

**Reform of the Gender Recognition Act (GRA)
Women and Equalities Committee: Call for Evidence
November 2020**

National Education Union (NEU) Submission

The National Education Union (NEU) stands up for the future of education by bringing together more than 450,000 teachers, lecturers, support staff and leaders working in maintained and independent schools and colleges across the UK. The National Education Union is the UK's largest education union. We are an effective and powerful voice – championing everyone who works in education.

The NEU welcomes the opportunity to respond to this inquiry on the Government's proposed changes to the gender recognition process and whether these changes go far enough to improve and promote trans equality.

The reforms are relevant to our work both because our members include trans educators and because many of our members work with trans young people.

The NEU believes that our education system should create a teaching and learning environment that allows all children and young people to be themselves. We also believe passionately in equipping teachers with the skills and professional confidence to challenge stereotypes that limit and harm children, including trans children and young people. Education can play a key role in increasing equality- given the right education policies.

We welcome the introduction of statutory relationships, sex and health education this academic year. We will continue to work with the profession to ensure that teachers feel empowered to deliver a RSHE that take a human rights approach and that is LGBT+ inclusive.

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

We see very little evidence of the Government trying to make the process kinder and more straight forward for trans people.

At the heart of the matter are concerns raised by trans people in the Government's¹ own analysis: trans people overwhelmingly report that the current process is 'too bureaucratic, time consuming and [...] makes them feel dehumanised and stressed.'

This is supported by the information that we receive from members. In one survey with trans members, of the 24% who had applied for a GRC, many reported that it is time consuming, expensive, confusing and makes trans people feel excluded from the process. A widespread concern is that "proving" your gender to a panel is dehumanising and degrading.

We do not believe that the Government's current proposals address these concerns and the level of distress reported by trans people.

¹ King, D et al (2020) [Gender Recognition Act. Analysis of consultation response](#): Government Equalities Office, p11

Written evidence submitted by National Education Union (GRA1325)

Issues of bureaucracy may be improved by moving the process online but cannot be the end point, or the sole solution to the issues raised. For those people without access to a computer or the internet, this may make things more difficult. It will be important for the process to be available on and off-line to make it accessible and supportive.

In 2018, we outlined our ideas for what a reformed GRA should look like. These recommendations are based on an approach around rights and taking barriers away rather than a medical process. We think the process should:

- Not require a medical diagnosis
- Recognise non-binary identities; and
- Give all trans people the right to self-identification, through a simpler and streamlined administrative process.

None of these issues have been acknowledged. If the Government is genuine about making the process '*kinder and more straightforward*' for trans people, it must de-medicalise the process.

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?

We do not believe there should be a fee. We welcome the Government's announcement to reduce the £140 cost to a 'nominal' amount. Future reforms should remove the cost to guarantee that there are no financial barriers.

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

In 2018 the NEU recommended that there should not be a requirement to have a medical diagnosis of gender dysphoria in order to get a GRC. This recommendation was also supported by nearly two thirds of respondents to the Government's GRA consultation².

There are a range of reasons why we believe that a medical diagnosis should be removed:

- Nearly half of our members in an NEU survey reported that a requirement for a medical diagnosis is demeaning: it assumes that they are not capable of describing their identity.
- It adds another unnecessary levels of bureaucracy and anxiety to obtaining a GRC. One NEU trans member said: "I've spent more than two years waiting to see a GIC just so I can get a diagnosis to allow me to get surgery. I was trans before this waiting list and I'll be trans after. The only thing about the diagnosis is that I've had to wait and suffer in a 'in-between sexes' state".
- While we welcome the announcement for 'at least three' new Gender Identity Clinics, it remains to be seen whether this will be sufficient to reduce the long waiting times that make this process so unnecessarily long.

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

² Ibid, p41

Nearly four in five (78.6 per cent) of respondents to the Government consultation on the GRA called for the removal of the requirement for individuals to provide evidence of having lived in their 'acquired gender' for a period of time³.

The NEU is concerned about the way "proof" is assessed and that stereotypes about women and men, including how they dress, act and look are reinforced by this requirement.

The two year period of gathering evidence before applying raises many barriers and pressures for trans workers, which can undermine mental health and wellbeing. One trans member stated that within the two years they may have missed the opportunity to be registered as the father of their child because they were waiting for legal gender recognition.

NEU trans members felt that 'two years' was an arbitrary amount of time that was not justifiable and helped contribute to the stereotype that trans people do not know themselves or cannot be trusted to make decisions about their identity.

