

Written evidence submitted by Ms J H [GRA1753]

I am writing as someone with experience of the issues involved. I am transgender and have trans friends and family. I am a healthcare student. I have nearly a decade of experience working in frontline roles as a nursery worker, teaching assistant, and support worker for disabled adults. I have a good working knowledge of relevant laws and safeguarding practice.

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

The government proposes to reduce the costs to a 'nominal fee' and allow online applications, which will make the process kinder and more straightforward by reducing direct and indirect application costs. Current proceedings dictate that a panel of judges adjudicate applications in an invasive and legalistic process. This process remains unkind and difficult to navigate.

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

Current rules state that you must live in your acquired gender for two years to be eligible for a gender recognition certificate.

It is challenging to live in your acquired gender if your documentation cannot be updated to match your gender. This creates difficulties with work, housing, and finances. It forces people to explain the history of their transitions to prospective employers and landlords and exposes them to unnecessary prejudice. It also puts a high burden of proof on transgender people. It is difficult to accumulate the necessary paperwork and creates unnecessary red tape.

I do not understand the purpose of requiring two years living in the acquired gender. Due to long waiting times for gender dysphoria treatment transgender people applying for a gender recognition certificate have generally lived in their acquired gender for a considerable length of time. As such this requirement does not seem reasonable or proportionate.

Question 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?

Current rules allow a transgender person's spouse the right to veto a Gender Recognition Act.

I understand that transition is a big, and sometimes painful, change in a marriage. However, people can make other important decisions that affect marriages even if their spouse disagrees. For example, married people can refuse medical treatment, terminate a pregnancy, and start or stop birth control medication without permission from their spouse.

I would prefer transition to be considered 'reasonable grounds' for divorce. This would allow both parties to make the choices that are right for them.

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

Young people aged 16-17 are currently unable to apply for a gender recognition certificate. They face similar difficulties to older transgender people if their paperwork does not accurately reflect their acquired gender. They might face discrimination with regard to education, training, employment and housing if they are forced to explain the history of their gender to admissions tutors at universities, future employers, and landlords.

Some young people aged 16-18 are not yet ready for the commitment of a gender recognition certificate. Others might have lived in their acquired gender for six or seven years without issue. An appropriate pathway for young people to obtain a gender recognition certificate should be considered.

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

I am grateful for the governments guarantee of new gender identity clinics and promise to work towards shorter waiting times for treatment for gender dysphoria.

Improved guidance for GPs would also be useful here. Many GPs do not feel confident prescribing cross sex hormones for transgender patients on the advice of specialists or supporting people who may have self-medicated and need monitoring for potential risks and side effects.

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

Yes

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

- Because the process is expensive
- Because the process is complex and time consuming
- Because the process is unpleasant and vulnerable (e.g. one applicant I know personally was asked to describe and explain his genitals to a panel of judges)
- Nonbinary people (people who identify as neither men nor women) are not eligible for a gender recognition certificate. Between 25-28% of trans people in the UK are nonbinary (<https://practicalandrogyny.com/2014/12/16/how-many-people-in-the-uk-are-nonbinary/>).

Question 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

I do not believe this Equality Act and Gender Recognition Act are in conflict.

The Equality Act provides protection from unlawful discrimination, harassment and victimisation to people with protected characteristics including 'gender reassignment'. This includes anyone who had undergone, or proposed to undergo, a process for the purpose of changing their sex. The Gender Recognition Act allows people to change the sex on their birth certificate.

However, I think that people often find them confusing or fail to understand the purpose of the gender recognition act, or mistakenly believe transgender people are only protected from discrimination if they have obtained a gender recognition certificate. Guidance confirming that the Equality Act protects all transgender people, whether or not they have a gender recognition certificate, would be useful.

Question 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?

The Equality Act allows provisions for transgender people to be excluded for single sex spaces if it is a “proportionate means of achieving a legitimate aim”. Guidance suggest that, for example, in a changing room with private cubicles removing transgender people would not be proportionate as cubicles provide privacy and dignity.

I believe this is a reasonable balance. No further reform is needed.

Several charities have stated that this provision is sufficient to allow them to work effectively, including Women’s Aid (<https://www.womensaid.org.uk/womens-aid-responds-to-the-launch-of-the-governments-consultation-reform-of-the-gender-recognition-act-2004/>), and Rape Crises Sussex (<https://survivorsnetwork.org.uk/statement-of-support-for-the-trans-community/>). The evidence shows that trans people are not a threat to others in single sex toilets or changing rooms as shown by the following study into levels of violence before and after changes to the law in Massachusetts. (Hasenbush, A., Flores, A.R. & Herman, J.L. Gender Identity Nondiscrimination Laws in Public Accommodations: a Review of Evidence Regarding Safety and Privacy in Public Restrooms, Locker Rooms, and Changing Rooms. *Sex Res Soc Policy* 16, 70–83 (2019). <https://doi.org/10.1007/s13178-018-0335-z>)

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

I believe that the Equality Act provides good legal protection for trans people and that this should be preserved. Our rights to live and work in peace (e.g. using toilet, changing rooms, being safe from hate crime) are under threat. It is vital that these protections are maintained.

Guidance to confirm that these protections extend to nonbinary people would be appreciated. If they have undergone, or propose to undergo, a process to change their gender the law already protects them. However, this is not always recognised and respected.

Enforcement of the law can be difficult. If someone faces discrimination at work, they will not be eligible for legal aid for employment tribunals. This leaves transgender people vulnerable to discrimination at work.

Police often lack understanding on these issues, and many trans people have negative experiences reporting hate crime to the police as shown by this Stonewall report (https://www.stonewall.org.uk/system/files/lgbt_in_britain_-_trans_report_final.pdf)

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