

Written evidence submitted by Progress in Dialogue [GRA1580]

The Organisation:

Progress in Dialogue strives to improve the lives of marginalised communities and to champion grassroots voices from across society. We value conversation and believe that dialogue is key to social change. Those with lived experience should always lead in discussions on their own needs; as such we will always seek to amplify the voices of, not speak for, marginalised communities. Our work seeks to invest, upskill and mobilise the grassroots.

Progress in Dialogue facilitated a conversation that empowered Trans Community Champions to inform and make this response. Therefore, whilst not a Trans specific organization, our response comes directly from Trans people.

The Government's response to the GRA consultation:

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

We believe that the proposed changes do not go far enough in tackling the inequalities and challenges faced by Trans people. Specifically, the proposals do not adequately reflect the need to make the process of Gender Recognition meaningfully easier (e.g. the arduous process of collecting documentation is still present). Proposals also do not consider the actual content of GRA. Lastly the proposal to reduce the fee is not good enough, having a fee is a real issue for a variety of reasons (stated below).

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?

We believe that having a fee for obtaining a GRC is non-inclusive and offensive. Not only does having a fee not consider or acknowledge the financial inequalities of many Trans people (e.g. financial instability, poverty, levels of unemployment etc.) this places additional pressure on young Trans people who may not have access to finances. Additionally, the use of the term 'nominal' is hazardous, not least as 'nominal' is a subjective term. However, most importantly having a fee to obtain a GRC is asking Trans people to pay for social recognition and is seen by us as an over-exertion of state power.

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

The requirement for diagnosis of gender dysphoria should be removed. There are many barriers to obtaining this diagnosis which are often difficult to overcome; for example gatekeeping. Having to convince others of an identity Trans people know to be true is degrading. This process of a GD diagnosis also relies on top-down understanding of Trans identity, not allowing Trans people to self-define. Furthermore, the waiting period is too long (in some cases 2-3 years) and there are not enough accessibility measures in place. This waiting time ignores the urgency of the diagnosis for many Trans people – impact of mental

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wellbeing. Additionally, we are concerned that many Trans people are not given strong informed consent.

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

Yes, this is especially important for Trans women, as this requirement can place people in danger and waiting period of this length can negatively impact mental wellbeing. The physical safety of Trans people is ignored by this clause and a concern to many. Furthermore, we have concerns around how somebody proves having 'lived' in an acquired gender for a period of time, specifically for non-binary people.

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

We have many concerns that the statutory declaration doesn't adequately reflect what transitioning means, wording such as 'I transitioned', ignores that 'transitioning' is often not bounded to time and is a personal journey for Trans people – not one specific event. Additionally, the statutory declaration causes issues for already marginalised Trans people (particularly BAME people) as reaching support from an authorised witness often means reaching out to communities actively oppressing them. Furthermore, through this statutory declaration there is concern that it may create a criminalisation of Trans identity, particularly by erasing gender-queer and 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?

Yes, we believe the need for spousal consent should be removed; transitioning should not be exclusive of marriage and/or civil partnership. We do not believe rights of spouse and/or civil partner are infringed by the changing of legal gender marker. This provision also offensively assumes the position that spouses and/or civil partners would want to end their marriage due to gender reassignment. Additionally, it places the power in the hands of cis partners; this is particularly difficult for Trans people facing domestic abuse. There are many examples of cis partners controlling Trans partners by the refusal to sign consent – this may be used as an object of abuse, and intimate partner violence.

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

We believe that the standard GRC process should be open to people from 16 years old and the Government should create a process for those under 16 years old with the additional requirement of guardian agreement.

