

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"?

No . This will make very little if any difference to most trans people. These reforms take a overly complex difficult process that exist in paper format and turns it into an overly complex and difficult process online . Which actually reduces its accessibility to only include people with access to computers and the knowledge to use them. Online options should be available but not the only option.

The second part of this is " kinder and more straight forward" is a meaningless term without substance – How is it kinder or more straight forward.

The fundamental issue is without a GRC in your birth country then it makes accessing other aspects of life; and universal rights more difficult for trans people than non trans people; impacting abilities to apply for passports, visas, entry to universities etc. in other third party countries .

In terms of equality the current proposals absolutely failed and did nothing to improve the situation for which was the basis of the intial consultation was undertaken

- 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?

While £140 does not sound a great deal of money, it is a hurdle for trans people who are disproportionately represented in unemployment figures and in a recent survey it was found 3 in 10 businesses said they would absolutely not employ a trans person. 8 in 10 have no specific provision or policy relating to the employment of trans people.

By having a fee – any nominal fee that goes beyond the actual cost of filing the request is harmful and unfair as an undefined fee is prone to change without notice.

The other issue is the time and effort taken in compiling evidence to submit to a panel to prove; in essence – who you are. In no other aspect of life is such a burden placed on an individual to "prove" they are who they say they are.

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

Under the current healthcare provisions in the UK – absolutely the requirement for medical diagnosis should be removed.

The gate keeping steps to diagnosis, while originally well intentioned are woefully outdated by the fact waiting list are absurdly long in 2020. The average wait for diagnosis in the UK for most adults is 5-7 years. In adolescents the situation is more dire as many teenagers “time out” of adolescent services and have to re-join the que for adult services. Over this time many trans people will transition socially and be living in role for a number of years making diagnosis mostly redundant

By keeping this provision you are medicalizing a social and human rights issue which is against the recommendations of the WHO, who do not recognise gender identity as a medical issue . This position by the UK government is fundamentally inequitable as while waiting for diagnosis trans people have no clear specific legal protections in the UK and no real international protections as a trans individual; which unfairly limits potential and opportunity for trans people relative to their cis counterparts.

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

This provision again is mostly outdated and difficult to prove. And why should such a provision be in place. Again this specific gatekeeping of fundamental rights behind an arbitrary delay is cruel and unfair.

If gender identity is considered (wrongly) as a medical condition and that transition and a GRC is considered therapeutic; then there are no other conditions; that I am aware of where the state mandates that an individual has to prove they have a condition for 2 years before treatment is given.

Equally if it is considered a social or civil matter; then again I am unaware of any circumstance that a natural born citizen of the UK would have to wait 2 years to prove their status before being given a document that ensures they have the same rights as any other citizen. For example we do not make parents wait 2 years before registering a child's birth – to make sure they are alive.

This is an unusual anomaly in UK law; and is inherently unfair.

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

The statutory declaration as stands puts an unfair list of demands onto a trans person to prove who they are; and in some instances brings in third parties (spouses) to give defacto autonomy over an individuals rights and identity.

Also with the requirement for evidence including payslips discriminates against self employed trans people and people without continual employment and gives an opportunity for others, intentionally or not; to influence decisions by miss-gendering or refusing to change name or gender markers on official documents such as payslips without a GRC or birth certificate. Given this is a requirement to get a GRC it puts people into an impossible catch 22 situation

The statutory declaration should be just that; a declaration that may have legal consequences but that should only involve the individual and the state and no outside parties.

Including other people in allowing them to have undue influence over this matter puts the trans individual in a position of disparity and prone to accepting unfavourable conditions to aid in co-operation.

Given that a GRC has impact on fundamental human rights and impacts an individual in life decisions it is unreasonable not to reform the statutory declaration

- 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?

There should be provision in divorce or dissolution settlements to allow a no fault settlement to be reached should one party acquire a GRC. Since the inception of the 2004 GRA act there have been significant changes to Divorce proceedings in the UK and the current spousal provisions are inadequate in their current form and should be dropped.

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

Given the impact that the GRC can have on overseas travel and applications for visas and work permits; consideration should be given to the impact the delay in application would have on an individuals opportunities.

Given parental or guardian oversight and consent I do not see the need for an age limit for the application of GRC certificate as it leads to inequality.

- 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 have little or no impact on trans people applying for a GRC, as the change affect very little practically.

The proposed new clinics would be beneficial – if they were not empty promises which the trans people have heard time and time again. The proposed new clinic in Manchester (for example) – that has still not materialized was discussed in 2019 and prior to that. We are now in December and there is very little progress or discussion about new clinics, that should not be attached to the GRA reform process at all and should be implemented to address the overwhelming need for either greater capacity or general reform of the NHS pathways to better represent best practice. The UK lags significantly behind many other countries in this regard and is becoming an outlier representative of one of the most oppressive and unfair provisions in the developed world – in the EU ahead of only countries such as Poland and Hungary

In addition the discussion and the toxicity about the debate in the UK press and from some members of the UK parliament over the last number of years has significantly had a detrimental effect on the lives of trans people .

