

The Government's response to the GRA consultation

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

Unfortunately, no, the proposed changes do not appear "kinder" because they do not address the hurdles that the current system places upon trans people. The fact that only 12% of trans individuals in the UK complete the process for obtaining the Gender Recognition Certificate is an indication that trans people do not see the certification as helpful to their lives. The Gender Recognition Certificate perpetuates the societal message that trans lives should be hidden, assuming that a minority requires protection from violence. While a helpful step when passed in 2004, the GRC does not reflect the views of a widely accepting society in 2020, in which trans individuals can live more openly and should be treated equally to cis-gendered people.

The goal to reduce waiting lists is welcomed, but unless health services are removed from psychiatric evaluation and assumptions of mental illness, the proposed changes will make very little difference. According to the current system, trans people are trapped within a malfunctioning and specialised branch of expertise involving on-going psychiatric evaluation. Many trans individuals have no history of mental illness, yet they are required to undergo multiple evaluations by psychiatric experts in order to remain for years on waiting lists in order to access health services.

Rather than normalising trans individuals by providing additional education to local GPs, trans individuals are typically routed to specialised Gender Identity centres that first require psychiatric evaluation for blood tests and other routine procedures. The marginalisation of medical care often incurs expense due to traveling great distances for care at specialised centres (London, Manchester and elsewhere), missing additional work hours, and requiring multiple appointments in order to pass through psychiatric evaluations prior to medical care.

In addition, once routed into the "gender care" services, trans people run into extremely long waiting lists, which means being locked into a system of periodic psychiatric evaluations (which otherwise expire) while waiting for years to access medical services. If a trans person is eventually "discharged" and later requires care determined to be "specialised," they are once again required to re-enter the same slow system and pass through psychiatric evaluation. In many cases, the medical services deemed "specialised" would not be considered as such if the person were not trans.

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?

The current GRC process should be replaced with one involving statutory declaration. The fee should be removed - there is no reason to charge a fee for allowing people to live their lives as who they are. Many trans people are also unemployed or on low incomes - any fee, however nominal, might be out of reach. There are also often additional hidden costs to do with the need for additional medical testimony and oversight of statutory declarations - solicitors' fees, fees for medical reports and fees for changing gender markers on identification documents such as passports. These other financial burdens should also be examined, and removed if it is possible to do so.

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

Yes - the drawn out process of confirming the diagnosis of gender dysphoria, under which trans individuals are locked for life into a medical system that requires reconfirmation and verification of the diagnosis by psychiatric expertise, is pathologising and infantilising and perpetuates the misperception that being trans is a mental illness. The diagnosis removes autonomy from trans people and yokes legal recognition to medicalisation. In 2019, the World Health Organisation removed 'gender dysphoria' from its global manual of diagnosis, confirming the international health community's conclusion that this is not a disease. Trans people are subjected repeatedly to degrading and invasive questioning by psychiatrists about the most intimate aspects of their sexuality and anatomy, always with the implied threat that if they do not comply or "answer correctly" they might be set back on already excruciatingly long waiting lists for medical care.

Trans people should not be subject to mandatory and outdated diagnoses in order to get their basic rights recognised. In addition, the incorrect link with mental illness creates disparity in access to health care -- forcing trans people onto pathways for specialised psychiatric services and subjecting them to backlogged waiting lists for basic medical procedures. Cis-gendered people are not required to undergo psychiatric evaluation or multiple-year waiting lists for access to the exact same medical procedures.

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

Yes - this is an unnecessary burden. Having to collate a significant amount of evidence can cause delays and distress. The EHRC has also said that many trans people may find it difficult to demonstrate lived experience even if they have it, because of their higher risk of unemployment and homelessness which means they may not have easy access to documents such as passports, driver's licences,

Written evidence submitted by Centre for Gender Studies [GRA0970]

payslips and utility bills. Young people may have more problems producing two years' worth of evidence, especially if their families are not supportive, and people from communities where trans identities are particularly stigmatised may also find it difficult.

Additionally, the decision-making process is not clear. Even if you have lived in your 'acquired gender' for two years, if you have been issued a deed poll with your new name one year ago, you will almost certainly be denied your Gender Recognition Certificate. None of the rules are clearly explained before applying, which may impact on people with mental health issues or learning disabilities in particular.

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?

The 'spousal consent' provision is effectively a spousal veto. Gendered Intelligence reports that 44% of trans people's spouses have tried to stop their trans partner transitioning, and 29% have made getting a divorce intentionally difficult for their trans partners. The spousal consent provision can be used by abusive partners in the service of coercive control and it should be removed.

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

Yes - this is in line with rights of 16 and 17-year olds to marry, work and be held legally responsible for their actions. They should be able to change their birth certificate to match who they are.

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

The proposed changes will make very little difference to trans people. The consultation outcome seems to have reinforced a message of inequality and reconfirmed misperceptions: that trans people cannot be viewed as experts in their own right or trusted to speak for themselves. Trans people are viewed with suspicion, almost equated with criminality; living openly as trans overwrites any professional qualifications. These pejorative associations with trans identities prevail when a discussion of granting rights to this group is instead perceived as presenting a threat of physical violence to others. The overall resulting message to trans people of keeping the GRC is reinforced: that one cannot live openly and be trans and that society does not welcome trans people equally.

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

Trans people would like the process to involve a straight-forward statutory declaration, similar to the systems currently in place in Ireland, Norway, Argentina and many other countries around the world. The current GRC process should not be revised, it should be replaced entirely.

Wider issues concerning transgender equality and current legislation

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

Trans people are already subjected to excessive bureaucratic hurdles in other areas of their lives and having the GRC is not perceived as making much of a difference in one's day to day life. Trans people want to get on with their lives and asking individuals to see benefit in paying to be evaluated by yet another team of experts -- as if they are begging or should be grateful for the privilege -- is demeaning. Furthermore, the GRC process is overly medical, places excessive burdens on applicants, is expensive, pathologising, infantilising and confusing - and this is well known.

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

According to a 2018 survey by Stonewall, two in five trans people said they had dealt with medical staff who had not understood their needs. There is often ignorance of rudimentary facts and a failure to observe even basic practices such as using the correct pronouns. There are also negative attitudes, and trans people often feel disrespected and discriminated against. There is little official guidance available, although this is improving slowly with documents produced by the Royal College of Nursing and Royal College of General Practitioners, for example.

Galop has highlighted that there are still significant barriers to trans victims/survivors of domestic abuse seeking support. This may result in trans victims/survivors being excluded or hesitant in approaching services for help. Trans women may be especially mistrustful of women's services following the very toxic 'debate' over the GRA reform, in which some women's groups suggested that trans women were sexual predators. There are also significant barriers to trans men - there are few services accessible to men as a whole and the complexities faced by trans men are not well understood. Non-binary people may also feel excluded from both women-only and men-only services.

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

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Non-binary people are not legally recognised, which leaves them with inconsistencies in important documents as well as a lack of recognition in day to day life. Non-binary people deserve be recognised and treated with respect. The GRA is not working for the whole trans community if it leaves non-binary people out and a non-binary category should be established in UK law on the basis of self-identification. In the absence of this (and as the EHRC has recommended), sex markers on administrative forms, identity documents and data collection forms should be reviewed to facilitate inclusion.

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