

Introduction

GMB Union welcomes the Women & Equalities Select Committee's inquiry into reform of the Gender Recognition Act (GRA) 2004.

GMB union represents more than 600,000 members right across the private and public sectors. As a trade union, we represent workers across many sectors including public services, manufacturing and construction as well commercial services and retail, including many trans and non-binary workers. We are aware of the levels of discrimination and abuse that trans and non-binary people face in the workplace, as well as in wider society. Many employers do not adequately understand trans issues, nor do many service providers that trans people rely on.

GMB union is a democratic organisation. Policy is set at our annual congress which considers, debates and votes on motions submitted by our branches. The Central Executive Council (CEC) is the governing lay representative body of our union. GMB passed a CEC Statement at Congress 2018 in support of trans rights. This document required GMB to conduct a review of the likely impacts of proposed legislative changes on our members. GMB further investigated and found no legal barriers to supporting the proposed reforms to the GRA, which were grounded on self-identification. This position was further ratified at our CEC. We also have a members' network of trans and non-binary people that informs our policy in these areas.

GMB union would welcome any opportunity for further engagement with the Committee on any of the points made within this submission.

Questions

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"?

Since July 2017, the Government has been committed to reviewing the Gender Recognition Act to examine "options to streamline and de-medicalise the gender recognition process". The Government consulted on reforms to the GRA, and said

that “trans and non-binary people are members of our society and should be treated with respect”. This consultation closed in October 2018.

The public response was reportedly that 70 per cent of respondents were in favour of change. We do not believe that the Government’s much delayed proposed reforms will make the process of acquiring a Gender Recognition Certificate “kinder or more straightforward” for the trans community. The Government must deliver its promise to reform the GRA and deal with the negative impacts of the current gender recognition process.

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 current system for acquiring a Gender Recognition Certificate is not fit for purpose. The Government’s has proposed placing the whole procedure online and to reduce the associated fee from £140 to a “nominal amount”. These changes do not go far enough. We do not believe there should be any fee associated with getting a GRC.

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

The current process for getting a GRC requires a medical diagnosis of gender dysphoria. Simply put, being trans is not an illness. GMB union believes the Gender Recognition Act should be amended to remove this medicalised process and language.

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

The current gender recognition system requires an applicant to provide evidence that they have lived in their acquired gender for two years. Our members have told

Written evidence submitted by GMB Union [GRA1704]

us that they do not have a clear understanding of what evidence they are required to provide. They further testified that the experience can be demeaning.

Trans members have highlighted concerns that the “lived experience test” could lead to a reinforcement of gender stereotypes in general, and to trans people feeling they must conform to these stereotypes.

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?

GMB believes that the spousal consent provision should be removed. This provision gives an applicant’s spouse the right to veto someone’s legal gender change, with no right to appeal. If this veto is triggered then the applicant must get a divorce before being able to reapply for a GRC.

GMB believes this presents trans people with unnecessary financial and emotional barriers that should be removed.

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

GMB union cautiously welcomes the small changes that have been made to the process, but we do not believe that these changes go far enough.

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

Further reform is required. These changes should be underpinned by principles of simplicity and humanity for those going through the process, and the reforms should incur no additional cost to avoid disadvantaging those on low pay.

The key reforms that the Government should have included in its proposals include:

- Removal (or lowering) of the £140 fee
- Removal of the gender dysphoria requirement
- Removal of the spousal veto
- Removal of the two-year waiting time

Additionally, the process needs to be reformed so that is based on a system of self-declaration.

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

The Scottish Government's Bill goes further than the proposals of the UK Government. It addresses the inadequacies of the GRA process, including the removal use of gender recognition panels and a significant reduction in the length of time required for someone to live in their acquired gender. Whilst in its current form there are still areas of concerns to trans and non-binary people, the GMB believe it is still a significant step in the right direction to current GRA legislation.

GMB would also note that self-definition is already provided for in law in Ireland, Denmark, Malta, Norway, Columbia, and other nations.

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?

GMB union believes that, under the current process, there are significant financial, emotional and medical barriers to legal recognition. Those going through the process must provide evidence of a gender dysphoria diagnosis and demonstrate they have been living in their gender for two years. Further to that, access to

health care is inadequate with waiting lists for initial appointments, between 1 and 2 years - there are only seven such clinics in the UK.

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:

GMB union would reiterate what the EHRC has said: there is no reason why simplifying the process for obtaining a GRC should have an effect on single-sex spaces and services, which are covered separately under the Equality Act 2010.

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 Equality Act 2010 sets out a clear position: service providers may provide separate services to males or females, or only one sex, subject to certain criteria.

These services can already treat people with the protected characteristic of gender reassignment differently, or exclude them completely, where the action taken is a proportionate means of achieving a legitimate aim. In other words, if the Act is adhered to, a service provider would treat a trans person in the gender they identify with, and allow them access to the service, unless by doing so they would be unable to provide the service to other service users.

While concerns have been voiced that cis men might claim to identify as women purely to gain access to women-only spaces, the exemptions contained in the Equality Act 2010 continue to apply, and service providers will continue to be able to exclude individuals from services (where the service provider believes and can demonstrate that it is appropriate to do so to ensure the safety of other service users).

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 widespread barriers when accessing, or trying to access, support services. These have been widely evidenced in the National LGBT Survey.

Trans people face barriers when reporting hate crimes. The National LGBT Survey found that 37% of respondents had experienced verbal harassment, or negative comments outside of the home, on the basis that they were LGBT. Of those respondents who had experienced a negative incident outside of the home, just 8.5% had reported it. Among those who didn't report, 48% gave 'it wasn't worth it or nothing would happen or change' as a reason, 32% gave 'it wouldn't be taken seriously enough' as a reason, and 11% gave 'I wouldn't be believed' as a reason.

The National LGBT Survey found that 80% of trans people who had accessed or tried to access specialist gender identity services said that the process not been easy. 66.9% of respondents said they had to wait too long to access services, 32.2% said services were not close enough to them, and 24.7% said that their GP did not know where to refer them.

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

GMB union recognises the Employment Tribunal ruling against Jaguar Land Rover, which clarified that non-binary and gender fluid people are protected under Section 7 of the Equality Act 2010 - the Section of the Act that covers gender reassignment as a protected characteristic.

We believe more must be done to understand non-binary people's experience at work and in wider society to protect their rights, and we would welcome the opportunity to provide evidence to any further consultation on this important issue.

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