

Submission

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

No. Sex is an observable category which allows for analysis of sex-based equality/discrimination.

Removing the requirement for a medical justification for a GRC allows anyone to change legal sex for any reason. This effectively removes single sex provision completely. A GRC removes the ability of institutions to accurately ascertain a person's physical sex and permits people who have no intention of physically or socially transitioning to bypass safeguards based on sex e.g. same sex carer, health professional or chaperone.

The GRA 2004 was designed for transsexuals who, by definition, suffer from gender dysphoria and usually seek full medical transition. It was not intended to permit transvestites, cross-dressers and others with no medical need to transition to obtain legal recognition as the opposite sex.

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

No, I think this is important. Changing legal sex should take serious consideration and not be able to be done "on a whim" or for nefarious purposes e.g. access to vulnerable people of the opposite sex; access to services or jobs currently restricted to one sex for reasons of safety, dignity, privacy; scholarships, shortlists etc designed to address inequality between the sexes.

- 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 is consistently misrepresented by activists and lobby groups and is poorly understood generally. It is already difficult to divorce on the basis of a partner undergoing gender reassignment, even if the behaviour surrounding the process would normally be considered "unreasonable" for the purposes of divorce e.g. Spending joint funds or running up debts in joint names in order to fund cosmetic and private medical treatment.

Spousal consent does not limit a person's ability to apply for a GRC but it does allow the spouse (usually female) to extricate themselves from a marriage which has broken down due to a fundamental change to the

circumstances of the union i.e. what was a heterosexual marriage now becoming a homosexual one. The annulment permitted is quicker, less expensive and less stressful than a divorce and allows the non-transitioning spouse to exit the marriage with dignity.

People should also be permitted (and supported) to seek divorce/annulment when their partner takes significant steps towards gender reassignment and not just when they apply for a GRC.

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

No – changing sex is, and should be, a huge proposition. There is no reason a child should be able to take such a major step before adulthood. We consider 18 to be the threshold for many, less serious and permanent, decisions to be taken autonomously e.g. marriage, tattoos. The new prevalence of minors being given powerful drugs to help them change physical sex characteristics is not a reason to open up the possibility of legal sex change to teenagers.

The pressure on schools to incorporate children who wish to present as the opposite gender as if they have changed sex is immense. I worked at a girls' school which was pressured to admit a "transgender" child in Year 7. If this child had opted not to take medication they would have gone through male puberty while sharing changing spaces, toilets and residential accommodation with girls, including those from conservative religious households.

Permitting 16 year olds to become GRC holders would make it impossible for schools to retain single sex spaces and would seriously impact safeguarding. A school could be forced to accommodate a male, who may have had no medical treatment, in a female dormitory on a school trip and be obligated not to acknowledge this to the other students or inform parents or even staff at the accommodation.

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

I think the proposals should have offered a revised version of the GRC. There is no need in modern society for a full change of legal sex and it causes more problems in society than it solves for the small number of individuals it was intended for (<5,000). Possession of a GRC ensures male prisoners will be housed in the female estate, no matter what their stage of physical transition (if any) and no matter what their crimes. This is unconscionable. It means employers may be forced to permit a GRC

holder to carry out tasks which are single sex in nature – intimate searches, intimate health and personal care, supervision of single sex spaces used by vulnerable adults or children, counselling victims of sexual violence. They are bound by law not to reveal the person's trans history, even if it is obvious to the patients or customers they are caring for, and taking steps to honour a patient or customer's request for a same sex carer by excluding the GRC holder from certain activities may leave them open to legal action.

I feel strongly that there is limited need for the Gender Recognition Certificate at all in its current form. In practice, most trans people find they can easily change the majority of documents and records with a simple request e.g. driving licence, NHS, banks etc. Passports still require a doctor's letter but everything else is as straightforward as changing name or title.

The only additional documentation a GRC confers is a reissued birth certificate. There are very limited benefits to this for most people and the reasons for applying for a GRC seem to be related to marriage in the acquired gender (arguably the reason the GRA 2004 happened in the first place, and largely supplanted by same-sex marriage) and personal validation of their transition.

