

## **Written evidence submitted by Young People's Advisory Service [GRA0978]**

*Who we are:* Established in 1966, YPAS has been delivering counselling services in Liverpool City for over 50 years. From 1 counsellor working out of a small office, we now have a team of professionals working across 3 locality hubs in Liverpool, delivering a range of counselling, therapy and support services to Liverpool's children, young people and families. Our LGBTQ+ projects GYRO were established in 1976 and offer LGBTQ+ youth support via 1:1 and group provision to children, young people and their families across Merseyside.

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

We believe that the proposed changes do not meet the aim of making the process kinder and more straightforward. Overwhelming feedback to the initial consultation suggested that the current process of requiring a diagnosis, submission of a medical report and review from a 'gender recognition panel' who do not meet the person going through the process would need to change to make the process kinder and more straight forward. These barriers to accessing a GRC are still in place and could not be described as kind.

### **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 fee for obtaining a GRC should be removed. Trans people face significant barriers to fair employment, high costs to meeting their trans affirming health and wellbeing needs. While it is understandable as to administrative costs occurring, one way of reducing this would be to streamline the process by removing the gender recognition panel and meet the needs of a minority group protected from discrimination by Equality Act 2010. How can it be more significantly more expensive to access a GRC than a UK passport? We expect more compassion and understanding of barriers to financial capital to minority groups, in this case transgender individuals to be considered when providing services for them.

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

Yes, pathologising trans people as needing to have a diagnosis of any 'disorder' to access a GRC is ridiculous. The Equality Act 2010 has the protected characteristic of 'gender reassignment' which is inclusive of anyone proposing to pursue treatment and not exclusive to people who have undergone treatment or who have a diagnosis of gender dysphoria. In order to attain a diagnosis the current pathway would take around 3+ years from point of referral to a Gender Identity Clinic, thus providing yet more barriers and causing more significant distress to people needing access to a GRC. We are rightly moving away from pathologising trans and gender diverse people as needing to have a diagnosis in order to live a full and fulfilling life in their acquired gender.

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

There should be no such requirement. What are the parameters to 'prove' the exact date you began living in your acquired gender? The only person who would know an approximate date would be the individual pursuing the GRC. How does one evidence this? Why 2 years precisely? How would a person know to evidence their journey was required to obtain a GRC. This is another unnecessary largely unmeasurable arbitrary task.

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

A statutory declaration should be worded in a way that is much clearer as to the individual's intent and ambition. A statutory declaration should for example be accessible to non-binary identifying people without the requirement to use language that inhibits that expression. We believe a simplified accessible statutory declaration would be well received as part of the evidence gathering process for obtaining a GRC.

**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?**

We would agree that the spousal consent provision in the Act needs reforming. Since the introduction of the GRA, we have seen changes and reforms to the law surrounding marriage itself and we feel it is absolutely necessary that this part of the Act, relating to Spousal Consent, is updated too. Endorsing spousal consent means that a trans individual can be actively prevented by their spouse from seeking appropriate medical treatment or documentation – something that is a intimately personal decision for trans people themselves. Unless the spouse consents for the marriage to continue, a trans person can be blocked from having their identity recognised, which contributes to the practical, financial and bureaucratic hurdles faced by trans people when applying for a GRC. The process gives the spouse overriding control over the legal recognition of their partner's correct gender.

We feel that the requirement of spousal consent is unnecessary, deprives the trans person of autonomy and risks the spouse using this power as a means of control over their partner. With this in mind, we feel strongly that this part of the Act should be removed and that it is another invasion of privacy and autonomy for trans people.

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

We believe that the age at which people can apply for a GRC should be lowered. In the UK, if you are 16 you are given a lot more autonomy and personal responsibility such as being able to leave home,

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changing name by deed poll and applying for a passport without parental consent. They can also marry with parental consent at this age. Given the latter examples, we believe that trans people could also apply for a GRC at this age and a reduction in age limit should be strongly considered. Having a GRC enables young people to apply for a new passport more easily without having to supply surplus other letters and proof of gender. Passports are a costly and at times challenging process alone, without the added necessary loop holes required in order to change gender and name. Young people have fewer forms of identification and having to use a birth certificate as a form of identification as a trans person risks the individual facing discrimination and harm. We feel that lowering the age to 16 is appropriate and necessary.

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

We feel that these proposed changes will have little impact on those applying for a GRC and on the trans community more generally as only minimal administrative changes have been revised. We feel that if trans people will still be required to gather evidence to submit to a Gender Recognition panel, the process is not becoming any kinder. We feel that there is a huge opportunity missed to really ensure the trans community are treated equitably and with respect throughout this process, and within our society.

With the latter in mind, we feel that the proposed changes will not encourage individuals to apply for a GRC and therefore suggesting it has failed to support trans people through not revising many of the issues identified in the initial inquiry. The proposed changes also fail to extend to non-binary people and so fail to be inclusive and impactful to all gender-variant people.

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

The Government's proposal has failed to address the medicalised process of applying for a GRC. We feel that the current process is dehumanising, excessive and pathologising of trans people and those proposed changes make no attempt to address these issues. We feel that removing the requirement of a medical diagnosis and the Gender Recognition panel would be steps in the right direction to ensuring a kinder process is established, allowing trans people to correct their gender on documentation without facing bureaucratic and belittling hurdles. Currently we feel that the Gender recognition panel has too much power on what should be a personal decision and process. The Government should also ensure the proposals strive for a more inclusive Act whereby under 18s, non-binary and gender fluid people are included. Non-binary people currently have little legal protection and no legal gender recognition in the UK and Government must act to address this.