Written evidence submitted by Progress in Dialogue [GRA1580]

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

· *Place the whole procedure online*

This change may make the procedure more accessible, but that it should not be exclusive of paper-based processes. Furthermore, this approach would need to consider digital literacy/accessibility issues (e.g. English not as first language, use of Screen-readers by Disabled communities and illiteracy with communities such as Gypsy/Travellers)

· *Reduce the fee from £140 to a “nominal amount”.*

We believe the fee should be removed, as this is not reflective of financial hardship which may be faced by trans people (see question 2)

· *Open at least three new gender clinics this year in order to reduce waiting lists*

We commend the Government for ambitions to open more gender reassignment clinics, but do not feel the commitment to open three is enough. We know that waiting times are already too high in many areas and feel the Government needs to open significantly more clinics to support. These clinics would have to be de-centralised, to improve accessibility for isolated and rural communities. Additionally, we feel the approach needs to be two-pronged;

- More gender reassignment clinics
- Simpler and more accessible gender diagnosis process

This approach would ensure people are adequately supported and that there are reduced waiting times. However, it needs to be acknowledged that the current system is not adequate to support the healthcare crisis facing Trans people, which has been exacerbated by the COVID pandemic.

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

- Enhanced focus at digital technology as a method of promoting accessibility (e.g. Digital clinic appointments)
- A more holistic understanding is crucial: e.g. homelessness, intimate violence, welfare services etc.
- Proposals should include better provision for the recognition of non-binary people.

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

Yes, the proposed bill from the Scottish Government is more comprehensive and better reflects the intersectional challenges and inequalities trans people face within the GRA. This

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is not to say that the proposed bill is fully reflective of needs, but that it goes further than the UK Government approach. Some key points:

- The need to reduce time spent living in the acquired gender is reflected in a more reasonable timeframe:

Applicants must have lived in their acquired gender for a minimum of 3 months (rather than the current 2 years) before submitting an application for gender recognition (pg. 21: 4.02)

This said the Scottish Bill does require a reflection period of 3 months, in addition to the required 3 month timeframe.

- The removal of medical requirements make the process more inclusive, recognising a person's autonomy and reducing the impact of gatekeeping:

The removal of current medical requirements when applicants are seeking legal gender recognition (pg. 21: 4.02)

- The collective recognition of rights for women and trans people, ensures policy makers and service providers take a rights-based approach in supporting people. Equally this measure helps to challenge the wrongful perception that trans rights are exclusive of womens rights:

'develop guidance to make sure that policy makers and service providers understand better how to ensure that the rights of women and trans people can be collectively realised' (pg.22: 4.03)

Whilst the Scottish Government bill goes some way to reflecting wider challenges faced by Trans people, it does not reflect the needs of non-binary people. Specifically, as it does not provide legal gender recognition to nonbinary people, reinforcing a binary construct to gender. This said, the bill does reflect the need for wider discussion on the needs of non-binary people and we would like to see the UK bill reflect this also.

Wider issues concerning transgender equality and current legislation:

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

We believe that the number of people applying for GRC's is low because the process is too strenuous and time-consuming. If the process was made simpler and more accessible (referring to our previous suggestions), we believe the number of GRC's would more accurately reflect the number of people identifying as transgender.

Written evidence submitted by Progress in Dialogue [GRA1580]

12. 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.

We believe equalities law does not adequately recognise the differences between the terms 'gender' and 'sex', often wrongly conflating the two. In saying this whilst there is problematic language used within Equalities legislation; the Equality Act does not need to be re-opened at this time.

13. 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?

Provisions should provide inclusion of separate sex spaces that are inclusive of Trans people in accordance with the sex with which they identify, in line with the Gender reassignment clause in the Equality Act 2010.

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

Whilst we are against re-opening the Equality Act 2010 at this time, due to the risk of causing further delay to the GRA, we do believe that if it is to be re-opened a specific focus should be taken to the use of the word 'transsexual'. Instead more inclusive language should be used, for example 'Trans/Transgender'.

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

Trans people face a multitude of inequalities, but whilst not the space to respond meaningfully to all of these inequalities here – we do wish to stress the importance of intersectional inequalities faced by Trans people. For example, the needs and inequalities faced by Trans people who are also from Immigrant communities, Asylum seeker communities, Black communities, who may have disabilities etc. are not appropriately considered at this time. Additionally, we have concerns around how the GRA can compound the impact of intimate violence against Trans people and recommend a strong consideration to strengthening the support given to Trans people in this regard.

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

Yes, we advocate for the incorporation of an 'X' gender marker to be used on official documentation (e.g. Passports and Driving license). This would better reflect the rights of non-binary people and be a start to, what we hope would be, a much wider dialogue around non-binary inclusion and recognition.

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