

Written evidence submitted by Bernardo's [GRA1547]

Introduction

Last year Barnardo's worked directly with 301,100 children, young people and families. We run over 1,000 vital projects across the UK, including counselling for children who have been abused, fostering and adoption services, vocational training and disability inclusion groups. Barnardo's purpose is to transform the lives of the most vulnerable children.

Barnardo's provides services which support LGBTQ (lesbian, gay, bisexual, trans and those questioning their sexuality or gender identity) children and young people, and their families/carers.

Barnardo's wide range of services includes the Positive Identities Service¹ that supports young people struggling with sexual orientation and gender identities. It had a Department of Education funded anti-bullying training programme which challenges the attitudes and behaviour in schools, families, faith and wider communities towards LGBTQ people.

The Government's response to the GRA consultation:

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

No. Having to prove that you have lived in your gender for two years, having to obtain a diagnosis of gender dysphoria and having to make a statutory declaration are three aspects that may make the process unpleasant and complicated. Therefore without their removal the process is unlikely to be kind or straight forward. The outcome of the GRA consultation does not make any aspect of accessing a GRA easier or even an option for young people 16 - 18.

The proposed changes have had a knock-on effect on trans support offered to children and young people. For example, there are challenges to trans guidance in use by schools, and a number of schools are removing their trans guidance due to fears of being targeted by the anti-trans lobby. Schools are confused about what support they would receive from government if they retain the guidance.

- 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?

It should be removed, From our experience of working with vulnerable young people and young adults a cost of £140 for the GRC is prohibitive. This may prevent young people and young adults from being able to apply for a GRC. This has not changed.

¹ Further information on the Positive Identities Service is available here : <http://www.barnardos.org.uk/calderdale-positive-identities/service-view.htm?id=231861217>

Additional information on Barnardo's work with LGBTQ children, young people families can be accessed here: http://www.barnardos.org.uk/what_we_do/our_work/lgbtq.htm

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

Yes.

Barnardo's works with children and young people who are exploring their gender identity. Often young people will identify as trans, non-binary or gender fluid. This group includes young people who are aged eighteen to twenty-five. In some cases young people will access medical treatment and support, but this is not always the case. The government should take into consideration the fact that not all trans people wish to undergo medical procedures. In addition, it should be noted that accessing medical support will often involve extremely long waiting times and lengthy service referral procedures which can be costly.

The law² already states that a person does not need to have a medical intervention to be recognised as trans. Therefore legal recognition should not require a medical report.

It is important that young people are able to start their adult lives in the gender with which they identify. If they are required to provide a report detailing treatment and diagnosis then this has the potential to cause delays to the legal recognition process. As young people may be at a stage in their lives where they are undertaking qualifications or applying for jobs or apprenticeships, such delays can have negative consequences. This can result in complications concerning documentation: for example a young person potentially having to declare trans status/ "out" themselves if personal details differ on individual documents (for example, a qualification in a different name to the name used when applying for a job).

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

Yes

Requiring young people, age 18 – 25, to provide evidence that they have lived in their acquired gender has the potential to cause confusion and distress. It is not always possible to provide evidence of someone's gender identity; this is not something that can be 'proven'.

An evidence requirement also presents challenges for young people that may not have had the opportunity to live as their gender identity (for example as a result of personal choice or from fear of community/ family rejection) prior to applying for legal gender recognition. An obligation to gather evidence for someone that has not yet lived as their gender identity can prevent young people from having access to legal gender recognition.

We are of the view that requiring an individual to provide evidence that they have lived in their acquired gender presents an additional hurdle to an already complex process for young people who

² The Equality Act 2010

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want to legally change their gender. Barnardo's would therefore welcome a new procedure which would remove the need to provide evidence.

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

Barnardo's supported Stonewall's response to this question which highlights that '*A statutory declaration is a sensible approach as part of a gender recognition system based on self-determination, as long as it's the only requirement for obtaining a Gender Recognition Certificate and the process is simple, accessible and low cost. This is a feature of leading gender recognition systems, such as those in Norway, Ireland and Malta.*

- 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?

(no response, not specific to CYP)

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

Yes

The current Gender Recognition Act and the consultation did not recognise children and young people. Barnardo's works with children and families who are challenged by the lack of recognition of their self-determined identity.

We would like to see the age limit at which people can apply for a GRC to be lowered to 16.

One of our key areas of concern is that young people of this age who are denied the opportunity to legally change their gender will be left to use official documentation in their birth gender. The long term impacts of this are severe and can result in an increase of the number of people who are forced to disclose their gender identity. This can additionally increase the potential for discrimination and mis-gendering, leading to distress and frustration. Many young people will have socially transitioned from a young age and will have been living as their true gender for many years yet their formal documentation is maintained in their gender assigned at birth.

Barnardo's also recommends that further exploration is taken to allow young people below the age of 16 to self-determine their gender. This needs to take into account parental approval. We would like to see mandatory training in gender identity for children's social care, health professionals, school staff etc. Our experience tells us that many young people who try to self-determine their gender come up against many obstacles from the institutions and organisations providing services to children and young people.

