

Trans Widows Voices response to the Women and Equalities Select Committee Call for Evidence on the Gender Recognition Act.

Executive Summary

- The Spousal Consent provision in the Gender Recognition Act is a well-designed piece of law which protects heterosexual Trans Widows from the possibility of being trapped, in legally same sex marriages that they did not sign up to.
- The provision provides the option of annulment for women who are not able to divorce for religious or cultural reasons. It is essential that this is retained, to avoid these women being trapped in potentially abusive marriages or being ostracised by their communities or prevented from remarrying, if they divorce.
- Many Trans Widows are able to divorce, and do so either because their spouse has not applied for a Gender Recognition Certificate at the time of the split, or because they feel that divorce is more appropriate to their own circumstances, but we should not forget those who cannot.
- This provision is not a veto on transition and consent is not required for all other elements of transition from wearing different clothes, and changing one's name, to changing the sex marker on one's passport.
- Trans Widows Voices refer to this provision as the "Spousal Exit Clause" as this is an accurate description of its intention and its effect.
- We do not consider that the law needs reforming but we have suggestions of measures which would make this situation easier for Trans Widows and their children.

1. Who are Trans Widows Voices and why are we submitting evidence?

- 1.1. Trans Widows Voices is an organisation which aims to amplify the voices of Trans Widows.
- 1.2. "Trans Widows" is a term now commonly used to describe women who have split, or who want to split from male transitioning partners.
- 1.3. The media tend to focus on the stories of couples who stay together. We aim to redress that balance. For further information see our website <https://www.transwidowsvoices.org/>

1.4. We are submitting evidence because we are the cohort that the Spousal Exit Clause is designed to protect. It is essential that no reform is considered without our voices first being heard

1.5. We are answering the following question; **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**

2. A short clarification of the law

2.1 There has been a great deal of misinformation about this provision in the past. This has led to it being considered by many to be a “veto”. This interpretation is wholly inaccurate. We do not wish to try the Committee’s patience, but for this reason it is prudent to start with a short summary of the law.

2.2 The government’s response to the Gender Recognition Act consultation from September 2020 provides a clear summary of the current law, stating:

- In order to obtain a full GRC [Gender Recognition Certificate], married applicants must have the consent of their spouse. If an applicant’s spouse does not consent, the applicant may be awarded an “interim” GRC, which can be used by either party as grounds to annul the marriage.
- [This] reflected the understanding that marriage is an agreement between two parties, both of whom should have a say in whether they want the agreement to continue in the case of a legal gender change of one of the parties.
- The interim GRC gives either party the possibility to annul the marriage, and the interim GRC holder to obtain legal gender recognition after the annulment of the marriage.

2.3 The provision for annulment, initiated by either party should be noted, and it should be understood that the narrative that this provision is a veto on transition can be negated by simply reading the law.

3. Quotes from Trans Widows

3.1. Trans Widows Voices asked women to submit any contributions that they wished us to make to the Committee on their behalf. Selected quotes follow. As the majority of our contributors are domestic abuse survivors, the quotes are anonymous and any potentially identifying material has been removed. All women have given their permission to be quoted.

3.2. The first quote is from the child of a transitioner who speaks about her mother

“PLEASE, PLEASE emphasize this. [Annulment] Not just because men are trying to dictate their wives sexuality without consent and marriage is about 2 people's consent, but also because my mum had a strong religious faith and HAD to be able to get an annulment in order to remarry, depending on which church she went to. My father was as cruel as possible and very scary. The stigma was horrendous and because my father was in the press for some of his behaviour she was ostracized by some of her friends through no fault of her own and some of my friends at school weren't allowed to have me back at theirs. If she'd been banned from remarrying in church it would have finished her off. It was a desperate time for her, and she was trying to care for 2 traumatised girls.”

3.3 Trans Widow 1

“Not only should the spousal clause remain but legal aid should be provided for the trans widow.

I wanted to divorce my husband when he told me he was a woman. I had been subjected to immense amount of psychological abuse and could not take it anymore. My husband made divorce very hard. He would not resolve financial matters. He took me to court using his new female name over contact with the children. Two years of court hearings and court decided to reduce his contact.

