

Response to The Women and Equalities Select Committee's 'Reform of the Gender Recognition Act' Inquiry

This response has been created by staff in the LGBT+ team at Off the Record BANES, following consultation with ten young people attending the LGBTQ+ youth group Space. The young people wish to submit evidence through Off the Record to reflect their experience as LGBTQ+ and gender diverse individuals. They wish to comment on the Government's proposed changes to the Gender Recognition Act 2004 and to reflect on both the Gender Recognition Act 2004 and its interaction with the Equalities Act 2010.

Off the Record Bath and North East Somerset (OTR) improves the emotional health and wellbeing of young people. We want every young person in Bath and North East Somerset and beyond to be emotionally healthy, confident, and empowered in themselves.

We provide a range of free services including counselling, listening support, youth participation, advocacy and specialist groups, support for care leavers, and targeted support for LGBTQ+ young people including three youth groups (Space, Outer Space and Space 2B), 1:1 support from members of the LGBT+ staff team, and LGBT+ counselling.

Space is a youth group for 13- 21-year-olds (up to 25 for individuals with special educational needs). We provide a safe space for young people to be themselves and get information and support on LGBTQ+ issues. It is a chance to meet and make new friends. We chat, cook, have fun, play games, get involved with local community projects, raise awareness, celebrate key events on LGBTQ+ calendar, invite guest speakers and go on trips. In the academic year 2019-2020, Off the Record's LGBT+ services were accessed by 403 young people, attending group sessions, 1:1 support, counselling and workshops. During the COVID-19 pandemic, Off the Record has continued to offer weekly Space sessions and 1:1 support, through a mixture of online, telephone and face-to-face delivery.

Section 1

Question 1- Will the Government's proposed changes meet its aim of making the process "kinder and more straight forward"?

No. We are disappointed with the Government's response as we believe that more needs to be done to make the process "kinder and more straight forward". Several barriers remain in place that gatekeep and exclude transgender people from accessing legal recognition of their new gender. Such barriers include but are not limited to: the cost to apply for a GRA Certificate; long wait times for Gender Identity Clinics; the requirement for a diagnosis of Gender Dysphoria; a lack of understanding and training surrounding transgender issues and health by health care professionals such as GPs and nurses; having a board who decide if you are 'trans enough' to receive a Gender Recognition Certificate and; not legally recognising non-binary identities and the diverse spectrum of gender identity.

Question 2- 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?

Yes, a fee for obtaining a Gender Recognition Certificate should be removed. A fee of any amount will always exclude certain transgender people from applying for a Gender Recognition Certificate as they will not be able to afford this fee.

Question 3- Should the requirement for a diagnosis of gender dysphoria be removed?

All the young people agreed that there should not be a requirement for a diagnosis of gender dysphoria for adults who wish to apply for a Gender Recognition Certificate. It was also acknowledged that not all transgender people experience gender dysphoria. Not all transgender people may want or be able to seek medical intervention or to medically transition.

Question 4- Should there be changes to the requirement for individuals to have lived in their acquired gender for at least two years?

Yes, the requirement to live in your acquired gender for at least two years should be removed. The current period of two years is too long and is not safe or possible for all trans people. It could also cause inconvenience, discrimination, or transphobia towards the transgender individual if their birth certificate does not reflect their acquired gender identity. Additionally, the requirement to provide evidence that a transgender individual has lived in their acquired gender for two or more years creates distressing and unnecessary barriers to obtaining a Gender Recognition Certificate. Living as the acquired gender for at least two years means that transgender people are pressured to conform to gender stereotypes for fear of not being considered 'trans enough'. The requirement to live in their acquired gender may also exclude non-binary and gender diverse individuals from receiving a Gender Recognition Certificate.

Question 5- What is your view of the statutory declaration and should any changes have been made to it?

The requirement for a statutory declaration creates an unnecessary financial burden upon transgender people. The act of applying for a Gender Recognition Certificate is an act of declaring the intent to permanently live as a transgender person's acquired gender. The process of making a statutory declaration is also time consuming.

Question 6- 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 in the Act allows for abusive spouses to prevent a transgender person from acquiring a Gender Recognition Certificate. Consent should not be required from a spouse.

Question 7- Should the age limit at which people can apply for a Gender Recognition Certificate (GRC) be lowered?

Yes, people under the age of 18 should be able to apply for a Gender Recognition Certificate. It was proposed that if transgender individuals under 18 were able to apply for a Gender Recognition Certificate, they could be considered on a case by case basis. People, especially those under 18, have different experiences and needs and a blanket rule such as the current age restriction is an unnecessary barrier.

Question 8- What impact will these proposed changes have on those people applying for a Gender Recognition Certificate, and on trans people more generally?

The Government's proposed changes will do little to increase the low percentage of transgender people who apply for a Gender Recognition Certificate. The process is not very accessible. The process creates an unnecessary burden upon transgender people, especially those of non-binary and gender diverse identities who are not currently legally recognised.

Question 9- What else should the Government have included in its proposals, if anything?

The Government should have legally recognised non-binary identities.

Question 10- Does the Scottish Government's proposed Bill offer a more suitable alternative to reforming the Gender Recognition Act 2004?

The Scottish Government's proposed Bill is a more suitable alternative to reforming the Gender Recognition Act 2004, but it could still be improved to further support transgender individuals.

Section 2

Question 11- Why is the number of people applying for GRCs so low compared to the number of people identifying as transgender?

The process to apply for a Gender Recognition Certificate is an unnecessarily difficult and costly process. Many view it as outdated and bureaucratic, and are discouraged from applying for a GRC due to barriers outlined elsewhere in this submission, including the requirement to live as acquired gender for 2 years, and to 'prove' one's transgender identity to a panel. The process also does not account for the diversity of gender identities that can be included under the transgender umbrella.

Question 12- 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.

No however, the Acts could benefit from updated terminology.

Question 13- 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?

Yes, the provisions in the Equality Act for the provision of single-sex and separate-sex spaces and facilities are clear and usable for service providers and service users. Despite the Equality Act 2010, many transgender people experience harassment and discrimination in single-sex spaces from service provider and service users who do not understand or have adequate knowledge of the Equality Act 2010.

Question 14- Does the Equality Act adequately protect trans people? If not, what reforms, if any, are needed?

The Equality Act does not provide clear and definitive protection to non-binary and gender diverse individuals.

Question 15- What issues do trans people have in accessing support services, including health and social care services, domestic violence and sexual violence services?

Unfortunately, many transgender people experience gatekeeping, discrimination and transphobia from inadequately trained support service providers and professionals. All support service staff should be required to complete training which promotes the rights and needs of transgender individuals.

Question 16- Are legal reforms needed to better support the rights of gender-fluid and non-binary people? If so, how?

Yes. Gender-fluid and non-binary people should be able to legally change their gender to reflect their gender identity. This should include gender markers on passports other than 'male' or 'female' or the removal of gender markers from passports. Gender-fluid and non-binary identities should also be accommodated for in systems such as the NHS and National Insurance Numbers. Additionally, gender-fluid and non-binary individuals should be explicitly recognised and protected by law.

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