

Response to the GRA consultation

Will the Government's proposed changes meet its aim of making the process "kinder and more straight forward"? My understanding, having researched, is that the process is neither convoluted nor particularly hard to navigate. Almost all applications are approved and the fact that it is a paper exercise strikes me as not particularly out of the ordinary as application processes go – we are rarely face to face with state decision makers. A change of legal sex is not something that should be entered into lightly or spontaneously, so I feel strongly that the process should be sufficiently robust to protect against this, as well as to guard against its misuse. It seems from online discussions I have had that there is a lot of misunderstanding and misinformation about the requirements of the process, a common perception being that it is more exacting and onerous than in fact it is. The requirement to live as the acquired gender for a period of two years for example is commonly cited as a barrier to access, with people arguing that the costs of purchasing "female" accoutrements are prohibitive. In fact, as the Committee will know, it is not necessary to dress up in a costume to satisfy a medical specialist in the field of gender dysphoria - and it would be inappropriate and sexist if the process required people to dress or present in a certain way - after all what are "female" accoutrements and how does a woman present?

The fee for obtaining a GRC has been retained but reduced to a small amount. For me, as long as the fee is not objectively a barrier to someone on a low income obtaining a certificate, then it is reasonable to charge something, as this is in keeping with other administrative processes which attract a fee such as giving notice of intention to marry, or to seek residency.

I very strongly disagree that the requirement for a diagnosis of gender dysphoria should be removed. The need for a medical report is an essential safeguard against the exploitation of the process by males who wish to acquire the legal status of females in order to access women's single sex spaces, particularly prisons where there have been several examples of men moving to the women's estate and then harassing and/or assaulting female prisoners, a highly vulnerable population with disproportionate past experience of male violence. It is also a safeguard against rash decisions that can be hard to walk back from.

The requirement for individuals to have lived in their acquired gender for at least two years is another important safeguard against both rushing into the process too quickly and exploitation of the process for nefarious purposes. The status of GRC will be undermined if there is widespread chopping and changing from one status to another because people do not adequately reflect on the gravity of the change they are seeking. In other cases, the reverse will be true: the process of obtaining a GRC may lock people in too soon to a new identity and new relationship with the world that is hard to row back from.

The spousal consent provision in the Act is a complex mechanism which is not widely understood. The debate over its legitimacy pits the right of those whose spouses wish to obtain a GRC to resist having the basis of their legal contract with their spouse unilaterally altered to such a degree, against the right of the trans person to proceed quickly with an application for a GRC and not have the process frustrated by a third party who may not have their best interests at heart. As someone who is opposed altogether to the legal fiction that is a GRC and does not believe that it is possible for human beings to be born in the wrong body or to change sex, I suppose I am naturally more sympathetic to the former, particularly as not all communities are accepting of divorce or same sex marriage and not everyone's beliefs are compatible with these things. Arguably, a GRC makes little practical difference in the vast majority of cases and a delay in obtaining one is not as harmful as the permanent stigma of divorce for a woman in a community that does not permit this. It is unusual for

Written evidence submitted by Ms J Green [GRA1778]

people not to be able to extract themselves from an unwanted marriage eventually. Acrimonious divorces are not uncommon however and unfortunately delays in proceedings can hold up a lot of important life events – this is no different. It would be a very positive move indeed for the Government to introduce no fault divorce as an alternative to (but not to replace the option of) the annulment of the marriage following the issue of an Interim Gender Recognition Certificate (“IGRC”), as this would enable a trans person to exit the marriage on their own terms without much delay if their spouse did not opt for annulment.

I am aware of the argument that the Marriage (Same Sex Couples) Act 2013 now provides equal marriage rights to same sex couples, so that the spouse’s marriage rights are not being violated. But I feel this is overly simplistic. Being heterosexual or homosexual is a critical part of people’s identities and it is not homophobic or transphobic to resist the imposition of a legal fiction that says you are the opposite of what you are, or forces you into a state of cognitive dissonance if you do not share your spouse’s belief that they are literally the opposite sex and you are now in same sex (or opposite sex if your marriage was same sex) marriage.

The age limit at which people can apply for a GRC should not be lowered. Neuroscience has shown that a young person's cognitive development and hormonal changes continue into the early 20s and that their emotional maturity, self-image and judgement will be affected until the prefrontal cortex of the brain has fully developed. While it makes sense (on the basis of consistency with other age limits imposed in law) that a GRC should be available to people from the normal age of majority i.e. 18 but not to those below the age of 17. While a GRC is technically reversible, one is not obtained in a vacuum but as part of a process of change, reflection and experimentation, which can involve intrusive surgery and permanent medicalisation, as well as redefining one's social roles and relationships with others, including family and close personal networks. Reserving eligibility to adults does not prevent children from socially or medically transitioning before the age of full cognitive development but opening the process up to children could influence younger people to pursue a permanent pathway at an earlier age.

The proposed changes will not in my view have very much impact on people applying for a GRC or on trans people more generally. The Government has sought to balance the concerns of those who are opposed to the erosion of women’s rights to single sex spaces and resources and those who wish to open up single sex spaces on the basis of proclaimed identity. Being of the former persuasion I consider that the Government has gone far enough and I am grateful to the Government for drawing the line where it has. I would strongly resist any move to adopt legislation similar to that proposed in the Scottish Government’s proposed Bill.

Why is the number of people applying for GRCs so low compared to the number of people identifying as transgender? I suppose GRCs make very little practical difference for most people, as it is possible to change drivers licenses, passports, the appearance of secondary sex characteristics, names, pronouns, markers on HR records etc without one. There is probably little motivation for most people to obtain one. A notable exception to this of course is among the population of prisoners in the male estate who for whatever reason should like to transfer to the female estate. Any changes to the GRA should first and foremost guard against the possibility of the process being exploited by criminals and abusers. The Fair Play for Women findings on the numbers of trans identifying males amongst the sex offender prison population suggests either that sex offending is more prevalent among trans identifying males than among any other group, or that sex offenders in prison are liable to adopt a trans identity in order to gain access to women, to create the impression that they pose less of a risk, to disguise their identities or some other malicious reason.

Written evidence submitted by Ms J Green [GRA1778]

There are problems with the language and terminology used in the GRA and Equality Act. It is inconsistent and there is a lack of clarity that is not entirely addressed by the various published guidance.

There is a lot of fear and misunderstanding among businesses and service providers about the Equality Act provisions for single-sex and separate-sex spaces and facilities. The law is not clear and useable for service providers and service users and the waters have been muddied by organisations like Stonewall misusing their considerable social capital to misrepresent the law and frighten organisations into not applying the exemptions. Organisations fear invoking them in case they are sued or pilloried, leading to women and girls being placed in vulnerable and undignified situations and the exemptions almost never being applied, even in extreme cases such as rape counselling service and womens' refuges.

I believe the Equality Act does adequately protect trans people, although of course legislation is not sufficient by itself to protect anyone – it must also be properly enforced. The law should not give trans people the right to encroach upon the rights of other minority and vulnerable groups and to the extent that it does this, in my view the legislation goes too far.

The notion that legal reforms are needed to better support the rights of gender-fluid and non-binary people is nonsensical and preposterous. We are all non-binary in the sense that we are individuals with huge variations in likes and dislikes, hobbies, personalities. We are all fluid; none of us fits into an extreme blue or pink box and none of our personalities are fixed and unchanging. The idea that it is 'normal' to fit into a limiting box is extremely harmful, particularly to impressionable children who are still developing a sense of self. There is absolutely no scientific basis for sorting people into binary and non-binary and doing so reinforces harmful sexist stereotypes.

November 2020