

Yorkshire MESMAC supports several grass roots, local, peer support Trans and Non-binary groups and organisations across all of Yorkshire, and we see first-hand the inequalities they face and the impacts it has on their lives. We believe in full equality for our Trans and Non-Binary siblings and will always be clear that we are proud to be part of the change that Trans people need to see and experience. Yorkshire MESMAC has been at the forefront of ensuring the lives and voices of many marginalised people are protected, elevated and celebrated; including people living with HIV, gay and bi men, and this extends very much to and includes the rest of LGBTQ+ people.

In this document we answer the first 10 questions from the Government's response to the GRA consultation. In this, we state why we think the proposals do not go far enough to support and protect Trans and Non-binary people in England, and go some way to suggest changes that need to be made. We then briefly discuss some of the wider concerns regarding the legislation as it currently stands, focussing specifically on the issues we are most aware of in our area of work.

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

We acknowledge that moving the process of applying for a GRC online does indeed improve the accessibility for Trans people by taking away unnecessary travel costs and time for Trans individuals and we welcome this approach- especially now we are living in a world where online appointments are increasingly becoming the norm. However, this is small step forward when many of the other requests by trans people and organisations appear to have been ignored.

This process of supposedly improving the lives of Trans people has taken over 2 years, and during that time we have seen hate crime against Trans folk increase, and the mental health of trans people disproportionately effected, especially during isolation that we have all faced this year.

While these changes have been proposed, discussed and pushed back, the anti-trans rhetoric has heightened and we have seen Trans hate groups gain greater presence and had more chance to spread their lies and hate of Trans people. Schools have been targeted by transphobic groups, sharing damaging materials, encouraging schools to use them when teaching about LGBT+ identities as a whole. Trans communities have faced much poorer outcomes throughout this process.

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?

The fees surrounding gaining a GRC pose as a huge barrier for many members of Trans communities and should be removed. Given that we know Trans communities often work in lower paid jobs or are jobless and that many face homelessness, adding an extra cost to their lives in the form of a GRC is wholly unfair. Ireland has recently changed their laws around processes for Trans people, with one of those changes to be removing the fee of acquiring a GRC- we believe that the rest of the UK should follow suit.

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

Yes.

The requirement of a gender dysphoria diagnosis makes the process more time consuming; official waiting times for a first appointment at a UK Gender Identity Clinic (GIC) are currently 12 to 30 months long. Obtaining a diagnosis for gender dysphoria requires an in-depth assessment carried out by two or more specialists, this can take several consultations which will be carried out months, if not years, apart.

Requiring Trans people to engage in a service to receive such a diagnosis can cause further psychological pain for Trans people who are already subject to so many conversations regarding their body, of which most of those conversations are negative and judgemental, either from society in general or conversations occurring in the news and media. Removing this element would benefit the mental health of so many people within Trans communities, which would aid a huge improvement on the ability for them to thrive in the rest of their lives.

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

Yes. When people come out as Trans, they often spend a very long time making their social transition in small pockets of their lives, testing the waters and trying out their new names and lives. By the time they are referred through to the gender services, they have often been living as their true identity, but sometimes without 'proof' of this due to systemic and bureaucratic transphobia.

We know from the work we do with Trans communities in Yorkshire that by the time a Trans person tells someone for the first time they are Trans, they have already spent a considerable time working this through in their own heads before

having the courage to start to live their lives truly. Adding 2 years onto that only serves to prolong a person's journey to living authentically.

'Proof' of their two years living in their true gender is often difficult to come by, sometimes costly, and potentially painful for the person in question.

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

Statutory declarations are bureaucratic and potentially costly which seems at odds with the aim of reducing the administrative and financial burdens and making the process more 'straight forward'. Requiring one places a legal requirement upon trans people (with a gender recognition certificate) that is not placed upon cis people. Trans people already need to update relevant legal documents, which prevents fraud. Existing fraud legislation is sufficient to prevent people with transphobic intentions from abusing a self-declaration system to perpetuate transphobia. A trans person could indicate that they understand the significance of legal gender recognition by providing a signature or ticking a box to say they understand the significance of the decision. Requiring trans people to agree that they will live as their acquired gender for the rest of their lives potentially reinforces the harmful stereotype that trans people are likely to 'change their mind' or are just 'going through a phase'. We have an opportunity to counter such misconceptions and show leadership in trusting trans people to be valued and equal members of society. The requirement for a statutory declaration that states a person will live 'permanently in the acquired gender until death' does not acknowledge non-binary people and those with fluid gender identities. Non-binary and gender-fluid people should also have their human rights protected and upheld.

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?

It is entirely dehumanising for a person to have to ask permission from their partner to do anything, let alone when that something is entirely down to how a person feels about themselves. The Spousal Veto needs to be removed to give Trans people full autonomy over their own lives.

Being married does not grant someone the right to control or manipulate their spouse's identity. 80% of trans people report experiencing emotionally, sexually or physically abusive behaviour by a partner or ex-partner. Preventing a trans person from accessing legal gender recognition is a specific form of domestic abuse enabled by the current GRA. This aspect of the GRA that allows for misuses of power which can form part of a pattern of coercion and control.

