

Written evidence submitted by Dr Francis Sansbury [GRA1772]

Please find below my response to the Women and Equalities Committee Reform of the Gender Recognition Act Call for Evidence. I bring aspects of my work as a registered medical professional into my response, but write as a private citizen.

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"?

Reducing the fee and putting forms online would meet the stated aim above.

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 fee should stay. While one would recognise any fee may be easier to pay for some than for others, it helps to emphasise the significance of obtaining a Gender Recognition Certificate. Anyone wanting a copy of a copy of a birth, death or marriage certificate has to pay. In that context, it would be odd if a certificate changing one's legally recognised gender (a far more significant event than simply getting a copy of a birth / marriage / death certificate) were free.

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

No. For someone to say that they are of the opposite gender to that of their birth requires gender dysphoria – believing their own experience over their genetic makeup. This is a mental health issue. Such people should have appropriate access to mental health professionals. The reports from one psychiatrist that 90 % have a psychiatric diagnosis and 20 % have autism is striking (<https://www.tellerreport.com/news/2019-10-11---the-doctor-resigned-from-the-job-in-the-transplant-care-service--became-a-matter-of-conscience>".HkYHItTur.html)

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

This requirement should not be removed or shortened, and if anything should be lengthened, given recent publicity about detransitioners. Individuals should have this time requirement to make a decision they may later regret. One study of childhood gender dysphoria suggested that nearly 2/3 desisted and identified with their birth gender. (Factors associated with desistence and persistence of childhood gender dysphoria: a quantitative follow-up study. Steensma TD, McGuire JK, Kreukels BP, Beekman AJ, Cohen-Kettenis PT. J Am Acad Child Adolesc Psychiatry. 2013 Jun;52(6):582-90.)

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

The statutory declaration should remain. People making the declaration should understand the significance of it. It should remain reversible, as it currently is. so that detransitioners have a route to return to their birth gender. The only change I would encourage would be the inclusion of a statement that the person making the statement understands that this does not change their genetic make-up.

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, it does not need reforming. It is there to protect the rights of the spouse. The two spouses made solemn promises to each other. Altering the status of the marriage from opposite sex to a same-sex one in the eyes of the law, or vice versa, should not be able to happen without spousal consent.

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

No. See the article referenced above about desistence.

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

The government says it has sought to make the process “kinder and more straightforward,” as you note. One hopes the changes would have that effect. It should remain clear that changing one’s legal gender is a significant act, and not something one should do lightly.

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

It would be helpful if it had offered more support for those who regret their transition and wish to detransition.

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

No. Six months is too short for someone to have come to a settled view that they wish to change their legal gender for the rest of their life. Arguably, given the length of time that some detransitioners have lived after transition before transitioning back, 24 months is too short. It is also appropriate that the Gender Recognition Panel issues the certificate. There should be legal and medical scrutiny of any application: legal because it is such a significant act, and medical because to say that you are of the opposite gender to that of their birth requires gender dysphoria – believing their own experience over their genetic makeup, as above. This is a mental health issue, and should have medical scrutiny.

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?

There would seem to be a few reasons for this.

One could be that people realise how significant applying for a GRC is, and choose to hold off. While a GRC is not irrevocable, applying for a certificate to detransition is as significant as doing so to transition. It could be that people want to avoid making that big step.

The second could be that although the Equality Act 2010 protected gender reassignment, it said that a person has the protected characteristic “if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.” This means that a person can claim a protected characteristic by saying they are proposing to undergo reassignment, but not go through with completing the process by obtaining a GRC.

A third reason could be that the phenomenon whereby “gender dysphoria seemed to occur in the context of belonging to a peer group where one, multiple, or even all of the friends have become gender dysphoric and transgender-identified during the same timeframe.” [Parent reports of adolescents and young adults perceived to show signs of a rapid onset of gender dysphoria. Littman L. PLoS One. 2018 Aug 16;13(8):e0202330. doi: 10.1371/journal.pone.0202330. eCollection 2018, plus articles referencing this paper.] This relatively recent increase, if reflective of the situation in the UK, would not yet reflect in people completing reassignment by getting a GRC.

A fourth reason could be the phenomenon of desistance, particularly but not exclusively in children. If the study of childhood gender dysphoria that suggested that nearly 2/3 desisted and identified with their birth gender, it is not surprising that more identify as transgender than end up with a GRC. (Factors associated with desistance and persistence of childhood gender dysphoria: a quantitative follow-up study. Steensma TD, McGuire JK, Kreukels BP, Beekman AJ, Cohen-Kettenis PT. J Am Acad Child Adolesc Psychiatry. 2013 Jun;52(6):582-90.)

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 are challenges. By way of comparison, marriage and civil partnership are protected characteristics under the Equality Act 2010. However, “proposing to undergo or undergoing” marriage or civil partnership are not protected characteristics under the Act. In comparison, someone can simply say that they are proposing gender reassignment to seek protection under the Act. Sex is a certificated protected characteristic, as people have their birth certificate. It would have been clearer had the Equality Act protected gender reassignment through possession of a GRC.

The relevant parts of the 2010 Equality Act pertaining to schools, and the exemptions, are confusing, and the Act together with the Explanatory Notes appear to be self-contradictory on gender reassignment. Overall, the Equality Act 2010 reduces the safeguarding present in the Gender Recognition Act 2004, which only applied to those over 18.

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 Act protects (i) sex and (ii) gender reassignment. It would be helpful if it were clearer in the Act that that the protected characteristic of sex in the context of the Act applies to birth sex.

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

The Act does not define “trans.” It protects gender reassignment. As noted above, the Act protects gender reassignment more than it protects marriage, in that someone proposing to get married does not receive any protection under the Act. It does not need reforming to protect gender reassignment more. It would be helpful to clarify in the Act that that the protected characteristic of sex in the context of the Act applies to birth sex.

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

It would seem, given from the comments of those who detransition, that health services are not adequately exploring, and sometimes challenging the psychology of those who present with gender dysphoria. Better access to psychologists and psychiatrists specialising in this area would be helpful, so that people spend much more time with such mental health professions before embarking on potentially irreversible treatments.

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

We do not need legal reforms in this area. We fall into two sexes. Legal reform supporting gender fluidity would be likely to increase gender dysphoria. I note that the calls for this do not seem to come from those with genetic “intersex” conditions. (Such people whom I see tend to be phenotypically male or female.) The call for supporting gender fluidity appears to come from those who are clearly of one birth sex and showing gender dysphoria. Better access to psychological and mental health services would specialising in this area would be more helpful than legal reforms.

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