

UNISON response to the Government’s response to the GRA consultation:

UNISON is the largest public service trade union in the UK, built on a deep commitment to equality and human rights and an understanding of how inequality and lack of respect impact on workers.

UNISON has a proud history of work for LGBT+ equality. We have a very active network of LGBT+ members who are represented in policy making at national level.

Our networks include Bi+ members, trans members, disabled LGBT+ members and Black LGBT+ members. We work with an inclusive, umbrella definitions of Bi+ transgender. Our Bi+ network is for people who feel attraction to more than one gender. Our trans network is for all types of self-identifying trans people; for people with trans backgrounds and members whose gender identity does not fit into the gender binary i.e. non-binary members.

We have a wealth of knowledge and materials to help promote LGBT+ equality within the workplace.

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| <ul style="list-style-type: none">• Will the Government’s proposed changes meet its aim of making the process “kinder and more straight forward”? | <p>NO</p> <ul style="list-style-type: none">• This is a small step in the right direction but leaves a lot to be desired• It is a positive step for the process to be moved online, though we believe that the option to apply using paper forms should be retained for people who do not have access to online forms• It is a positive step to reduce the fee to a nominal amount – but the nominal amount needs to be defined. Also, what is a nominal amount for one person may be unattainable for a low paid person• Research shows that a large number of trans people are not in employment. Even a nominal fee could be beyond their means• We welcome the 3 new Gender identity clinics – but they need to be fully resourced and should be in parts of the country that currently do not have one. |
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Written evidence submitted by UNISON [GRA0940]

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| <ul style="list-style-type: none"> 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? | <p>REMOVED</p> <ul style="list-style-type: none"> As well as the £140 application fee, trans people also have to provide a statutory declaration, two medical reports and a range of identification documents, which can add around an additional £312 to the cost If trans people could self define there would be no need for costly medical reports With a statutory declaration being a legally witnessed document, this should be sufficient for legally recognising self-identity |
| <ul style="list-style-type: none"> Should the requirement for a diagnosis of gender dysphoria be removed? | <p>YES</p> <ul style="list-style-type: none"> The current process to get a Gender Recognition Certificate is long, complicated, costly and medicalised. Being trans is not an illness, therefore no medical diagnosis should be required The requirement for a diagnosis of gender dysphoria positions being trans as a medical condition, which is dehumanising and demeaning and puts many trans people off applying. Gender dysphoria doesn't include the experience of all trans people It should not be up to a medical professional to decide whether someone is 'trans enough'. |
| <ul style="list-style-type: none"> Should there be changes to the requirement for individuals to have lived in their acquired gender for at least two years? | <p>YES</p> <p>Usually people have already reflected for a long time before seeking legal gender recognition. The current reflection time of two years was decided arbitrarily based on a small amount of anecdotal evidence.</p> <ul style="list-style-type: none"> Supporting self-determination could reduce transphobia and discrimination towards trans and non-binary people Trans and non-binary people's experiences of always being waiting to be allowed to be who they are – waiting to come out, waiting for medical treatment, waiting for legal |

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| | <p>recognition – and the emotional, psychological and health impacts of this</p> <ul style="list-style-type: none"> • The wider social implications of trusting trans and non-binary people about their own identities |
| <ul style="list-style-type: none"> • What is your view of the statutory declaration and should any changes have been made to it? | <p>Yes, we believe that the statutory declaration should remain</p> <p>There should be a commitment that it is intended that the change in gender marker is full time but the phrase should be ‘intends to live in the correct gender’.</p> |
| <ul style="list-style-type: none"> • 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? | <p>YES</p> <p>If a trans person is married, the current law allows their spouse to block their application for gender recognition. This denies trans people in this situation the right to determine their own gender identity.</p> <ul style="list-style-type: none"> • A person’s right to be who they are should always be determined by the individual • The current provision gives a spouse a significant degree of control over a trans person • A spouse should not be able to have power over the individual concerned by denying them (or threatening to deny them) the right to determine their own gender identity • The ‘spousal veto’ can increase the harm caused to a trans person by a spouse and can make it more difficult for a trans person to leave an abusive relationship. <p>Instead, we would like to see a system that enables a trans person to get a gender recognition certificate without needing the permission of their spouse.</p> |
| <ul style="list-style-type: none"> • Should the age limit at which people can apply for a Gender Recognition Certificate (GRC) be lowered? | <p>Yes</p> <ul style="list-style-type: none"> • Trans young people and their parents say this can be incredibly damaging, leading to young people being outed or mis-gendered. We believe 16 and 17 year-olds should |

