

Written evidence submitted on behalf of Conservatives for Women.

1. **Conservatives for Women** are Conservative Party members and supporters. We campaign within the public sphere, and in the heart of Westminster, to raise awareness of issues which threaten the safety and dignity of women. We defend science, reason, free speech, and the need for the open tolerant debate that underpins our society.

<https://conservativesforwomen.org>

We speak on behalf of over 1000 women who signed our pledge:

<https://www.ipetitions.com/petition/conservative-womens-pledge>

2. **Summary**

2.1 This is, in law, a sex-based rights argument about who comes within the class of men or women in Section 11 of the Equality Act.

2.2 Law must be written with clear definitions; terms such as ‘trans people’, ‘gender-fluid’ and ‘non-binary’ have no agreed definition and therefore have no place in legislation.

2.3 Sex is observed at or before birth, recorded and registered. It is binary and immutable.

2.4 Everyone in the UK is free to adopt and express any form of ‘gender’, but that does not and can not change one’s biological sex.

2.5 All proposals to reform the Gender Recognition Act 2004, along with determining how it interacts with the Equality Act 2010, must take into account the effects on the whole population. In particular they should be assessed for their impact on women and those who have other protected characteristics. The GRA does not exist in a vacuum.

The Government's response to the GRA consultation:

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

3.1 Almost all existing procedures to determine 'status' are also lengthy and intrusive, (e.g. residency for foreign nationals, citizenship, disability status for PIP) and trying to make a legal process 'kind' is very subjective.

3.2 We have seen no evidence that applying for a Gender Recognition Certificate is unkind and not straightforward, in fact there is evidence to the contrary:

<https://mforstater.medium.com/long-slow-demeaning-intrusive-and-distressing-or-swift-professional-and-efficient-e100f2fb41f8>

3.3 We recommend the Government should take this evidence of users of the process into account before suggesting any changes be made.

4. 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?

4.1 Applicants can already apply to pay a much reduced fee and it is comparable to fees for other legal documents such as those for obtaining a passport.

4.2 It is also important to retain gatekeeping around how easy it is for individuals to obtain a Gender Recognition Certificate. The Certificate allows a legal fiction; the fiction that a person is the biological sex which they are not. This is not costless for society and that must not be lost sight of.

For example, it creates significant systems complexity for the NHS. If the NHS were to record only 'gender' that potentially creates serious risks for the health of people who hold GRCs and who are a different underlying sex. If it were to record only sex that is regarded as offensive by some people who hold GRCs. Nevertheless this would reduce systems complexity and ensure those with GRCs get the health care they need, sometimes urgently.

4.3 We recommend the fee should be retained.

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

5.1 No. The requirement for a diagnosis for gender dysphoria must be retained. Allowing people to live by the legal fiction that they are the sex which they are not has significant implications.

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5.2 We referred to the complexity for the NHS above. The Prison Service has also struggled and has made catastrophic mistakes - including allowing violent, physically-intact, male rapists into women's prisons. These examples show that the Gender Recognition Act has serious implications for society, beyond the group of people immediately affected.

Many women fear the presence of biological males in their safe spaces and sports. It can be argued that this is a separate issue solvable by making absolutely explicit within the Equality Act that single sex spaces are just that. Nevertheless pressure continues from some gender lobbyists for people who hold GRCs to gain access to opposite sex spaces.

5.3 It is arguable that if the GRA process is kept very tightly focused on those few individuals with severe dysphoria, then better outcomes will be possible for this specific group as well as for women.

5.4 We recommend that a diagnosis of severe 'gender dysphoria' is the only justification for allowing the GRC process.

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

6.1 The requirement for individuals to have lived in their acquired gender for at least two years should be retained.

6.2 The legal fiction that the GRA creates is unmatched in other areas of law. It creates implications for how all of us understand the interface between reality and the law - biological sex is binary and immutable, yet we still have to deal with this legal fiction. It has implications for our ability to manage data accurately and for complex system design wherever sex matters.

6.3 It creates confusion and cost for our public services where underlying biological sex very much matters (for example the NHS and prisons as above).

6.4 Most importantly, it creates complex issues around the management of women's single sex spaces and opportunities. These will be best managed only with careful gatekeeping to the GRC process.

6.5 We recommend that the requirement must be maintained, and that there is clear gatekeeping around the concept, and that only those with diagnosed severe gender dysphoria and with a clear evidenced commitment to live as the other sex should obtain a GRC.

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

7.1 It should be retained. However, acquired gender cannot mean simply gender stereotypes such as clothing or hairstyles - it must surely relate to more fundamental aspects of being human and being male or female.

7.2 That women who have obtained GRCs have gone on to give birth has already created new legal tangles and complexities - such as the desire to be recorded as a 'father' on a birth certificate. This has created dispute around the meanings of some of our most important and emotive words - such as the meaning of 'mother'.

7.3 We continue down this path at some peril with respect to our collective understanding of science, biology, shared language.

