

Women and Equalities Committee call for evidence - Gender Recognition Act 2004

Q1 Will the Government's proposed changes meet its aim of making the process "kinder and more straight forward"?

I honestly do not believe so.

Moving the application process online adds little, and although removing the fee (or "reducing it to a nominal amount") is welcome, in reality the application fee is only one of the cost trans people applying for a GRC have to cope with.

The costs trans people have to incur to access the required medical reports can easily dwarf the GRC application fee itself – especially as the current long (of the order of years) waiting lists for even an initial appointment at an NHS Gender Identity Clinic mean that patients may have to pay for private consultations in order to obtain the paperwork to satisfy the requirements of the GRC application process.

Similarly, opening three new gender clinics – while welcome – will do little to reduce the current and completely unacceptable waiting times at existing GICs from a period of several years to anywhere near the NHS target of 18 weeks.

Q2 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?

I believe it should be removed.

The need for medical reports from gender clinicians should also be removed for similar reasons (see Q1 above). Replacing those with a statutory declaration as proposed by the original government consultation would undoubtedly also reduce the administrative burden on NHS and private clinicians.

Written evidence submitted by Anna Jayne Metcalfe [GRA1381]

Q3 Should the requirement for a diagnosis of gender dysphoria be removed?

Yes. Like the rest of the population, trans people are incredibly varied, and it should not be surprising that not all suffer from gender dysphoria.

Equally, long term transitioned trans people (of whom there are large numbers without a GRC) may no longer have access to documentation of their original dysphoria diagnosis.

Hence by requiring medical evidence of such a diagnosis, the GRC application process is effectively encouraging such patients to mislead clinicians in order to obtain the requisite paperwork.

Q4 Should there be changes to the requirement for individuals to have lived in their acquired gender for at least two years?

The two-year period has always seemed somewhat arbitrary to me. I would note that the Scottish Government GRA proposal reduces this period to 6 months.

I believe that the two-year period was originally based on the NHS requirement for patients to have been transitioned for two years before becoming eligible for surgery.

Given that international WPATH standards recommend surgery being available (if medically indicated and desired by the patient) one year after transition, the two-year eligibility requirement for a GRC application seems arbitrary at best.

Q5 What is your view of the statutory declaration and should any changes have been made to it?

As far as I am aware the existing statutory declaration does not require any changes.

Written evidence submitted by Anna Jayne Metcalfe [GRA1381]

Q6 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?

I believe that it should be removed.

If a trans person is in a position to apply for a GRC, they have, by definition, already been transitioned for some time and may even have already undergone surgery.

That being the case, if a spouse or civil partner were to object to a GRC application, how could that possibly help their marriage or civil partnership? What would they lose if the application went through?

Given the GRA passed a year before the Civil Partnerships Act, I would argue that the spousal consent provision itself is deeply rooted in the fear of being perceived as in a “gay relationship”. That is, in itself, a form of entrenched homophobia which has sadly been encoded into law.

So what rights does the spousal consent provision actually protect?

Q7 Should the age limit at which people can apply for a Gender Recognition Certificate (GRC) be lowered?

Yes. There is no reason that Gillick Competence should not apply here.

Q8 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 would have very little impact because of the continued requirement for medical evidence (which is unobtainable to many because of the state of NHS trans healthcare) and the lack of an appeal process.

Q9 What else should the Government have included in its proposals, if anything?

Despite its lack of recognition of the needs of nonbinary people and trans people under 18, the original government proposal was far better than this one.

So even bringing back the original proposals would be far better.

Written evidence submitted by Anna Jayne Metcalfe [GRA1381]

Q10 Does the Scottish Government's proposed Bill offer a more suitable alternative to reforming the Gender Recognition Act 2004?

The Scottish Government proposals are much more in line with international best practice and the changes that trans people have been hoping for.

They not however address the needs of nonbinary trans people or trans people under 18.

Q11 Why is the number of people applying for GRCs so low compared to the number of people identifying as transgender?

I would suggest that that is a direct consequence of the current application process. The current process is so expensive, picky and bureaucratic that very few of the trans people I know have applied for a GRC.

Even leaving aside the medical requirements of the application process and the "debate" over self-ID, arguably the two things that could be done to make the whole process more accessible would be to make it more flexible, and add a right of appeal by independent third parties.

By way of illustration: a post-op friend of ours (who has been transitioned for over a decade) recently had her GRC application rejected because she could no longer produce a particular piece of (now irrelevant to her day to day life) historic paperwork. There was no appeal process— just an impersonal blanket rejection letter – and I imagine she now has no way to obtain GRC. Many long term transitioned trans people are likely to be in a similar position.

Q12 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.

Not that I am aware.

Most of the confusion arising in this area seems to arise as a result from a campaign of deliberate misinformation about the scope and effect of both Acts.

Q13 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?

As far as I am aware, they are very clear and the Equality Act is functioning as intended.

Written evidence submitted by Anna Jayne Metcalfe [GRA1381]

Q14 Does the Equality Act adequately protect trans people? If not, what reforms, if any, are needed?

Within its defined scope, I believe it does. I would not recommend reopening the Equality Act.

What it obviously cannot protect against is the sort of campaign of disinformation we have seen in the 16 in the past few years, and which is taking a toll on all trans people I know – including me.

Q15 What issues do trans people have in accessing support services, including health and social care services, domestic violence and sexual violence services?

That is a huge question.

Ignorance about trans people and the support we need is rife, and training and education are sorely needed. Ignorance means that even simple things like finding a suitable GP, accessing the family courts or finding housing can be fraught with danger.

The current media disinformation campaign is not making it any easier, either.

Fear is a huge factor.

Q16 Are legal reforms needed to better support the rights of gender-fluid and non-binary people? If so, how?

Absolutely.

It goes without saying that none of the nonbinary people I know have any form of legal recognition.

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