

My name is Dr Deborah Hayton, and I am a transgender person. I am also a science teacher and a trade union officer: I sit on the National Executive Committee of NASUWT, The Teachers' Union. This submission, however, is written in a personal capacity because I would like to contribute my first-hand experience of living as a transgender person in UK society.

My submission consists of two parts:

- **Paragraphs 1 – 15. Specific responses to the questions posed in the Call for Evidence,** firstly in respect of the Government response to the GRA consultation, and secondly in respect of wider issues covering transgender equality and current legislation. In brief, I am content with the law as it stands. Transgender people are well-protected, and we have the same opportunities as everyone else to live our lives and contribute to society.
- **Paragraphs 16 – 27. Transgenderism my personal experience.** The assertion, *trans women are women and trans men are men*, is without foundation, but it is the rallying call of a movement that threatens women's sex-based rights and the mental health of children. I argue that it has also damaged the acceptance of transgender people. Transgender rights must continue to be established in objective reality by the protected characteristic of Gender Reassignment. I strongly oppose calls to re-frame our rights in terms of identity by, for example, a proposed protected characteristic of gender identity. Gender identity cannot be defined without recourse to circular reasoning and sexist stereotypes. It would move the basis of our rights from facts to feelings that can neither be proved nor falsified.

I ask the committee to challenge the government in three areas:

- i. **to improve access to transgender health services (paragraph 14);**
- ii. **to provide safe-and-secure mixed-sex provision alongside existing separate-sex services (paragraphs 14 and 26) and**
- iii. **to protect everyone's right to express themselves in ways more typical of the other sex or of neither sex (paragraphs 15 and 27).**

The Government's response to the GRA consultation

1. The Government's proposed changes will make the process kinder and more straightforward. Many government services, for example passport applications, are already online. Moving the Gender Recognition Certificate (GRC) application process online will make it easier to cross reference the notes, check for errors and omissions before submission, and normalise the process as a government service.
2. An administration fee should be retained so that service users (with the means to do so) contribute to the cost of the service. This normalises the process alongside other government services, for example applications for passports and driving licences.

3. The diagnosis of gender dysphoria must be retained. A GRC creates an anomaly where the applicant's legal sex differs from their biological sex. Such a radical step should be based on objective evidence.
4. The two-year rule for "living in an acquired gender" should be replaced with a period of reflection. Living "as a woman" or "as a man" can only be assessed subjectively against socially constructed expectations. The current process sets a very low test: a change of name and the use of that name on, for example, employment records and utility bills. I suggest a period of reflection of six months from the date of application to the issue of a GRC.
5. The spousal consent provision protects the spouse from a unilateral change to a mutual contract between two people. It should be retained. If the spouse does not want to change the terms of their marriage from an opposite-sex marriage to a same-sex marriage, the current law¹ allows the applicant to be granted an interim gender recognition certificate that either party can use to dissolve the marriage.
6. The age limit must not be lowered from 18 years. I am relieved that I did not suffer the pressure to decide my legal sex at such a young age.
7. The changes proposed by Government will make the process simpler and less bureaucratic. Online GRC applications would follow the approach we are accustomed to using for other government services and normalise the process. Online applications can be checked for errors and omissions in real time, copies can be saved securely without generating physical paperwork.
8. I think that "living in role" should be replaced by a period of reflection. Otherwise, I am content with the Government's proposals following the GRA consultation.
9. The Scottish Government's proposals are unsatisfactory because they remove the need for objective evidence in the form of a medical diagnosis of gender dysphoria. That creates opportunity for misuse and risks the credibility of the process.

Wider issues concerning transgender equality and current legislation.

10. I suggest that the low rate of GRC applications arises because transgender people do not need a GRC to live our lives in UK society. Furthermore, we do not need a GRC to change our passports and other descriptive documents; I therefore chose not to apply for one. My birth certificate still defines me as male, but that is a statement of fact: I am male. As a legal male I cannot assert any right to use female services, but I would not do that in any case. I have no wish to impinge on the rights of women, another protected group.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/786910/t455-eng.pdf

11. The interplay between the Gender Recognition Act 2004 (GRA) and the Equality Act 2010 (EA) is complicated because they use the term “transsexualism” differently. The GRA conflated it with gender dysphoria (Para 25(1)²) while the EA defined a transsexual person as anyone who has the protected characteristic of Gender Reassignment (Para 7(2)³). Gender Reassignment is applied more generally:
“A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex.” (Para 7(1)⁴)
The Equality and Human Rights Commission (EHRC)⁵ interpreted that to include purely social changes. Protections established in the GRA for those with a diagnosable medical condition were applied more widely by the EA according to how people lived their lives: “a personal process rather than a medical one” (EHRC⁶).
12. The provisions for single-sex services and separate-sex services are unclear in the EA because it does not distinguish adequately between biological sex (as defined by chromosomes, gonads and sex characteristics observed at birth), legal sex (as might be modified by a gender recognition certificate), and someone’s preferred gender. Clarification is needed to restore confidence in the system. My personal view is that single-sex and separate-sex service providers must be able to demarcate their services by biological sex.
13. The EA adequately protects people who transition to the opposite gender.
14. **Access to Gender Identity Clinics must be improved as a matter of urgency.** For example, Charing Cross Gender Identity Clinic is currently booking first appointments for people who have waited 33 to 36 months. They no longer give estimated wait times to current referrals⁷. For people suffering acute gender dysphoria, medical and psychological support is a far more pressing issue than access to a GRC. More generally, where support services are usually offered on a separate-sex basis, e.g., sexual violence services, **safe-and-secure mixed-sex provision should be offered alongside and in addition to separate-sex provision.** Currently, single-sex provision has often been replaced by mixed-sex provision to accommodate those who identify with the other sex. Additional mixed-sex provision would serve everyone who did not wish to share single-sex facilities with their own sex, including those who identify as non-binary or gender-neutral.
15. The EA does not adequately protect gender non-conforming people who may describe themselves as non-binary or gender-neutral. I suggest that **Statutory Guidance should make it clear that it is not permitted to treat someone less favourably on account of their gender expression,** if they express themselves in a