Adequate reform and confirmation of Trans people being real and respected people by the state would go some distance to take some of the toxicity out of the debate and progress to other matters.

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

It is my view that the government absolutely mishandled this situation, put personal bias ahead of the welfare and consideration of its citizens and has effectively by doing nothing – has slipped backwards in terms of equality.

If the government could include anything it would be the provision of actual meaningful reform of the 2004 GRA act as the current proposals do little if anything to achieve that proposed goal.

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

No answer given

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

Simply because the process at the moment is invasive and not suitable for purpose. It is another unnecessary hurdle in the lives of trans people who already need to address other unnecessary and unfair hurdles in life .

The GRA was purposefully put in place to make the process of gender recognition possible but difficult given attitudes at the time.

The reason why so few trans people bother applying for a GRC is essentially an attrition issue. If you are already living and working in role and caught up in the everyday pressures of normal life then subjecting yourself to yet another process with significant demands is daunting .

The other practical issues are time and bureaucracy. Because the medical diagnosis provision is based on the approval of a small number of doctors on an approved list it is possible that in the time between an individual getting a diagnosis and applying for a GRC the doctor who approved the diagnosis may have retired or died making them no longer approved, and the diagnosis invalid. People have been refused GRC based on typographical mistakes or simple errors and given the time and expense involved in the process this shouldn't happen.

Only you can live in your head – Only you can say who you are - Applying for a GRC to say who you are should be simple – but the GRA in its current form purposefully makes this process long, expensive, difficult and draining; and is representative of the Governments attitudes to trans people in general.

If they could do one thing to make the GRC uptake more representative then they could make the simple things in life simple.

- 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 2010 EA act implies selfID of people in the process of gender reassignment (which in the UK can be many years long) should be protected in law.

The GRA is a long and drawn out process which requires transition to be almost complete before consideration is given for legal recognition and

requires both spousal consent and medical diagnosis and therefore is not consistent with selfID.

The issue with the wording in the 2010 act is it is unclear what is protected in terms of gender reassignment which leads to unnecessary ambiguity in law.

Some use this as the legal interpretational basis that legal protections of trans people in accordance with 2010 act against discrimination are only provided to people with a valid GRC⁽¹⁾. But this discriminates people going through the process of gender reassignment and people under the age at which they can apply for a GRC and leaves them with little legal protection.

Absolute clarification is required to ensure, as far as practical issues of ambiguity are reduced, and protection is provided to those who need it.

This maybe accomplished by enacting actual reform of the GRA to integrate more usefully with 2010 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?

In the 2010 act it is clear that exemptions must be for a specific purpose and be proportionate. This needs clarification and should explicitly rule out the use of exemptions as the basis of blanket discrimination where no specific aim is met – e.g. bathroom bans, inclusion in sports.

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

It should – but due to the ambiguity of the legislation – fails in many aims. Clarification of who and what is covered by the legislation; with consideration of how status is acquired would improve the legislation meet its required aims.

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

At current writing due to the ambiguity in the 2010 act it is unclear how trans people should be treated leading to uneven provision where trans men are excluded from public health schemes such as cervical screening

to people being put on wards based not on their appearance but on the basis of inaccurate legal certification.

The most striking aspect of the GRA consultation to me was the high number of Trans people who would not reach out for help from domestic violence charities on fear of being rejected on the basis of being trans. A not insubstantial fear based on the public comments of the CEO of one of the UKs leading charities (Woman's Aid) stating her belief shelters should be single sex provisions only – which is discriminatory and only achieves the goal of assuring that trans women will stay in abusive and violent relationships due to the obvious discriminatory language and also propagates the belief that trans women are dangerous and not “real” women.

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

As with many aspects of gender recognition in law the UK offers scant if any protection of gender diverse population and this needs urgent reform.

On a more general notice

This was an opportunity for the UK government to show the world it was still a world leader in the provision of an inclusive society.

Allowing gender identity to be described by the individual and not by a doctor or their spouse or an invisible panel should in 2020 be a fundamental right .

By making this more simple it simplifies other processes and can lead to the reduction in ambiguity in equality law legislation. By allowing an individual the right to outline at the beginning of a process their intent (even on an interim basis) to change genders and live their lives as their authentic selves and allowing this process to be simple but legally binding; and potentially subject to review; would allow for clarity in terms of who should be protected under law and reduce the potential for abuses and inaction and increase the safety of everyone.

This was a simple process and the Government has shown it is not adequately engaging with the people most effected by this process. The reforms are laughable and inadequate and are simply a can kicking exercise as the lack of real reform only necessitates the call for further reform in the future.

1 : (<https://www.pinknews.co.uk/2019/10/30/center-parcs-trans-woman-changing-rooms-equalities-act-victoria-hodges/>)

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