7.4 A better solution would be to consider whether, if a biological woman gives birth, her GRC is rescinded. It is also important to consider the rights of the child in these cases. Every human has a mother - the person who gave birth and life.

7.5 We recommend that consideration should be given to creating circumstances in which a GRC is rescinded. For example, if a biological woman who has obtained a GRC to become legally male chooses to become pregnant and to give birth, it can hardly be said that she is living in her acquired gender 'until death'.

7.6 We also recommend that if a person commits a violent crime, in particular a crime of a sexual nature, their GRC should be rescinded. It is not right, and is indeed cruel, that a woman who has had an act of violence committed against her by a biological male, should be required in any forum or format to refer to that person as a 'she'.

7.7 Finally, we also recommend that nobody who has already committed a violent crime should not be able to obtain a GRC. Anyone applying for a GRC should be subjected to a thorough background check in order to prevent fraud and the possibility of someone being able to hide their past by acquiring a new birth certificate in a new name with a changed sex marker which could endanger other members of the public.

8. 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?

8.1 No, and in fact it may need to be further strengthened. This provides protection to spouses such that they may leave the marriage rather than be 'forced' into a 'same-sex' marriage. This needs to stay.

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8.2 Additionally it protects lesbians and gay men in same sex marriages from being forcibly made legally heterosexual.

8.3 In this debate there is a tendency to centre the concerns of the transitioning partner. Little attempt is made to seek the opinions of the people for whom this has a devastating effect on their lives (mostly women, the partners of late-transitioning males, and their children).

8.4 We recommend the committee take very careful note of the experiences of some of these women.

<https://www.transwidowsvoices.org/>

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

9.1 No. In an ideal world, people should only be able to apply for a GRC when they are 25 years old, eighteen year olds are still developing both mentally and physically.

9.2 There is a dramatic increase in the number of people identifying as 'trans' or 'non-binary'. We personally know young people who have changed their identification more than once as different identities become more prevalent, for example on social media. Teenagers we know have identified as 'trans', then as the opposite sex, now as 'non-binary'. It could be catastrophic for young people to commit to permanent changes when they are still exploring their identities.

9.3 We recommend the age limit should not be lowered, and that the Government commissions research into the surge in young people, particularly girls, who are presenting at Gender Identity Services.

9.4 We also recommend the Government should commission research into the increasing number of young women who have gone on to regret the decisions they were allowed to make at such a young age; it is clear many of these young women were not mentally and emotionally mature enough to make such a life-changing decision.

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

10.1 As mentioned in our summary above, with no clear definition of 'trans' people we are unable to provide a useful answer.

10.2 We recommend the Government only use legally definable terms when discussing Acts of Parliament and their effect on citizens.

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

11.1 There is increasing concern from women, who are clear that their single-sex services, spaces, sports, and provisions are being threatened by the argument that biological males can 'self-identify' into them. Women's dignity, privacy, opportunities, and safety are at risk.

11.2 There is now growing concern in society about the prevalence of 'gender ideology', particularly in our schools, which necessitated the Department of Education to issue guidance:

'You should not reinforce harmful stereotypes, for instance by suggesting that children might be a different gender based on their personality and interests or the clothes they prefer to wear' and 'teachers should not suggest to a child that their non-compliance with gender stereotypes means that either their personality or their body is wrong and in need of changing, teachers should always seek to treat individual students with sympathy and support.'

<https://safeschoolsallianceuk.net/2020/09/27/ssa-uk-statement-on-new-dfe-guidance-on-teaching-of-rse-in-schools/>

11.3 The original purpose of the GRA was to give relief and dignity to a tiny number of people with evidenced severe gender dysphoria. (Initial estimates, as referenced in Hansard at the time were c5000). The provisions cannot cope with a surge in numbers of people exploring identities different to their biological sex.

11.4. It may be that this is a passing trend. However if it continues, the GRA will continue to come under pressure, as will the medical ethics around transitioning, and women's single sex spaces and opportunities.

11.5 We recommend the Government commits to undertaking a wider consultation with women over the impact of the Gender Recognition Act and the concept of a legal fiction around sex and gender.

11.6 We also recommend the Government puts in place a review process - for example, a review in five years time as to whether the GRA should be abolished altogether. The justification would be that in our significantly more tolerant society, men and women can live, dress, present as they please without the need of a legal fiction.

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

12.1 No. It is proposing to reduce the age of application from 18 to 16, reduce the time 'living as' the opposite sex from 2 years to 6 months, and allow self-identification of 'gender' by just a statutory declaration, therefore allowing a change of birth certificate with no medical gatekeeping whatsoever.

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12.2 We are opposed to this for all the reasons we have already mentioned in answer to previous questions.

12.3 We recommend that any further discussion on reform to the GRA or to the 2010 Equality Act should be subject to wide-ranging consultation with grassroots women's groups and those with other protected characteristics.

