

Written evidence submitted by Nottingham Resisters [GRA1837]

We are a group of women who have come together as a result of the GRA consultations and we are extremely concerned about the erosion of our rights as women and the effect on young people of transgender ideology. We come from a variety of backgrounds and political persuasions and our ages range from late 20s to mid-50s.

Summary

- The government's response to the GRA consultation is correct
- The checks and balances to gain a GRC using the GRA are about right and should be retained
- Girls and young women should be protected during puberty from transitioning
- Guidance should be issued to ensure the exceptions allowed for the Equality Act 2010 are properly understood and implemented
- The impact on women should be considered whenever changes are made to laws which will affect women

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"?

1. We do not believe it is possible or practical for a government to base its processes on perceived kindness. We have personal experience of various processes which involve interacting with the government or the law such as applying for benefits, getting married or divorce, completing tax returns, applying for driving licences, passports and citizenship. These interactions can be difficult when emotive situations such as benefits or divorce are concerned. Government interaction with its citizens should just be as straightforward and equal as possible.

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

2. No. To remove a diagnosis would fundamentally change the status of the GRC. It was introduced specifically to support the very small number of people for whom the extreme measure of undergoing gender reassignment was the only way they felt they could live their lives. Why would this be done for someone without a serious medical condition?

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

3. No. Liz Truss stated that the checks and balances were about right and should remain in place. The requirement to have 'lived in their acquired gender' is to a large extent nonsensical, but if the government are going to create a legal fiction in which someone becomes the opposite 'legal sex' then they should have a period of reflection and show true commitment to the change they intend.
4. There has been a huge increase in the amount of children seeking treatment for gender issues (77 in 2009 to 2,590 in 2018-19, Tavistock). Many children desist this course of action and decide that they have no concerns with their gender as they grow older. The requirement of a two year wait allows for these young people to have an opportunity to decide if they still want to try to live in another gender.

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

5. The statutory declaration GRA 2 (1)(c) states that the person 'intends to continue to live in the acquired gender until death'. This seems a reasonable proposition, but what would be evidence that the person is not living in their acquired gender? Freddy McConnell got pregnant and gave birth after securing a GRC. This is something men cannot do, so surely McConnell was no-longer living in their acquired gender once pregnant (https://en.wikipedia.org/wiki/Freddy_McConnell).
6. It is also problematic because there is no mechanism for someone to change their mind. With the best will in the world an intention can be true at the time but not last. The existence of detransitioners is evidence of this, as shown in this Guardian article which was published around the time the GRA was introduced. (<https://www.theguardian.com/society/2004/jul/31/health.socialcare>)

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?

7. As a group we have a variety of opinions on this. There is the view that an adult should be able to make whatever decision they want and being married shouldn't stop that. There is also the view that knowing several 'trans widows' we understand how distressing the situation can be. Women who have entered marriages to men explain that they then end their marriages to a person legally described as a woman, therefore making their relationship described as a homosexual one. This is in direct contrast to their lived experience.

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

8. Absolutely not! We have experience of working with young people, secondary school children and young adults. It is not unusual to have girls who say they are boys in secondary school and many young people are defining themselves as transgender at a young age. The teenage years are a turbulent time for many people and going through puberty is an important part of maturing. Children should not be given the option of making life-changing decisions, we do not allow under 18s to buy alcohol, cigarettes or get tattoos, we absolutely should not be allowing anyone to apply for a GRC when not an adult.
9. We remember what it is like to be a teenager or young adult, and in discussion realised that most of us started feeling more settled as adults around the age of 23-25. Any life-changing decisions made below this age should be very carefully considered. The idea of when a person is fully mature has varied over the years, with 21 being an age for being able to vote in the past (<https://www.bl.uk/romantics-and-victorians/articles/chartism>) and this article in The New York Times shows the political issues considered alongside the science (<https://www.nytimes.com/roomfordebate/2012/05/28/do-we-need-to-redefine-adulthood/adulthood-what-the-brain-says-about-maturity>)