I feel the consequences of issuing a GRC i.e. a person's legal sex changing, the impossibility of ascertaining their birth sex for purposes of employment or safeguarding and the enforced secrecy around their transition history, are also now outdated. Trans people are broadly accepted socially, very few live like traditional transsexuals, in stealth and "passing" as their acquired sex. The protections conferred by a GRC are not appropriate for someone who intends to remain physically and visibly the sex they were born.

I think the ideal outcome of the consultation would be a revised GRC concept. I would like to see state recognition of gender recognised *in addition to, and separate from, sex*. A trans person could have a certificate to state they have changed gender which would allow them to change gender marker on appropriate documentation, to access certain services aimed at their chosen sex, but not those reserved exclusively for one sex, and to marry as their acquired gender. It should not be possible for anyone, particularly a person who has not taken any medical steps to transition physically, to be legally recognised as having changed sex and to be treated as their acquired sex for all purposes.

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

Because a GRC is unnecessary for the vast majority of people identifying as transgender in modern society. The GRA 2004 was groundbreaking at the time. Its intention was to give legal recognition and protection to transsexuals and permit them to marry. Same sex marriage and the protections conferred by the Equality Act 2010 have largely rendered the GRA 2004 obsolete. The fact that the majority of people who identify as transgender no longer fall into the category of transsexual (the majority would have then been described as transvestite or cross-dressers at the time) is also relevant. The GRA 2004 did allow provision for those who had not yet had surgery but it was not intended for those who had no wish for surgery.

It is simple to change documents including driving licence and NHS records without ever seeking medical treatment for transition. Recent pressures on organisations mean that “self-id” is practiced in the majority of public spaces now, in spite of the obvious safeguarding issues – the NHS permit access to single sex wards based on a person’s stated gender, the prison system allows some male prisoners to be housed in the female estate if they identify as women, even without a GRC. Shops, gyms and leisure centres have opened up changing rooms based on “where customers feel most comfortable” even if their presence may cause discomfort to other users of the space. There is little need for a GRC for most and its original purpose, for transsexuals who wished to hide their birth sex completely, is no longer relevant to the large numbers of “out” trans people.

- 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.

There is not enough clarity in either Act. The GRA 2004 allows someone to change legal sex but the Equality Act still permits them to be excluded from some spaces and services “where it is a proportionate means to a legitimate aim”. GRC holders may be legitimately excluded e.g. from working in a women’s rape shelter, but there is no way to confidently ascertain their physical sex if all their documentation shows their legally changed sex. In most cases their exclusion is reliant on their honesty, which goes against all safeguarding principles and would become a mockery if the pool of those eligible for a GRC was widened significantly.

The separation of protections for sex and gender reassignment under the EA2010 are helpful but holding a GRC muddies the water as the person is then doubly protected.

Many institutions, including schools and the police, are being trained by organisations which deliberately misinterpret the provisions in both acts, leading them to believe that e.g. someone who wishes to present as the opposite gender has a legal right to access facilities for the opposite sex. This is detrimental to the rights of women and girls to their safety, privacy and dignity.

There is a need to clarify, in law, the difference between sex and gender and, ideally, to separate gender recognition/gender reassignment from the concept of “changing sex”. The requirements for someone to be considered to have undergone gender reassignment are now so loose as to be impossible to prove and yet, socially, they can expect to be treated as having undergone a sex change.

- 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 provisions are relatively clear but open to misinterpretation. They need clarifying and organisations need encouraging to use them in order to justify single sex spaces and facilities. There is currently enormous pressure to allow “self-id” to dictate who accesses them and, due to the EA2010 having no provision to allow e.g. a changing room to be used only by females plus males with the protected characteristic of gender reassignment, this pressure has resulted in many spaces and facilities effectively being made unisex. This helps no-one – it reduces safety for the intended users and removes their privacy and dignity.

Despite legislation clearly stating that children over the age of 8 require separate toilets, many schools have felt pressure (and been poorly advised) and have installed unisex toilets, ostensibly for the benefit of pupils who identify as trans. This is extremely detrimental to girls. Recently there has been similar pressure to open up sports to both sexes, in schools and at all levels of adult sport, based on “identity”. World Rugby carried out extensive research before concluding that this is not safe. Schools and sporting organisations need support to continue to allow girls to compete with each other and for children who identify as trans to be accepted on the teams which match their sex.