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| | <p>have the same access to recognition, helping those starting full-time work or further education in their true gender.</p> <ul style="list-style-type: none"> • We also want to see a recognition process for under-16s incorporating parental consent. • We encourage young trans people and their families share their experiences of the barriers currently faced due to this lack of recognition. |
| <ul style="list-style-type: none"> • What impact will these proposed changes have on those people applying for a Gender Recognition Certificate, and on trans people more generally? | <ul style="list-style-type: none"> • It is a positive step for the process to be moved online, though we believe that the option to apply using paper forms should be retained for people who do not have access to online forms • It is a positive step to reduce the fee to a nominal amount – but the nominal amount needs to be defined. Also, what is a nominal amount for one person may be unattainable for a low paid person • We welcome the 3 new Gender identity clinics – but they need to be fully resourced and should be in parts of the country that currently do not have one. |
| <ul style="list-style-type: none"> • What else should the Government have included in its proposals, if anything? | <p>Section 22 of the GRA was intended to protect trans people’s privacy by making it an offence for anyone who has protected information about a person’s gender history to disclose it. The current situation is that section 22 is more or less unenforceable, and relies on the Crown Prosecution Service being willing to take the case. The law should be strengthened, so that trans people can be sure of protection against violations of privacy and disclosure of information, and that prosecutions can be made when necessary.</p> <ul style="list-style-type: none"> • The law needs to protect trans people’s human rights to privacy • The impact of someone having their trans status or trans history |

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| | <p>disclosed without their consent</p> <ul style="list-style-type: none"> • The need for the law to be updated to reflect developments since 2004 such as social media and ancestry databases which allow people to look up trans people's birth records, and then publish the name and gender a trans person was once known by. • Malicious breaching of privacy should be considered a transphobic hate crime |
| <ul style="list-style-type: none"> • Does the Scottish Government's proposed Bill offer a more suitable alternative to reforming the Gender Recognition Act 2004? | <p>YES</p> <ul style="list-style-type: none"> • That the removal of need for current medical requirements is a very positive step forward • The reduction of only needing to live in their acquired (correct) gender being reduced to 3 months is a very positive step forward • The need to apply to the Register General rather than the Gender Registration Panel is another positive step forward, • It is disappointing that 16 & 17 year old people will not have the same access to Gender recognition We believe 16 and 17 year-olds should have the same access to recognition, helping those starting full-time work or further education in their true gender • We also want to see a recognition process for under-16s incorporating parental consent. • We encourage young trans people and their families share their experiences of the barriers currently faced due to this lack of recognition • It is disappointing that there will still be no legal recognition for non-binary people • The UK is falling behind other countries by refusing to recognise |

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| | non-binary as a valid identity. |
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Wider issues concerning transgender equality and current legislation:

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| <ul style="list-style-type: none"> Why is the number of people applying for GRCs so low compared to the number of people identifying as transgender? | <ul style="list-style-type: none"> The cost of applying for a GRC is Expensive The process is too bureaucratic There is still spousal veto There aren't enough GIC's Waiting lists for GIC clinics are too long Medical reports can only be obtained after attending a GIC Unsympathetic sections of the health service (including frontline NHS services) |
| <ul style="list-style-type: none"> 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. | <p>That the language has moved on since both Acts were introduced and is now dated</p> |
| <ul style="list-style-type: none"> 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? | <p>The Equality Act 2010 will not change, and it allows communal accommodation such as shared sleeping accommodation to be provided for one sex only and for trans people (including those with a GRC) not to be admitted if it is a proportionate means to achieve a legitimate aim. This exception would not change.</p> <p>Women's organisations already support trans women in the services that they provide – this includes women's refuges and other services working with vulnerable women.</p> |
| <ul style="list-style-type: none"> Does the Equality Act adequately protect trans people? If not, what reforms, if any, are needed | <p>The Equality Act does not protect all trans people as there is no provision for non-binary people</p> |
| <ul style="list-style-type: none"> What issues do trans people have in accessing support services, including | <ul style="list-style-type: none"> Lack of provision of services due to |

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| <p>health and social care services, domestic violence and sexual violence services?</p> | <p>the lack of funding</p> <ul style="list-style-type: none">• Health and social care staff being more concerned about being a trans person that the reason for visiting the service• Statutory services (such as the NHS) slow to update systems etc• Obstructive people who don't understand (or don't want to understand) trans issues• Lack of trans awareness training for staff at all levels• Unwieldy systems (eg trans men may still need smear tests, trans women may need prostate tests, but systems often may not allow for that) |
| <ul style="list-style-type: none">• Are legal reforms needed to better support the rights of gender-fluid and non-binary people? If so, how? | <p>YES</p> <ul style="list-style-type: none">• Currently you can only be legally recognised as male or female.• This does not work for non-binary people. This means a large group of people face inequalities and discrimination because their identity is not recognised in law.• Instead, we would like to see legal recognition for non-binary people. |

November 2020