
Women and Equalities Committee
Inquiry on Reform of the Gender Recognition Act
Response by the Evangelical Alliance UK

Background

1. The Evangelical Alliance UK is the largest and oldest body representing the UK's two million evangelical Christians. Established in 1846, today we work across a diverse constituency of over 18,000 individual members, as well as 3,000 churches and 500 organisations. The Evangelical Alliance is the founding member of the World Evangelical Alliance, which unites evangelical alliances based in different countries around the world, representing anywhere from 300 million to a billion evangelical Christians. This global reach reflects the influence of evangelical faith, which can also be seen in the huge social and ethnic diversity in British evangelical churches. The Alliance made submissions to the Government's call for evidence on reform of the Gender Recognition Act 2004, and the Scottish Government's review on gender identity. The Alliance has also published a guide for churches entitled *Transformed*,¹ which sought to assist churches in responding well to transgender people.

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

2. In response to previous calls for evidence, the Alliance has raised concerns at the proposed removal of a requirement for medical diagnosis. Individuals presenting with gender dysphoria will, rightly, be under the care of medical specialists. The proposed changes would potentially have deprived these people of contact with mental health professionals at the time when their assessment and advice could be crucial. The move to a system of self-identification would have removed important checks and balances, and we therefore agree with the Government's decision not to proceed with it. Without any medical diagnosis, the threshold of granting a gender recognition certificate would potentially be reduced to that of a non-medical, subjective wish, though the pursuit of such a path can lead to radical and irreversible forms of treatment. This would have been particularly risky given the ongoing concerns around de-transitioning, and 'rapid-onset gender dysphoria'.²

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

3. We believe that the decision to change legal sex is a serious matter, with wide-ranging consequences for an individual, their family, and wider society. We therefore consider it reasonable for an individual to provide evidence showing that they have lived in their desired acquired gender for a significant period. This time gives a vital space of reflection for individuals. Bearing in mind the cases of those who wish to 'de-transition', we believe that the two-year period remains appropriate.

¹ <https://www.eauk.org/resources/what-we-offer/reports/transformed-understanding-transgender-in-a-changing-culture>

² Littman L (2018) *Rapid-onset gender dysphoria in adolescents and young adults: A study of parental reports*. PLoS ONE 13(8): e0202330. <https://doi.org/10.1371/journal.pone.0202330>

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

4. In response to previous proposals, we recognized that making a statutory declaration had an important role in the process, as a reminder of the seriousness of the change being contemplated. However, we raised concern that asking someone – particularly a young person – to make a binding legal commitment to living in the acquired gender for most of their lives did not leave sufficient room for adult self-reflection. This problem would only have been increased had other proposals been brought forward (e.g. a system of self-identification, a reduction in the minimum age, or the elimination of the requirement to live in the desired acquired gender for a period of time). We also noted that it would be difficult to establish the necessary *mens rea* to prosecute a false declaration in most cases.
5. We believe that it is essential and compassionate to allow individuals who wish to de-transition without any undue legal impediment. Moreover, we would consider it to be highly undesirable to prosecute an individual for a sincere but mistaken declaration made in their youth. Any proposed regime of statutory declaration must therefore set out the seriousness of the change, while allowing a compassionate means of recognizing a mistake for those who wish to return to their birth sex. While not perfect, we believe that the current assessment model achieves both objectives, and should be retained as a matter of policy.

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?

6. The Alliance considers that it is vital to recognise the rights of a spouse, including their right to a belief about what a marriage is or is not. We believe that the spousal consent provision remains essential to prevent someone being forced into a same-sex marriage without their consent. A spouse is not simply an obstacle to the transitioning person's human rights, but another person whose own rights must be respected. The sex of the partner is indissociable from the marriage itself, which is intended as a significant and lifelong commitment. For those with such a view of marriage, we do not believe that a change of civil or legal status should be imposed on them without their knowledge or consent, and it is this right that the spousal consent provision is designed to safeguard. If they do not consent, the person seeking transition can still pursue a divorce under the existing provisions of the Gender Recognition Act.
7. We believe that, as a matter of integrity, no spouse should be left in the dark about their partner's change of legal gender – it should be a legal requirement to inform the spouse of any such change. More broadly, any proposals in this area must ensure that support is provided for the rights and needs of spouses and children affected by the transition of a married partner and especially for the vulnerability of a parent or their children where a marriage to a transgender person breaks down.

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

8. We continue to disagree with proposals to lower the age limit at which people can apply for a gender recognition certificate. We note that the UN Convention on the Rights of the Child defines children as those under the age of 18 years, and that this age limit dictates safeguarding practice in other areas. We consider that the precautionary principle should

prevail for young children, who should be prevented from making life-changing and potentially permanent legal and biological decisions without the requisite maturity to fully comprehend the consequences.

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.

9. In response to the previous consultation on reform of the Gender Recognition Act 2004, we noted that changes to the GRA could well have an impact on existing provisions in the Equality Act 2010, many of which provisions are relied on by churches and Christian organisations. We believe that it is vital that holding a binary view of gender, based on scientific and religious grounds, should be clearly affirmed as a view worthy of respect in a democratic society. Many evangelical Christians, as a core tenet of faith, would believe that a person's biological sex is inherent to who they are, and may not recognise the term 'gender identity'. Several provisions in the Equality Act 2010 exist to protect the rights of religious communities to live in accordance with their convictions.
10. For example, any reform to the GRA which departed from a binary view of legal gender would have posed problems for the current occupational requirement exemptions, which protect the rights of churches and religious organisations. Many religious organisations have doctrinal precepts that would be at risk if they were not exempt from employing a transgender or non-binary person. Likewise, it is important that religious leaders are not required to solemnize marriages for people who have changed their legal gender. We believe it is vital that the current exceptions for religious purposes should be retained or even strengthened to continue to allow the essential exercise of religious liberties, and to prevent wider discussion around provision for transgender people being reduced to a zero-sum 'clash' of rights.

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?

11. Many churches and Christian organisations will operate single-sex provisions in some circumstances, and we believe that the single-sex provisions in the Equality Act 2010 remain essential to safeguard these services and spaces. Currently, our member organisations can lawfully insist on a single-sex environment and exclude on the basis of gender reassignment when this can be justified.³ Such provisions aid in the work, for example, of Christian community-based rehabilitation ministries, where this is a necessary feature of their environment. Some churches, meanwhile, will want to continue to provide meetings and ministries tailored to the needs of each sex. To infringe on these freedoms would raise serious questions around the Article 9 and Article 11 rights of these religious communities, under the Human Rights Act 1998. We would remain concerned at the implications that a self-identification model of gender recognition, or the recognition of a non-binary gender would have for these exemptions.

³ Equality Act 2010 – Sch.3 (para 27-29)

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

12. It is essential that those who identify as non-binary should be treated with respect and dignity. However, we do not consider this aim as well-served by a separate non-binary gender status, as has been proposed under previous consultations. In response to such proposals, we noted that such a category could pose challenges for some faith communities, who on the grounds of conscience mentioned above, would be unable to accommodate or indeed recognize such identities (e.g. through conducting weddings).

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