There is even pressure on women's shelters to open up to allow transwomen both to access facilities and also to access jobs but there is no guidance on what criteria someone would have to fulfil to be considered a transwoman in these circumstances. Should self-identification be enough? A change of clothes? Medical treatment? How are they to justify, legally, permitting a cross-dressing man to access their facilities (and access the vulnerable women within) and not all men who request access?

In some cases, council or government funding (in the case of Scotland) is conditional on single sex services accepting transgender users of the opposite sex. A rape shelter for women should be an exclusively female space and organisations should feel supported to adequately use the provisions in the Equality Act to enforce this.

We need legislation to clearly define sex and gender identity, and the differences between them, and allow for sex-based services to exist with clear protections for companies who wish to use the provisions in the Equality Act to provide them. Currently, organisations which continue to acknowledge differences between e.g. a female and a transwoman, are subject to horrendous bullying and pressure to treat them both the same. Where there is a justifiable reason to treat them differently, the law should not only make it clear that this is legal but also afford some protection from the activists, publications and organisations who then attempt to destroy the business, or remove their funding and sponsorship, for doing so.

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

The protected characteristic of Gender Reassignment is sufficiently broad to encompass anyone who, at any point, has considered presenting as the opposite sex. The protections therein are comprehensive in ensuring trans people can live free from discrimination on the basis of their trans status and, in doing so, gives them equal rights with other protected characteristics. This is all that is required.

I worry about extending or reforming this part of the Equality Act as many of the demands of certain lobby groups and factions are not reasonable and are infringing on other protected characteristics e.g. redefining sexual orientation to mean attraction to certain "genders" rather than "sexes" or an insistence that treating trans people equally means insisting they have exactly the same access to single sex spaces and facilities as those of their acquired sex.

The current, toxic, climate whereby people are vilified for stating publicly that they would like single sex spaces and facilities to exclude trans people

(as is currently permitted in law) does not need further enabling by amending existing law to the detriment of other groups. I would like to see encouragement for any organisations operating sex segregated spaces or services to have to carry out a full equality impact assessment before opening up access to members of the opposite sex (whether or not they identify as trans). This should take into account the impact on those with the protected characteristics of religious belief, sex, pregnancy and maternity etc. because what we are seeing happen at the moment is services are being changed, the language around spaces, services and healthcare is being changed and the only impact being considered is the supposedly positive impact on people who identify as transgender and not the negative impact on other groups.

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

I am sure it can be daunting to access certain services as a trans person and it must be difficult knowing that you will be faced with people who may not understand the new “rules” around language, identity, misgendering etc. I would like to see clear guidance on how single sex services, particularly those around domestic violence and sexual health, can be opened up to support trans people without negatively impacting those they are currently designed to serve. My concern is that there is a lot of pressure on, particularly young, trans people to see acknowledgement of their sex or use of undesired language to be an act of hostility and therefore they may find it difficult to access the support they need because they are reluctant to attend e.g. women’s health clinic if they have a male gender identity.

I think this issue needs to be addressed at a psychological level with patients who seek trans healthcare or mental health support during their transition. I see no benefit in denying the realities of their bodies or the kinship they will retain with members of their sex in times of difficulty e.g. recovering from rape or domestic violence. Their presentation and identity can never remove them completely from their sexed bodies and they should be supported to confidently seek the correct healthcare or support services even if, in the process, they will feel “misgendered”.

The numbers of trans people requiring support are probably not high enough to justify exclusive services geographically accessible to all but I think it would be helpful to separate sex and gender to the extent that e.g. domestic violence support for males who identify as trans should be offered as part of a service for men, perhaps with a separate support group or single room accommodation rather than in a dormitory. Females who

identify as trans could be signposted to a women's sexual health clinic but supported to attend at a quiet time or be offered a separate waiting area.

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

Gender fluidity and non-binary identities are a nebulous concept, even within groups who espouse them. No-one should be discriminated against in housing, employment or healthcare for the way they present themselves but there is no need to overhaul the concept of sex, which we all have, to allow for those who have a different personal identity.

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