Wider issues concerning transgender equality and current legislation:

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

13.1 Again, we dispute the language used here, 'identifying as transgender' has no meaning in law or to the general public, because every person, and indeed every organisation you ask will give a different interpretation.

13.2 The GRA was written to attempt to assuage the severe gender dysphoria of a tiny number of people and enable them to marry. The marriage issue is of course now moot.

13.3 We recommend the Government does not broaden the parameters of the GRA to enable a vast number of people (up to half a million) to obtain a Gender Recognition Certificate and therefore an altered birth certificate stating they were born as the opposite sex.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721642/GEO-LGBT-factsheet.pdf

14. 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.

14.1 Yes. The way the terms gender and sex are used creates confusion. All law in the UK should be clear that sex is binary and immutable.

14.2 Disentangling and properly defining the words 'sex' and 'gender' is required to ensure that both sex and gender reassignment can be maintained as protected characteristics in the Equality Act.

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14.4 Legal recognition of 'acquired gender' does not amount to a change of sex, notwithstanding that obtaining a GRC means someone can change the sex marker on their birth certificate.

We understand doctors are supposed to tell their patients that any hormone therapy and 'gender reassignment surgery' does not change your sex.

14.5 Any legal recognition of alternative identities to one's own biological sex should only refer to 'gender'. But if gender is purely about self-expression / inner identity, it is arguable that this is not an area for the law. A society anchored in reality needs the law to always recognise an individual's true biological sex. A society anchored in freedom should allow individuals to express their identities however they want in their private lives but the law does not need to get involved in gender identity or expression.

14.6 We recommend the GRC panel need to clearly spell out to applicants that a GRC does not mean you have changed sex, nor does it confer upon you the sex-based rights of the opposite sex.

14.7 We also recommend the Government conduct a full audit of all departments' policies and procedures. The word 'gender' when they are actually referring to 'sex' should be removed and replaced with 'sex'.

15. 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?

15.1 No, they are not clear and yes, further guidance is needed. That guidance would be better framed as telling service providers they MUST provide single-sex spaces and services, and that they are under an obligation to do so to preserve the privacy, dignity and safety of women and girls.

15.2 A very good example is in the NHS guidelines on single-sex wards.

https://improvement.nhs.uk/documents/6005/Delivering_same_sex_accommodation_sep2019.pdf

Clearly single-sex accommodation is necessary as stated here in the foreword: "All providers of NHS-funded care are expected to prioritise the safety, privacy and dignity of all patients. Adherence to this guidance is an essential part of this. In April 2011, reporting of breaches to same-sex accommodation guidance became mandatory. Since then, trusts have continued to report on a monthly basis and there have been huge improvements in privacy and dignity." However, throughout this document the terms 'sex' and 'gender' are used interchangeably even though they do not mean the same thing.

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15.3 We then get to Annex B and see:

“Non-binary individuals, who do not identify as being male or female, should also be asked discreetly about their preferences, and allocated to the male or female ward according to their choice.” There appears to be no concern shown for the other patients; if a man states he is ‘non-binary’ he should just be placed on a female ward. This is unacceptable, and breaches the rights of those patients.

15.4 The previous incarnation of the Women and Equalities Select Committee in fact made recommendations on the provision and funding of single-sex provisions and services that have yet to be acted upon. Perhaps the committee could revisit those recommendations (numbers 14 and 15) in the document linked below.

<https://publications.parliament.uk/pa/cm201919/cmselect/cmwomeq/96/9602.htm>

15.5 We recommend that the Equality Act should be amended to make it absolutely clear that single sex spaces are single sex. That is single biological sex, not gender. Service providers should feel free to provide third spaces for both sexes to use if they have evidence that customers/users would value them.

15.6 We also recommend that the Government issues clear and unambiguous guidance, with relevant examples, and advises all parties who have been using incorrect guidance (often provided by lobby groups with vested interests) that they should immediately withdraw that guidance.

15.7 Finally we recommend that there is a public information campaign conducted to publicise this guidance.

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

16.1 It is rightly illegal to discriminate against people with the protected characteristic of gender reassignment and the law protects those people. ‘Trans people’ has no definition in law nor even in real life, therefore this is moot.

16.2 We therefore have no recommendations on this apart from reiterating our recommendation above at 14.6 and 15.4

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

17.1 Some people who claim to have an inner gender identity different to their biological sex also claim that that identity is fluid and varies from day to day.

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17.2 We recommend that if separate and specialist services are provided there should be some way of gatekeeping them so that only people with a clearly diagnosed and/or identified need are able to gain access.

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

18.1 It is neither possible nor desirable for laws to specifically address all forms of individual self-expression that have no fixed definition. People are free to express themselves and identify themselves however they want to.

18.2 However there is no reason for anyone else to have to affirm or agree with these forms of self-expression.

18.3 We recommend the Government confirm, and commit to, people's freedom of speech and freedom of conscience on issues surrounding 'identities'.

November 2020