

Written evidence submitted by Luke Sedgebear (GRA0102)

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

The proposed changes of a fully online process with a reduced fee are welcome and helpful, but in comparison to the scale of the failings of the current services provided for transgender people, insignificant. The "three new clinics" that have been suggested to be opened have not yet to my knowledge been adequately clarified as to if these are indeed three new clinics or instead refer to the three pilot schemes.

Should a fee for obtaining a Gender Recognition Certificate be removed or retained?

There is no reason a fee for obtaining a GRC should exceed £20 in total. If a safeguard against people "changing their mind" is desired then a far superior process would be having a small delay (three to six months) after applying which then requires a confirmation at the end to issue the GRC.

Are there other financial burdens on applicants that could be removed or retained?

GP's still have the power to reject shared care agreements thus forcing transgender people in some cases to pay for hormones. NHS waiting lists are still prohibitively long, and NHS GIC services can be discriminatory and gatekeeping to gender non-conforming and nonbinary people, thus forcing many to use the few expensive private services. This is in contradiction to the NHS constitution stating a maximum of 18-weeks from referral to treatment (for transgender people the wait can be 2+ years from referral to the first specialist appointment, with further waits for treatment in some cases).

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

Yes. This should be removed. Again, this could be solved by having a confirmation period as mentioned above. Requiring people to live for their acquired gender for at least two years is both an unnecessarily long period of time, and is discriminatory to anyone who does not conform to the strictest traditional western gender stereotypes or those with more nuanced life situations. It is also an intrusive invasion to privacy requiring the provision of many personal documents.

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

It is fine, although perhaps the merging of the three separate statutory declarations into a singular one may be a desirable adjustment.

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?

There should be no capacity for a spouse to veto an individual acquiring a GRC. If there is concern about the rights of the spouse or civil partner, then rather than the provision of a veto (which instead undermines the transitioning partner's rights) then the spouse or civil partner should:

- a) Be automatically informed that their partner has applied for a GRC certificate.
- b) Automatically gain the right to file for a divorce should they desire on grounds of their partner's transition.

This is based on the idea that when entering marriage a partner or spouse may not have been aware of the future desire of someone to transition and so the marriage or civil partnership contract could be declared void due to this change in situation. Provision of a spousal veto simply unjustly enforces such a contract in a situation where it may not be in the interest of the individuals involved, and also provides a route to undermine an individual's right to the self determination of their gender. It also

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provides a means of leverage by which a domestic abuser may control their partner by either vetoing their GRC or only approving it under certain conditions given to their partner.

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

Yes. Given individuals can work from the age of 16 it seems reasonable that they should be able to apply for a GRC by that age.

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

The changes proposed by the government do slightly reduce the bureaucratic hurdles of transitioning and make logical sense in the technological world we now live in, but are very small and insignificant changes and far insufficient in comparison to the changes which are now long overdue for transgender people in the UK.

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

The Scottish Government's proposed Bill as outlined on 20 June 2019 is far superior to that proposed by Westminster. The removal of medical requirements is a significant desirable attribute as is the reduction of lived experience from 2 years to 3 months (although again, a confirmation system may be preferable).

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

Removal of the medical requirements and reduction or elimination of lived experience requirements and the significant reduction of fees are all as mentioned previously key points which should be met.

An additional proposal would be the recognition of nonbinary individuals such as that proposed in EDM660, as these people still lack any route to legal recognition. This has already been trialled in several countries including Canada, Australia, New Zealand, and Germany. Alternatively, it could be considered as to if the abolition of gender markers, or the option for any individuals to acquire alternative versions of documents such as passports which lack gender markers may be an option.

An additional desirable addition would be the creation of a national requirement by which NHS CCG's would have to fund the storage of gametes (sperm and egg cells) for fertility preservation for individuals undergoing cross sex hormone therapy and/or gender confirmation surgery.

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?

A combination of the prohibitive costs, excessive lived experience requirements, bureaucratic filing of it, and the fact that most transgender people would likely apply for such a document towards the end of their transition (when they "pass" as their gender) means that the huge hurdles of other elements of transition also further confound this issue.

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.

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The Equality Act 2010 is a fantastic piece of human rights legislation. Perhaps the only issue may be in the specific language used, specifically, referring to transgender people by the outdated term “transexual” and by making “gender reassignment” as a protected characteristic instead of “gender identity”.

I am not aware of any challenges between the Gender Recognition Act and the Equality Act with regards to how they interact.

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?

The Equality Act is incredibly concise and well-written with regards to balancing the rights of transgender people and the rights of others. It is a landmark piece of human rights legislation which should be applauded, including its provisions for transgender people.

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

I cannot think of any reforms that would be needed to the Act itself. Education to the courts and police on how specifically the act applies to transgender people, and the forms by which discrimination and hate crimes against transgender people may take, would perhaps be a more productive approach than amending the act.

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

Some services, notably in a healthcare environment, can be particularly intrusive as to the gender reassignment status of transgender individuals (and can have a tendency to blame unrelated conditions onto the fact of a patient being transgender or the medical interventions they are having).

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

Yes. As mentioned above the ability to legally identify either with an alternative or absent gender marker (or absence of the gender field upon a document) with regards to items such as passports would be greatly welcomed. Likewise work to dismantle gatekeeping within medical services against nonbinary people is desired.

As previously mentioned as well, the lived experience requirements can be heavily discriminatory to gender nonconforming and nonbinary people.

A summary of requirements that reforms should meet:

- Reduction of fees for a GRC to a maximum of £20
- Removal of the requirement of living as your gender and the replacement of such safeguards with a 3 to 6 month ‘confirmation’ period.
- Either the legal recognition of nonbinary, intersex, and gender nonconforming individuals via the option to acquire an alternative or absent gender marker, or the removal of gender markers from documentation, or the provision of both gendered and ungendered versions of documentation.

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- Removal of medical requirements and removal of the formal “gender dysphoria” diagnosis as a requirement (instead utilisation the method of self-identification that has been trialled in multiple countries successfully).
- Full access to legal and medical options (with the possible exception of surgery) from the age of 16.
- Efforts made to reduce NHS waiting lists from referral to acquiring cross sex hormones to a maximum of 26 weeks (3 months), ideally to below the maximum 18 weeks specified by the NHS constitution.
- Removal of the ability of individual GP’s to arbitrarily deny shared care agreements with regards to the NHS funding of cross sex hormones.
- Nationwide requirement for CCG’s to provide NHS funding for fertility preservation by gamete storage for individuals planning to undergo cross sex hormone therapy and/or gender confirmation surgery.
- Removal of spousal veto (with possible alternative safeguards mentioned above).

A summary of further points which would be desirable, but may not be essential to meet:

- Merging of the three statutory declarations into a single document.
- Education of police and court services on the forms which discrimination and hate crimes against transgender people may take.
- Efforts made to make health and social care services less intrusive as to the gender reassignment status of transgender individuals.

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