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

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Yes. The Scottish Government's proposed Bill offers a more suitable alternative to reforming the GRA as it strives to de-medicalise the process for trans people. These proposals offer a much fair process for those applying for a GRC, making it easier for trans people to correct the gender of their birth certificate without requiring a medical diagnosis to do so. The medicalised nature of the current GRA is one of the major problems and one we feel the current proposals in England are failing to recognise and meet. By removing the requirement of a medical diagnosis, the Scottish Bill would create a kinder, simpler and less intrusive way of correcting their documents.

The Scottish proposed bill however does not provide any legal recognition to non-binary people which is very disheartening and disappointing.

### **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?**

The process of applying for a GRC is overly complex, bureaucratic, intrusive and expensive. The fact that the number of transgender people applying for a GRC is so low is indicative of the process being unfit for purpose. We work with young people up to the age of 25 years and, by the time, they have reached 18+ and are old enough to apply for a GRC, most of them will:

1. Either, not bother as they have heard how difficult it is.
2. Or, it is not even on their radar as they are able to change other important documents, such as passport, driving license, college ID, name, etc., without a GRC.

The transgender young adults we work with are more likely to consider obtaining photo ID documents as a higher priority than obtaining an updated birth certificate. This is especially true when this can often be done at no extra financial cost, and in a much less intrusive manner than the current GRC process, which is described as 'humiliating' in the government's own Transgender Equality Report.

#### **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.**

The language and terminology within the Equality Act 2010 can be viewed as outdated, problematic and confusing. Terms such as 'gender reassignment' and 'transsexual' are overtly medicalized terms that, when used in the Equality Act 2010, imply that only those trans people who undergo medical transition are protected. The purpose of the Equality Act is to protect all transgender and gender variant people, regardless of their medical status or whether they have a GRC, but the current terminology used confuses this message. Also, the use of terms such as 'gender reassignment' and 'transsexual' can be interpreted in limiting ways and, as such, make it unclear

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how those who identify as non-binary are protected under the Equality Act. A broader definition of who is protected from transgender discrimination may help to supply more clarity in this area.

### **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?**

The legal protection of transgender people under the Equality Act should be clear that this also applies to their use of single sex spaces, as transgender people can often be some of the most vulnerable individuals in our society. They are more often at risk, rather than being a risk to others. There may be a lack of clarity in the current wording of the Equality Act, especially around what is 'a proportionate means of achieving a legitimate aim', but any reform that may be considered needs to be highly sensitive to all needs and ensure that it is not at the detriment of the human rights of transgender individuals. If transgender people were excluded from accessing single sex spaces, then this would cause some individuals significant harm, as those most at risk and in need of support may not come forward due to fear of being turned away when they are most in need.

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

Hate Crime has increased dramatically over the last few years and, it could be argued, that this is in some part influenced by what can only be called a campaign of hate and misinformation from parts of the mainstream media. It has become part of the norm to give platforms to individuals who wish to debate the existence of transgender people and restrict their access to health care and to public spaces. This narrative has been given oxygen by the toxic debate and delays around the reform of the Gender Recognition Act. Therefore, any discussion of reform of the Equality Act needs to ensure that transgender people are not again allowed to be thrown under the bus and have their right to basic human dignity discussed and challenged in such a one sided manner, as we have seen recently. If the Equality Act is to provide adequate protection to transgender people, then they need to feel confident that all forms of discrimination against them is seen as wrong, legally and morally. They also need to have confidence in other legislation and processes, such as being able to report hate crime and know that it will be dealt with appropriately.

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

Transgender people face multiple barriers in accessing support services. Not least of these is the fear of having their identity invalidated, dismissed, questioned, pathologised, or, directly

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discriminated against. The transgender young people and young adults we work with face multiple barriers in accessing health services, including gate keeping, refusal to make referrals to GIC's, being referred to mental health services instead of a GIC, and constantly being mis-gendered and/or dead-named.

They often face unnecessary difficulties that are a result of a lack of training, ignorance, or, prejudice. This experience often leads them without the support that they need when they are vulnerable. As a working professional, it is often frustrating, difficult and disheartening to try to navigate some of these pathways on their behalf. This gives us just a small indication of how difficult it must be for the individuals themselves and how near impossible it must feel for those individuals who are vulnerable and without support.

All of this is exacerbated by the crisis that exists in trans health care. It is a national disgrace that young people and adults are waiting up to 3 years to be seen by a specialist gender identity clinic. This is against all standards and targets and has a significant impact upon the mental health and well-being of the transgender community.

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

Non-binary and gender fluid people do not currently have any legal recognition of their identities. If we wish to acknowledge the right to protection of all individuals within our society then reform on this is urgently required. The Gender Recognition Act needs to go beyond the binary and include provision for the recognition of non-binary identities. The Equality Act also needs to make it clear that all gender identities are part of a protected characteristic by the rewording of 'gender reassignment' to 'gender identity'.

There also needs to be reform to a number of administrative processes in order to enable the provision of gender-neutral markers on documents. For example, passports and driving licenses should have X options that enable people to be identified on their documents as non-binary.

Any legal reforms would need to be discussed and properly consulted with non-binary and gender fluid individuals to ensure that their needs are understood and reflected in any future reforms.

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