

BS Submission to the November 2020 Women & Equalities Committee Review of the GRA (Call for Evidence)

The Beaumont Society is the longest established support group in the UK for transgender people and their families, having been founded in 1966. We were astounded at the Government's response to the evidence collected as part of the consultation in 2018 on possible reforms to the Gender Recognition Act (2004). What follows is our evidence submitted by Dr Jane Hamlin, President, Beaumont Society.

1. The Government's response to the GRA consultation:

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

No. There was very little of substance in the proposed changes. Sadly, it demonstrates that the Government is totally indifferent to the needs of transgender people. The items that were of note (new clinics) were not related to the GRA but to other issues and had already been previously announced. The reduction in the fee is welcome, but it is not a key issue. Putting the process online will do nothing to reduce the bureaucracy. It is quite clear that the Minister has no idea of the difficulties encountered in trying to assemble the large number of documents that those applying for a GRC are required to submit. Some of our members would argue that the problem with a GRC is that it has little practical use in the day to day lives of trans people, and question why a certificate is needed to confirm who we are when we already know that. There is nothing in the Minister's statement of 20th September 2020 that suggests that the process will be "kinder and more straightforward".

b. *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?*

What is the current purpose of the fee? Is it to cover administrative costs or does it function as a hurdle of some kind? We maintain that the fee should either be scrapped or reduced to a nominal amount.

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

Yes. This very process pathologises the perception of gender variance and results in the public perception of it as a mental condition rather than a natural variation in human behaviour. Even the wording of this question (*diagnosis*) implies that being trans is a disorder or illness. It isn't. The process can make trans people feel they are laboratory specimens, being discussed by experts behind closed doors. Psychiatrists specialise in mental illness. We are not mentally ill. This requirement is outdated and was partly based upon the mistaken belief that some trans people "choose" to be transgender and need to be weeded out.

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

Yes. It should be reduced to six months or one year, if it is needed at all. We would also ask for clarification about the status of non-binary and gender-fluid people.

Written evidence submitted by Beaumont Society [GRA0926]

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

The declaration needs to either be removed or adapted to include non-binary or gender fluid individuals. The wording of the entire act as it stands assumes that gender identity is fixed for life in all individuals. This is not always the case.

- f. 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?**

Yes. The spousal consent gives a spouse too much power over the trans individual's life. It is demeaning and runs against the central thread of a person's human rights and civil liberties. Since the Marriage (Same Sex Couples) Act 2013 came into effect for trans people the Spousal Consent is unnecessary. Whatever its original purpose, there seemed to be a lack of clear logic in its formulation.

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

We think this aspect does need to be re-examined. What were the reasons for the original age limit?

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

If you mean the Government's proposals, it will make no difference other than to damage their self-esteem. However, if funding resources for clinics are increased sufficiently to drastically shorten the current appalling waiting times there would be one positive – although, as already stated this has nothing to do with the GRA.

- i. What else should the Government have included in its proposals, if anything?**

The Government should have respected the genuine responses to 2018 proposals. In addition, the government must do more to recognise officially that a significant number of trans people are non-binary or fluid in their gender identity. Currently, people in these categories feel ignored because they exist but are not officially recognised. They feel they are an untidy inconvenience because current laws assume a simplistic binary nature to gender identity, which quite evidently is not the actual situation.

In particular, too many proposals and statements still indicate the lack of a clear demarcation between the separate concepts of gender and anatomical sex. Too much weight was given to surgical and medical interventions because of this lack of understanding. There is still too much ignorance and lack of clarity in society at large. The government has a duty to clarify this – or, at least, make attempts to do so.

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

It provides a good model of a more forward-looking approach to gender issues.

- 2. Wider issues concerning transgender equality and current legislation:**

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

There are a number of reasons.

It is a highly bureaucratic process, much more long winded than the more pressing and practical issues of changing a passport, driving licence, bank account, rent etc. to reflect a change of gender identity. For those who are not themselves householders it is difficult to acquire sufficient utility bills etc. to demonstrate how long they have already been using their acquired identity.

People who transitioned some years in the past cannot obtain the medical documents required, or are required to pay unreasonable amounts for copies. The long waiting times for Gender Identity Clinics also delay the process.