I had to take him to court to resolve financial side for divorce to be granted, which took 4 hearings. He was purposely difficult and it was hard to get information from him. I feel the courts dragged it out because he is transgender. I found it very hard psychologically. It is very hard divorcing a woman when you married a man. If there were no spousal clause would it have been even harder and dragged on for longer?

He had already spent our joint savings on his electrolysis sessions. I had to rely on family and borrow money for legal fees, which were close to £20k. At the time I was unemployed at home with young children .I think legal aid should be provided for the trans widow. It should be obvious they have been subjected to psychological abuse, which continues through the court process. Spousal clause is vital, but I think legal aid should be provided to the trans widow too.

3.4 Trans Widow 2

“In my situation I can't afford a divorce. My husband doesn't seem fussed about it. Maybe there needs to be a provision where trans widows are allowed to divorced/ annul the marriage cost free, or the trans person has to pay the cost as part of their process.”

3.5 Trans Widow 3

“a transwidow should not have her life lied about, and therefore that a) an application for a GRC should be automatic ground for granting a divorce, as well as an annulment, and b) that that the method of dissolution should be that chosen by the spouse/partner if they disagree which [method of divorce should be used.]”

3.6 Trans Widow 4

“I suggest you ensure the court recognises and lists both the new and "dead name" of the trans partner on all documents so like me you don't have to fight to get assets from "her" who has none as they are likely in "his" name.”

3.6 Trans Widow 5

“After all has settled, my biggest bugbear is that I married a man and my [marriage] certificate has a man's name, however my decree absolute shows me divorcing a woman. I realise this is petty but it rages me.”

4 Other relevant issues

4.1 Domestic abuse and coercive control

There is growing evidence that many Trans widows are subject to domestic abuse and coercive control. For further information on this, please see testimonies on our website;

<https://www.transwidowsvoices.org/our-voices>

4.2 Excerpt from Philomena's Story

“When I told my husband I was leaving he said he was going to kill himself. He said I was punishing him for his depression that was caused by the pain of not being able to live as a woman. He said I thought I was better than him, that I was a cruel snob, that I was being coached by “lesbian feminist bitches” and destroying our family and hurting our kids. For years after I got out, he kept trying to control me through threats of suicide. He said he could not live as his true self except with me. When that didn't work, he recruited his brother who gleefully threatened and intimidated me daily for two years. I had escaped the sexual abuse but I was still desperate and bedraggled with three children”

4.3 This issue has begun to gain the attention of feminist writers

- Domestic Abuse Related to Late Transitioning Partners- Part 1 Coercive Control- by Dr Em

<https://uncommongroundmedia.com/domestic-abuse-related-to-late-transitioning-partners-part-i-coercive-control/>

- Domestic Abuse Related to Late Transitioning Partners -Part 2 Gaslighting – by Dr Em

<https://uncommongroundmedia.com/domestic-abuse-related-to-late-transitioning-partners-part-ii-gaslighting-patterns-of-behaviour/>

- The Spousal Exit Clause – Tran Widows Rights are not Yours to Give Away – by @transwidows

<https://uncommongroundmedia.com/spousal-exit-clause/>

4.4 The Spousal Exit Clause is an essential safeguard which assists Trans Widows, many of who are being abused and coercively controlled, to exit their marriage. Any attempt to restrict women from being able to access this should be resisted and treated with suspicion.

5 Trans Widows Voices Recommendations

- a. That the Spousal Exit Clause is retained and acknowledged as an essential safeguard for Trans Widows, particularly those who are unable to utilise divorce.
- b. That consideration be given to strengthening the protection of Trans Widows by making an application for a Gender Recognition Certificate automatic grounds for divorce **as well as** for annulment, for those women who feel that divorce is a more appropriate solution in their own circumstances.
- c. That extra safeguards are put in place to ensure that when consent is given by a spouse to the issue of a GRC that this consent has not been coerced.
- d. That consideration is given to providing Trans Widows with financial assistance to obtain the divorce / annulment.
- e. That it is ensured that name changes that are part of transition cannot be used to obstruct fair financial settlement upon divorce / annulment.
- f. That is acknowledged that people in same sex marriages and civil partnerships are subject to many of the same issues described in this submission, however this is outside the remit of our organisation.

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