The law should not allow one adult to have such great power over the life of another adult. A transition of a person is an individual journey, which should be supported, but never denied by their partner.

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

We believe that Trans people should be able to apply for their GRC from the age of 16, or younger with the consent of a parent or guardian.

A child or young person who does not have consent from a parent or guardian but has been certified Gillick competent should be able to apply for legal gender recognition through a process of self-declaration. There should be a process for those who are not certified Gillick competent and those who are deemed to lack mental capacity to access legal gender recognition, in order to protect the human rights of all trans people.

Denying trans children and young people the possibility of a birth certificate that aligns with their gender places them at risk of unnecessary disclosure within educational institutions. Disclosure puts trans children and young people, who are already marginalised, at increased risk of transphobia and discrimination, exclusion by their peers, and violence.

For young people who start their transition before the age of 16 should not have to delay gaining documents in their true identity. Many under 18s hold bank accounts, driving licenses and passports. For these young people to have to then update and require new documents in order for them to align with their GRC, causes unnecessary costs, of which many cis people do not face.

In Malta, Germany, Switzerland, Austria and Argentina, there is no lower age limit for applying for legal gender recognition. Norway has a lower age limit of 6 years old. In Ireland, the Gender Recognition (Amendment) Bill to allow young people under 16 to change their legal gender is progressing through the Irish Seanad. It passed the second stage with full support of the house on 10 May 2017 and is currently at the third stage. We believe England should be following suit on these positive practices and learning from them where we can.

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

As the proposed changes stands, we understand from listening to our trans communities that their lives would somewhat be improved, reducing fees of GRCs and removing the costs of travel by holding appointments online will make a significant difference. However, these differences go no where near changing the fact that Trans people face some of the most severe hate crimes, that Transphobia is on the rise and that more and more agencies and organisations feel confident in discriminating against Trans people. The changes that have been proposed by Trans people and the organisations who work for and support them, have clearly laid out the changes needed, and if these were made it would make a clear message to people in England; that Trans people are believed and supported to live their lives,

and that any discrimination against them would not be tolerated. Trans people need more than the small changes proposed in order to fully participate as valued citizens in England.

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

The key reforms that the Government should have included in its proposals are outlined in detail in the responses to the previous questions. To summarise, the GRA needs to be reformed in the following ways:

- the £140 fee being removed or lowered,
- the requirement of a diagnosis of gender dysphoria being removed,
- the spousal veto being removed,
- the two-year waiting time being removed,
- the statutory declaration being removed,
- the age limited being lowered,
- the introduction of legal recognition for non-binary people.

The process needs to be reformed so that is based on a system of self-declaration, where trans people have more autonomy over how their gender is legally recognised. There are several examples of international best practice that could be used to model a self-declaration process. Denmark, Ireland, Malta and Norway allow people to change their legal gender by completing a self-declaration application form and do not require a diagnosis of gender dysphoria or a report detailing any medical treatment received.

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

The Scottish Government's proposed Bill is more favourable than the English and Welsh proposed Bill, however further changes should be made to the Scottish Bill.

The proposal to reduce the time that someone has to live in their acquired gender from 24 months to 6 months will make the process less unnecessarily time consuming, however there should be no waiting period. Removing the current medical requirements would be a positive step as it would make the process less intrusive.

The removal of the need to apply to the Gender Recognition Panel is also positive as it makes the process less intrusive and gives more autonomy to trans people. However, the requirement to submit Statutory declaration should be removed for the reasons outlined above. The proposed Bill should also provide legal recognition to non-binary people.

Addressing some of the wider issues concerning Trans equality and current legislation:

At MESMAC, we are aware of many Trans people who do not currently have, or not in the process of applying for their GRC. They report many issues, money, time, difficulty of the process and the dehumanising nature it can take. It is not fair that these people live with false documentation, that they have to out themselves within education and employment, and that things cisgender people take for granted such as going on holiday, are made much more difficult for Trans people without a GRC. There is also the issue that non-binary people are not provided for and they are unable to have documentation in their gender at all, making them often feel like they aren't valid or valued citizens in England.

The language around sex and gender needs to be very clear and consistent in all conversations and legislations. When discussing these issues, those doing so must be clear on the language they use so as not to cause confusion in the general population. This will also help policy writing for organisations when writing their policies on employing and supporting Trans and Non-binary people.

As a sexual and mental health organisation, we work closely with the domestic abuse services, many of whom are not confident or aware of how they should be or could be supporting Trans clients. These services deserve clear guidance and access to good quality training on the inclusion of Trans people within their services, allowing Trans women to stay in women's refuges, recognising they themselves do not pose a risk on the basis of their Transness. The numbers of Trans people who experience violence from a partner or previous partner has already been mentioned above in regards to the spousal veto, so it is clear that these people should be able to access safe, accessible and acceptable services for them.

We have a long way to go to achieve equality for Trans and Non-Binary people in this country and we hope that after so many years responding to the legacy that our previous homophobic laws and attitudes, that we understand the importance of ensuring this isn't repeated for Trans people.

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