Many trans people are uneasy at being forced to make a binary choice. The peg/hole analogy applies. Formal society seems to have only square or round holes. People are assumed to be either round or square pegs. Society now offers a route to medically convert from a round peg to a square one or vice versa by means of surgery and/or hormones. The GRC legitimises this process. But many of us are pegs of an indeterminate shape and wish to stay that way. It seems that is not allowed. In other words, many trans people are gender fluid, bi gender, agender or similar. What we are is our own affair and should not have to be legitimised by medical intervention or state recognition. We are not a pathology. The GRC is only important to trans people who have that strict binary outlook.

b. *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.*

We recognise that there are rare instances where single-sex safe spaces need to be safeguarded. Our concern is, however, that far too much is made of this factor, such that trans women could experience significant levels of discrimination that could be justified by this aspect. Many trans people were very worried in the spring and early summer by leaks from some parliamentary sources that women and girls were at risk in changing rooms, fitting rooms, because of access by trans women. This argument was scaremongering. Legislation already exists to deal with peeping-toms or sexual predators. Some trans women were even asking: would I be admitted to a rape or domestic violence refuge if I were to need one? The inflammatory language used by a small number of politicians bordered on discrimination.

There have been many scare stories in the media about possible effects of the proposed reforms. They originate from groups who deny the existence of gender incongruence on ideological or religious grounds. They choose to ignore the lived experience of hundreds of thousands of trans people and promote fear of trans people in the wider community.

c. *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?*

If there are few or no recorded incidents of crimes having been committed by people posing as trans at single-sex safe spaces, then why do we need to keep this aspect alive? If this aspect of the Equality Act means that trans-women who have been raped could be turned away from a crisis centre, then that is shameful. And is there any centre in the land that demands to see the birth certificate from a woman before being admitted?

Many of us do not understand the details of these provisions; both their purpose and how

Written evidence submitted by Beaumont Society [GRA0926]

they are regulated in practice. Further clarity is required. All interested parties need to be aware that a move to be more restrictive by insisting that some facilities are deemed “birth-assigned sex only” will inevitably mean that trans men will need to use those assigned for female use. The peddlers of scare-stories never seem to raise this possible consequence. We are aware that intimidation against trans women by other patients can occur when mistakenly placed in male wards.

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

We would point to the advice offered in point 108 of the Women and Equalities Committee Report of 2015-2016. “The protected characteristic in respect of trans people under the Equality Act should be amended to that of “gender identity”. This would improve the law by bringing the language in the Act up to date; and make it significantly clearer that protection is afforded to anyone who might experience discrimination because of their gender identity.” Some trans people are still being denied acceptance at work if they are not perceived as having received medical intervention – despite the ruling in September 2020 where a gender-fluid worker received compensation because of discrimination in the workplace, at an employment tribunal. Many trans people seem still to believe that they must have medical treatment before they are protected by the law. The 2010 Act focussed too strongly on the physiology of “gender reassignment” and is much too closely linked to anatomical issues and other medical interventions. Much recent research (see point (f), below) has shifted the emphasis away from physiology and towards psychological factors in trans people.

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

Waiting lists for medical referral to gender clinics are disgracefully long and there is worry among voluntary bodies such as ours that some trans people are self-harming during the current three year wait. We also hear anecdotal accounts of suicide attempts, particularly among young adults. We also hear anecdotal evidence of a minority of GPs still refusing to treat trans people such that a change of GP is sometimes needed.

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

Our experience suggests that the majority of people who come under the umbrella term of trans are gender fluid or non-binary. They have very little formal protection at present. A recent Employment Tribunal judgement has resulted in much better protection at work, but it was a long time coming. So many of our laws assume the binary model of gender. This has clearly become outdated and out of touch with recent research in the behavioural sciences, anthropology and brain structure scanning techniques, particularly with regard to developmental psychology in the early years of childhood.

All government and civil databases should have a third option of “other” for the gender section.

Better still, the importance of gender on official records and documentation should be slowly reduced. It should only be present when absolutely necessary, for example in the gathering of data to support gender equality issues in the workplace and in society.

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It would seem from the current Government's dismal response to the reforms outlined in 2018, that the Beaumont Society will still be required for some time to come.

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