Not all trans people want to change their name or title; and this makes the process of gathering evidence difficult. This is a very real barrier, and cause of anxiety, for people considering applying for a GRC. It is clear from our work with trans members that it dissuades some people from applying altogether.

Support for trans students

The NEU has provided guidance to our members on how to support trans and gender questioning students: <https://neu.org.uk/advice/supporting-trans-and-gender-questioning-students>

We look forward to working with the EHRC to further develop advice on how schools can support and promote the rights of trans young people.

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

As above, the NEU does not think the proposals go far enough and will have enough of an impact on those applying for a GRC.

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

We believe that the Government should do more to address the overly bureaucratic and medicalised process which makes many trans people feel dehumanised, demeaned and causes unnecessary anxiety and stress. As a minimum, proposals should have included removing the requirement for individuals to have lived in their acquired gender for at least two years and require no medical diagnosis to get their identity legally recognised.

Wider issues concerning transgender equality and current legislation

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 NEU welcomes the fact that there is no intention to amend, or weaken, the necessary exemptions and Genuine Occupational Requirements in the Equality Act 2010.

³ Ibid. pp 9

Written evidence submitted by National Education Union (GRA1325)

The NEU recognises the right and the need for safe spaces for specific purposes, including the need to have single sex spaces to counter sex inequality. Women, including trans women, and many other specific groups of women, continue to be subject to high levels of violence and abuse across society. Refugee women have specific experiences and barriers and face particular forms of harassment, for example.

Specialist single-sex services should continue to be funded and commissioned in order to meet specific needs of different groups of women, and in fact, additional funding is required from Government.

We are concerned that public sector cuts are threatening and reducing the commissioning of specialist services, particularly domestic and sexual violence services for all women. Specialist services for Black women and girls have been particularly affected by these cuts. Sex discrimination and patterns of violence against women and girls remain deeply embedded and founded on stereotypical and restrictive attitudes about women, and on racism. Sex equality remains a goal for the UK but certainly not a reality.

Providers of single sex services must be enabled to understand and manage the exemptions that exist under the Equality Act 2010, including the provision which allows them to decline a person with the protected characteristic of gender reassignment, provided that doing so is a 'proportionate means of meeting a legitimate aim.'

Further clarity in this particular area of the Equality Act 2010 would be helpful in order to ensure that services are approaching this in sensible ways.

We support the recommendations from the inquiry on 'Enforcing the Equality Act: the law and the role of the Equality and Human Rights Commission' which states that '*in the absence of case law the EHRC develop, and the Secretary of State lay before Parliament, a dedicated Code of Practice, with case studies drawn from organisations providing services to survivors of domestic and sexual abuse. This Code must set out clearly, with worked examples and guidance, (a) how the Act allows separate services for men and women, or provision of services to only men or only women in certain circumstances, and (b) how and under what circumstances it allows those providing such services to choose how and if to provide them to a person who has the protected characteristic of gender reassignment.*'⁴

A code of practice should make it clear that it is unlawful to arbitrarily refuse a trans man or women to a single sex service: there must always be strong reasons for doing so in any individual circumstance.

Equality Act

Sex discrimination remains deeply prevalent in the majority of workplaces in the UK. Pay gaps remain, pay progression is affected by sex discrimination and a range of stereotypical attitudes and prejudices hold women back. It is important that sex inequality is understood and analysed and that the everyday sexism experienced by women staff is tackled more effectively.

We think the Government should support/require employers to:

- Undertake effective equality impact assessments
- Commit to reducing the gender pay gap

⁴ <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/1470/147002.htm>

Written evidence submitted by National Education Union (GRA1325)

- Investigate and report to a central body all incidents of sexual violence and harassment
- Provide a legal route for trade unions to enforce anti-discrimination legislation on behalf of its members.
- Appropriately resource schools and colleges; cuts to education funding has disincentivised employers from putting measures in place to advance equality and tackle sexism in the workplace. Similarly, all government agencies and regulators involved in enforcing workplace rights and safety must be adequately resourced.
- Reinstate legislation so that employment tribunals are given the power to make wider recommendations for the benefit of the wider workforce, not just the individual claimant, in relation to discrimination claims.
- Bring back third-party harassment protection. There must be an effective and concerted campaign to raise public awareness that employers must protect workers from harassment, including sexual harassment in the workplace that can be devastating. The current time limits for taking a harassment claim are not sufficient to facilitate recovery and justice. At least 6 months is needed for this process.

November 2020