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Denying trans children and young people the possibility of a birth certificate that aligns with their gender places them at risk of unnecessary disclosure within educational institutions. Disclosure puts trans children and young people, who are already marginalised, at increased risk of transphobia and discrimination, exclusion by their peers, and violence.

- What impact will these proposed changes have on those people applying for a Gender Recognition Certificate, and on trans people more generally?

The Government's proposed changes will make it marginally easier for some trans people to apply for a GRC. However, reducing the fee, placing the process online and promising to open at least three new gender clinics this year does not go anywhere near far enough in making a significant difference for people applying for a GRC. Retaining the two-year waiting period, the diagnosis of gender dysphoria, the statutory declaration and the spousal veto and not introducing self-identification means that the process is still time consuming, intrusive and still limits trans peoples' autonomy.

There is no recognition still for the 16-18 year old age group.

Therefore, these changes will not have a significant impact on trans people applying for a GRC.

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

In order for the Gender Reform Act to be fit for purpose for young people, Barnardo's recommends the following:

- Young people 16 years of age and above should be recognised in the Gender Recognition Act and have the ability to apply for a Gender Recognition Certificate.
- Further exploration is undertaken with young people under the age of 16 who wish to have their gender recognised; to include a definition of competence and approval, particularly where parental support is absent.
- There should be a development of good practice guidance in safeguarding of children and young people in relation to gender identity.
- Introducing specialist services for young people and mandatory training and guidance for professionals providing services to young people (such as those working in schools, individuals working with young offenders as well as medical professionals)
- Non-binary gender should be recognised within the Act.
- The involvement of faith communities in order to foster the integration of sexual identity with faith and to promote a culture of acceptance among all faiths and to tackle identity – based bullying.
- The involvement of children, young people and families to better identify areas of improvement.

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Barnardo's believes that children and young people have a right to be supported in living as who they are, and that validation of identity can be integral to a child/young person's emotional and mental wellbeing. We would welcome a supportive approach which is centred around the individual needs of each child and young person, and support changes which enable children and young people to have their identity validated in the most accessible and least-intrusive manner possible.

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

The proposal to reduce the time that someone has to live in their acquired gender from 24 months to 6 months will make the process less unnecessarily time consuming, however there should be no waiting period. Removing the current medical requirements would be a positive step as it would make the process less intrusive. The removal of the need to apply to the Gender Recognition Panel is also positive as it makes the process less intrusive and gives more autonomy to trans people.

Wider issues concerning transgender equality and current legislation:

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

The current process is intrusive, complicated and many people do not meet the requirements or would struggle to access the evidence required. The National LGBT survey provided evidence of these reasons.³

- 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 should not be any challenges in the way the Gender Recognition Act 2004 and the Equality Act 2010 interact as to have the protected characteristic of gender reassignment, and therefore to be protected under the Equality Act, trans people do not have to have a Gender Recognition Certificate.

- 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?

Further guidance is needed; particularly in relation to education / schools. The last few years have seen much discussion and challenge. A number of organisations (including Barnardo's) have

³ [National LGBT Survey: Summary report - Gov.uk](#)

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provided guidance for schools in how to ensure they are inclusive of their trans students. Our guidance reflected the Equality Act but some schools have become anxious that they will be publicly challenged for implementing the guidance. This is having a negative impact on trans children and young people who are no longer protected in school/college.

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

In theory yes. The Act does provide a basis for the protection for trans people's rights in so far as people have the ability to challenge legally but it also needs to be actively promoted through appropriate policies, rules and guidance if it is going to be transformative.

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

The only national provision for trans children and young people is GIDS. This means that children and young people are forced to access a medical route at the beginning of their exploration of their gender identity; there is no formal support available to parents/carers.

Barnardo's would encourage the government to consider a social model of support for children, young people and families.

We would like to see mandatory training in gender identity for children's social care, health professionals, school staff etc. Our experience tells us that many young people who try to self-determine their gender come up against many obstacles from the institutions and organisations providing services to children and young people. This has been exacerbated by the current climate around trans young people.

The government should consider introducing specialist support for young people and to introduce mandatory gender identity training and guidance for professionals providing services to children and young people. In particular this mandatory training should be introduced in the following areas: **(i) In Schools** - As schools will be required to deliver Relationships Education (RE) in primary schools and Relationships and Sex Education (RSE) in secondary schools, gender identity training should form part of this RE and RSE education. Guidance provided in schools should be consistent; **(ii) To individuals working with young offenders** – Barnardo's provides children's rights and advocacy on all of the establishments in the Secure Estate on behalf of the Ministry for Justice. Staff working with young offenders need to be trained in gender identity; **(iii) For medical professionals**, such as GPs, hospital staff and CAMHS professionals. **(iv) For social workers**, safeguarding and child protection where currently there is little evidence of the inclusion of gender identity in safeguarding decisions.

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

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Non-binary gender should be recognised within the Act.

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