² <https://www.legislation.gov.uk/ukpga/2004/7/section/25>

³ <https://www.legislation.gov.uk/ukpga/2010/15/section/7>

⁴ <https://www.legislation.gov.uk/ukpga/2010/15/section/7>

⁵ <https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination>

⁶ <https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination>

⁷ <https://gic.nhs.uk/appointments/waiting-times/>

way more typical of the opposite sex, or of neither sex. That protection should be there for everyone to use, under the protected characteristic of sex.

Transgenderism, and my personal experience.

16. Transgender people are widely understood to have a gender identity that conflicts with the sex that was “assigned to them at birth”. Gender identity was defined in the Yogyakarta Principles:

*“Gender identity is understood to refer to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.”*⁸

17. This understanding is without foundation in objective reality. Sex is *not* “assigned at birth”, it is observed and recorded according to clear objective criteria that take account of various intersex conditions that occur within each sex class. Gender identity is unprovable and unfalsifiable, and the Yogyakarta definition depended on circular reasoning and sexist stereotypes. Despite the adoption of this definition by other jurisdictions, for example the state of Massachusetts⁹, this is an unsatisfactory basis for any law and calls to introduce such legislation in the UK must be resisted.
18. The assertion “trans women are women (and trans men are men)” is based on the concept of gender identity. Because gender identity is unprovable and unfalsifiable, this assertion cannot be supported by argument and dissenting voices are often condemned as bigots and transphobes. However, trans women are – by definition – biological males while women are biological females. Male people are distinct from female people, and therefore trans women are not women. Indeed, there is no property that all trans women share with women that they do not share with men.
19. It would be therefore unwise and unsafe to build society on the untruth that trans women are women. Women have established boundaries, and protected their spaces, by biological sex for good reasons, not least safety. It is naïve and potentially dangerous to allow any male person access because they “identify as a woman”.
20. The concept of gender identity has had a devastating impact on children. Young people dissatisfied with their bodies have been led to believe that they can choose their sex. Some are now trying to build their lives on this lie, with disastrous consequences on their mental health. Research¹⁰ and reporting¹¹ of youngsters who have rejected these ideas has been attacked by transgender activists with threats, bullying and harassment.

⁸ <https://yogyakartaprinciples.org/introduction/>

⁹ <https://malegislature.gov/Laws/SessionLaws/Acts/2011/Chapter199>

¹⁰ <https://unherd.com/2018/12/let-scientific-study-become-trans-speech-2/>

¹¹ <https://quillette.com/2020/11/07/gender-activists-are-trying-to-cancel-my-book-why-is-silicon-valley-helping-them/>

21. Because gender identity is unprovable and unfalsifiable, the attempt to reframe transgender rights in terms of gender identity has been progressed by assertion rather than argument. That has damaged the trust and confidence that transgender people rely on to live our lives.
22. My own experience of being transgender has developed over the past ten years as I came out and transitioned socially, medically, and surgically. Initially I believed what I had been told: that I was some sort of woman. That provided a trivial explanation for my gender dysphoria, but it was a statement of belief. Unsurprisingly I was unable to construct an argument to support my claim to be a woman that would convince me, let alone anyone else. That caused me significant distress.
23. I finally found peace with myself when I reconciled myself to my sex and accepted that I did not need to assert a gender identity to break social gender norms.
24. My current understanding of myself is a biological male who breaks those social gender norms to be comfortable in my body and with how I relate to society. I am content because it is self-evident to me and others, and it requires no female gender identity. The protected characteristic of Gender Reassignment protects me from harassment and discrimination, while I could still use my diagnosis of gender dysphoria to access a GRC, should I wish to apply for one.
25. However, this understanding gives me no right to be treated by the law and by society in the same way as a woman, whenever the sexes are served differently.
26. **I therefore ask the Committee to press the Government to consider ways in which safe-and-secure mixed-sex services and provision can be added alongside current provision that is sex-segregated.** The benefits would extend to anyone who did not want to share communal facilities with their own sex. As well as transgender people, this could include parents with young children of the opposite sex and carers of vulnerable adults of the opposite sex.
27. **I would also like the Committee to press the government to improve legislation to protect gender non-conforming people, however they may choose to identify, by protecting their right to express themselves in ways more typical of the other sex or neither sex. That right should also be universal.**

I would be pleased to offer further evidence to the Committee either in writing or in person.
Debbie Hayton

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