

**1. Will the Government's proposed changes meet its aim of making the process "kinder and more straightforward"?**

No - The changes the Government has proposed are a small step in the right direction but do not go far enough to make the process of applying for a Gender Recognition Certificate any "kinder" or "more straightforward". The proposed minimal administrative changes to improve the process for legal gender recognition of trans people in England and Wales are not sufficient and do not meet the expectations of the scope of the original consultation.

For example, the process creates a hostile and interrogative environment at a time of vulnerability by requiring that trans people present themselves and justify their gender to a panel, the identities and qualifications of whose members they are not able to know in advance. To the best of our understanding there is also no appeal against the panel's decision, which would be intolerable in any other situation.

In addition, there is currently no legal recognition for non-binary people and the Government has failed to address this, which further invalidates these identities.

**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?**

The fee should be removed. The Government has proposed a 'nominal' fee without stating an exact cost so there is no clarity around the reduction in cost. The Government should be removing any fee for application as it is one of the barriers to obtaining Gender Recognition Certificates. Trans people may face financial hardship and experience homelessness. The Stonewall LGBT in Britain Trans Report (2018) found that "One in four trans people (25 per cent) have experienced homelessness at some point in their lives". Acquiring medical and other documents for the required 'evidence' involves further costs. Costs for replacement of official documents such as birth certificates and passports should be significantly reduced.

**3. Should the requirement for a diagnosis of gender dysphoria be removed?**

A diagnosis of gender dysphoria positions being trans as a medical condition and reinforces stigma. The de-medicalisation would reflect other countries' approaches to legal gender recognition. We believe that in order to simplify the process for someone to transition, without the need for intrusive medical questioning, the requirement for a diagnosis of gender dysphoria should be removed. Additionally, we would expect that trans individuals with a history or lived experience of other mental health diagnoses would not be denied access to the care and support they need for their transition on the basis of these conditions. We believe that the number of people whose trans identities are devalued because of other conditions is discriminatory on the grounds of disability.

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

Yes: A person's experience of living as any gender is specific to the individual as well as cultural and social influences. This requirement also excludes non-binary people.

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

The statutory declaration could remove barriers and bureaucracy if it were the only requirement and appropriately worded to confirm the seriousness of the intention, making the process "kinder and more straightforward". This would need to be inclusive of non-binary identities.

**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?**

We believe that a trans person's identity should be autonomous and therefore they should not need the permission of their spouse to apply for a Gender Recognition Certificate. This would correspond with

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other similar decisions, such as a statutory declaration to change their name.

A spouse or partner's rights do not need additional protection, although wider availability of no-fault divorce would allow them to leave the marriage if they are unhappy with their partner's gender.

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

There are a number of existing areas where people obtain rights at 16. Adults can apply for a passport at 16 and it would be more appropriate to make an application as the gender with which you identify. Reducing the minimum age for obtaining legal gender recognition to 16 would be in line with the school leaving age and with the minimum age for marrying or entering a civil partnership. We think the age limit should be lowered.

### **8. 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 barely any affect. Trans and non-binary people had hoped for far greater change as set out in the consultation and the Government is merely proposing minimal changes in order to appear to be implementing improvements. Trans people will continue to face the same barriers, and non-binary people the same exclusion from legislation, until the Government enacts substantial reform.

### **9. What else should the Government have included in its proposals, if anything?**

Removing the fee for obtaining a Gender Recognition Certificate, removing the requirement for a diagnosis of gender dysphoria, removing or reducing the time requirement for individuals to have lived in their acquired gender, removing the spousal consent requirement, reducing the age limit at which people can apply for a Gender Recognition Certificate to 16, provide legal gender recognition to non-binary people.

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

Whilst still missing certain changes, the Scottish Government's proposed Bill offers a more suitable alternative. This could be further improved by removing the application fee and providing legal gender recognition to non-binary people.

It also retains the idea of "living in their acquired gender", albeit for a much reduced time, which requires clarification to avoid gender stereotypes being applied, and to allow for non-binary identities.

## **Wider issues concerning transgender equality and current legislation:**

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

The process is intrusive, medicalised, bureaucratic, costly, time consuming, and excludes non-binary identities (many trans people identify as non-binary).

### **2. 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 are inconsistencies with language across the two pieces of legislation, and use of potentially outdated terminology in respect of 'gender reassignment' being popularly interpreted as requiring medical intervention, and reference only to transgender people as 'transsexual', along with the lack of recognition non-binary identities.

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However, it is unlikely to be of positive benefit to improving practical equality for trans people for changes to the Equality Act 2010 to be proposed at the present time.

### **3. 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 above, we consider that the exception provisions already in existence, if interpreted and followed appropriately, allow for the inclusion of trans people according to their affirmed gender and the protection of other users in relation to risks and safeguarding which would allow for necessary exclusions.

Improved guidance could be beneficial to clarify the nuances and avoid potential ambiguity for everyday practical interpretation of the provisions and exceptions.

### **4. Does the Equality Act adequately protect trans people? If not, what reforms, if any, are needed?**

As above, there are weaknesses and gaps in the protections afforded to trans people by the Equality Act 2010. There is no recognition of non-binary identities or gender-fluid identities.

The legislation uses potentially outdated terminology in referring only to 'transsexual people' and the language of 'gender reassignment,' while inclusive in its formal definition, reinforces in popular understanding a medicalised concept of gender identity recognition which does not reflect the diversity of lived experience and transition journeys of individual trans people.

However, it is unlikely to be of positive benefit to improving practical equality for trans people for changes to the Equality Act 2010 to be proposed at the present time.

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

The Stonewall LGBT in Britain Trans Report (2018) found that two in five trans people (41 per cent) said that healthcare staff lacked understanding of specific trans health needs when accessing general healthcare services.

Waiting times for Gender Identity Clinics are increasing and likely to extend beyond the current 3 year average. Many clinics will currently not disclose a waiting time to prospective patients. The NHS has a legal obligation to provide specialist care to all patients within 18 weeks, or provide an alternative. Clearly this obligation is not being met.

The prevalence of stigma, hostility and transphobia may deter trans people from seeking access to domestic and sexual violence services and render this support fraught and problematic.

The [Galop Transphobic Hate Crime Report 2020](#) reported that when accessing support following a hate crime, only 1 in 7 respondents reported their experiences to the police, and 7 in 10 felt the police couldn't help them. This demonstrates that access to victim support is also an issue facing trans people in Britain.

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

Many trans people are non-binary. We support recognition for non-binary identities which enables a spectrum of gender identities beyond the binary to be reflected in all public official administrative systems and records.

We would support specific clarification that trans people are fully legally living in their acquired gender. i.e. trans women are women, trans men are men, for the purposes of any gender segregated services.

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