do, transgender feminine people cannot use “male” lavatories. The rising street abuse faced by trans people would certainly be repeated there and with frequent violence in the necessary absence of camera surveillance in that setting. My strong preference and that of many others is for single-entry, gender-neutral facilities wherever possible and in all new public facilities.
- Does the Equality Act adequately protect trans people? If not, what reforms, if any, are needed

- It does not. In the precise wording of the Act, one must be planning or have undergone gender reassignment in order to be protected. Discrimination and victimisation on the basis of gender-associated identity and expression should be explicitly outlawed to protect everyone. I use the term “gender-associated” deliberately. This applies to everyone, whether trans or not; it would protect a birth-assigned woman from being forced to wear a skirt and heels when her birth-assigned male colleagues do not have to just as much as it would protect a trans person who does.
- Hate Crime law and penalties for transphobic hate crime and incitement must be brought up to par with those applied for race and religious hate crime. Right now, penalties and enforcement are not even close to being on a par, meaning many hate criminals can act with impunity. A victim of transphobic hate crime suffers no less than a victim of racist crime and there is no less justification for prosecution and imposition of severe penalties.
- Are legal reforms needed to better support the rights of gender-fluid and non-binary people? If so, how?
 - Yes. Although there has been recent case law where this right in employment has been upheld by ACAS, there is no protection by statute. The law should protect the right to present oneself, act, be addressed and be treated according to what feels right, without coercive enforcement of assumptions based on birth-assigned gender. To treat someone according to their wishes costs nothing and should require no “licence” such as a GRC.

October 2020