

## Proposed changes to GRC legislation

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

Subject to safeguarding being in place to protect vulnerable applicants yes, the proposed process is kinder to applicants.

Kindness to applicants needs also to be balanced with kindness to third parties affected by the application such as spouses, children or other family members. They all have not only human rights too but also a need for kindness at what may be a difficult time for them.

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?

A fee that corresponds to fees for other official documents such as passports would demonstrate that equal treatment was being applied.

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

No. An independent and trustworthy gatekeeping step is necessary to weed out bad faith actors.

Furthermore, not all members of the Stonewall "Trans Umbrella" are dysphoric. It is only dysphoric individuals who need a GRC.

For example, those who Stonewall refers to as "cross dressers" ("transvestites") who enjoy assuming feminine roles in dress or behaviour for sexual pleasure should not necessarily be eligible for a GRC. Members of the public support the GRC process because they believe it is limited to relieving the suffering of dysphoric individuals (some of whom call themselves transsexuals, a term and a condition recognised and relatively well understood by the public).

There are very small numbers of clinically dysphoric persons but "cross dressers" exist in much larger numbers. Any suggestion that the GRC process was being undermined by individuals misusing it for other purposes such as to access the vulnerable or for sexual gratification would tend to bring the GRC process into public disrepute.

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

It is difficult to answer this question in the absence of any explanation of “gender” in this context.

Assuming that the meaning is “compliance with sex stereotypes for behaviour that commonly exist in British culture” then that is a low bar to set, given that both sexes can do almost all jobs, same-sex marriage is available and any person of either sex or any sexual orientation can marry anyone they wish to of marriageable age, a person can adopt whatever name they wish at any time with no legal formalities at all, most women go to work, wear trousers, are permitted to wear short hair and so on. The effort for either a male or a female applicant to comply with this requirement is relatively trivial.

If the term “gender” in this context means sex, then the requirement would be impossible to meet. A female person cannot perform heavy physical labour in the way a man can neither can they ejaculate semen. A male person cannot menstruate or give birth.

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

No. Subject to safeguarding issues concerning criminal records and the like, unless and until it becomes easy for a “detransitioning” or “desisting” person to revoke their GRC and reinstate their original status young people should not be placed at risk of a permanent record of a decision they later come to regret.

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

The government has not given sufficient attention to safeguarding. An individual’s right to a therapeutic transition needs to be balanced with the rights to safety of vulnerable people subject to safeguarding.

It should not be possible for a GRC to have the effect of erasing convictions and other information that would normally need to be assessed under safeguarding checks.

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

No.

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

This is difficult to answer in the absence of an explanation of what is meant by “transgender” in this context.

Adopting Stonewall’s “Trans Umbrella” definition may assist however. The trans umbrella includes the very numerous group of “cross dressers” (transvestites) who do not need a GRC and most of whom do not want a GRC.

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.

The failure adequately to define sex or gender and in some places to conflate these two different things or to use them inconsistently is not a good foundation for the creation of legal duties and consequences. Any new legislation should provide unambiguous statutory definitions of sex, of gender and of any other related terms that might be used such as male and female.

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 of the Act are clear enough to this respondent, a retired solicitor.

However, government departments and agencies have (possibly through being badly advised) produced arguably unlawful guidance that incorrectly characterises rights to single sex and separate sex spaces and facilities. This arguably unlawful advice is the subject of judicial review proceedings and it is difficult to assess what statutory intervention is needed before the High Court’s judgment is available together with the results of any appeals to higher courts.

It goes without saying that any further guidance should be produced with the advice of qualified and senior legal counsel and not drafted by political lobbyists (for any side).

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

**Written evidence submitted by S. Lebourg [GRA1522]**

Again, the lack of a definition of trans people makes this question too open ended to provide any comprehensive answer.

It is sometimes said however that women must protect male trans people from the risk of violence from other men by admitting them into their lawfully segregated places of sanctuary and refuge from male persons.

This is an unreasonable, unjust and onerous burden to place on women, particularly the most vulnerable women taking refuge from male violence in rape crisis facilities and domestic shelters or those incarcerated in women's prisons.

Other ways of protecting trans people from male violence must be found that do not entail conscripting vulnerable women into acting unwillingly as human shields against powerful aggressors.

The Geneva Convention forbids the incarceration of women prisoners with male prisoners and it would be extraordinary if civilian women living in peacetime in the United Kingdom should be thought to deserve fewer rights than prisoners of war.

With regard to risks associated with wearing sexualised clothing, it should be borne in mind that women are encouraged to dress appropriately for the environment in which they find themselves in order to reduce any risk of victimisation. In the interests of equality and fairness similar injunctions should apply to the individuals Stonewall refers to as "cross dressers" who do not suffer from any dysphoria (and who wear clothing stereotypically assigned to the other sex not to avoid suffering but in order to enjoy sexual pleasure).

The measures that are thought to be adequate to protect women in public places from harassment or violence because of their feminine presentation should be applied in the same way to men choosing to present in feminine ways for fetishistic purposes.

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

The issue does arise of a potential conflict of rights where a person for whatever reason does not wish to use the facilities available to their own sex and wishes instead to use those designed for and provided to the other sex, those facilities being lawfully segregated on grounds of sex.

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Rather than strip away existing lawful rights to sex-segregated facilities and services funding should be found to make existing services proper to a transitioned individual's sex more sympathetic to their specific needs. A male domestic violence shelter could employ feminine-identifying male counsellors to support transitioned clients for example.

It would be wrong to compel vulnerable girls and women to share therapeutic or social refuges from male people with male people even if those males have a GRC indicating they have socially transitioned. Still less should a man without a GRC be able to insist on entry to girls and women's places of safety because he identifies as feminine.

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

Again, there is no definition of gender-fluid or non-binary and these are highly subjective terms on which there is little if any agreement. The government could help advance this debate by seeking to find definitions to which there could be general agreement.

The creation of legal duties and consequences should not be considered unless and until the subject matter of proposed legislation can be defined relatively unambiguously.

If gender-fluid is a synonym for Stonewall's term "cross-dressing" then the remarks above concerning "cross-dressing" apply.

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