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10. "The idea that suddenly at 18 you're an adult just doesn't quite ring true," says child psychologist Laverne Antrobus, who works at London's Tavistock Clinic. "My experience of young people is that they still need quite a considerable amount of support and help beyond that age."
<https://www.bbc.co.uk/news/magazine-24173194>
11. We feel there is a huge amount of pressure on teenagers to consider if they are transgender, this is especially likely if they are butch lesbians. There are a growing number of detransitioners which demonstrates this happening, as discussed in this BBC documentary about two lesbians, <https://www.bbc.co.uk/programmes/w3ct0hyy>. We have found that many women involved in ReSisters went through a period in their lives when they wanted to be the opposite sex, for a variety of reasons.
12. A survey conducted on social media in 2016 asked female detransitioners about their experiences. Some of the comments emphasize how transition should be considered very carefully before teenagers or young adults can take radical steps such as gender reassignment. For example 'I used transition as self harm, it destroyed so many parts of my life' or 'it was a childhood/teen phase before I accepted myself as a lesbian as an adult'. These show the kinds of turmoil teenage girls can go through whilst being caught up in the solution that they are really boys and transitioning will solve their problems.
<https://guideonragingstars.tumblr.com/post/149877706175/female-detransition-and-reidentification-survey>
13. The other issue that we have found in school, is that teenagers really believe it is possible to change sex. There is a general view that once someone has 'the op' they are then the opposite sex. It is heartbreaking to see teenagers who have so little understanding of the adult world believe that they can choose which sex they are as adults. It is not their fault they do not understand the adult world, they are not adults, they are still very much developing.

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

14. No. The Scottish Government's proposed Bill was self-identification of sex. This makes a mockery of what it means to be a woman or a man. It is not a choice, it is a matter of biology.

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?

15. The number of people applying for GRCs is roughly what was predicted when the GRA 2004 was created. There has been a social change in which 'transgender' now incorporates a much bigger number of people, but the GRA was only intended for people with gender dysphoria. This means that the GRA essentially did what it intended to do. This is why Liz Truss said that it did not need significant changes as it is fit for purpose.

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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.

16. We, the Nottingham Resisters, agree there are significant challenges to the way the GRA and Equality Act interact. There are many conflicts between the GRA and Equality Act.
17. GRA Section 9 (1) states that for a person with a full GRC “the person’s gender becomes for all purposes the acquired gender”. This is not true as there are exceptions to this listed in the GRA and also in the Equality Act.
18. It damages women’s rights if men are referred to as women for ‘all purposes’ including prisons, pay gaps, single sex spaces. The assumption with GRA Section 9 forces women and institutions to seek out legal protection as an exemption to have a single sex space, and the onus is on women to do this. As women traditionally lack economic resources, and social power, this places women at risk for speaking up about their rights to single sex spaces for fear of becoming labelled as ‘transphobic’.
19. The Equality Act protects ‘gender reassignment’ so the person needs to have 1) a diagnosis of gender dysphoria and 2) the intention to undergo reassignment. But in practice anyone male born who says he is a woman is being accepted as a woman for the purposes of the census, criminal activities, prison allocation, refuges and women only services. We have experience of working with vulnerable women and in this situation, when asked “What is a woman?” the answer was “Anyone who says they are”. This left our member feeling fearful for their position at work if they expressed their beliefs and also vulnerable when using their work facilities as men may use them as well.
20. Nottingham Women’s Centre no longer provides services for women only and arguably no longer are fulfilling their remit. The CEO refers to women as ‘cis’ a category that has had no public discussion or legal meaning. Their policy on trans inclusion relies entirely on self-identification, case-by-case decisions on people who are ‘non-binary’ and even includes the line ‘In most cases, Nottingham Women’s Centre’s services will not be open to people who for the most part live as or identify as men.’ This is a complete mess of a situation, and women will be self-excluding from the Women’s Centre because they cannot define what a woman is in the terms understood worldwide.
<http://nottinghamwomenscentre.com/a-statement-on-trans-inclusivity-and-the-gender-recognition-act/>
21. We are entitled to single sex spaces and we shouldn’t have to beg for them.
22. There are some categories of power that are off-limits to women, even if they gain a GRC and have a ‘legal sex’ of man. A man can still inherit titles even if he is legally a woman. (<https://www.legislation.gov.uk/ukpga/2004/7/section/16>)

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This starkly demonstrates the underlying double standards and affirmation of male power and recognition of actual sex, men do not lose out as if they were an actual woman.

23. The GRA creates a legal fiction of an already established category of society “women” and in the Equality Act it defines woman as “a female any age”. Therefore these two documents are in direct conflict.
24. The Equality Act protects transsexual people through the ‘gender reassignment’ and they already have protection against discrimination of the sex they are. It is not at all clear whether a man with a GRC, and hence the legal sex of a woman, is considered a woman for the purposes of the Equality Act or a man with the protected characteristic of gender reassignment. It raises problems if a man is given protection as a woman in the Equality Act. Women face discrimination on the basis of their sex (their sexual objectification and reproductive capacities). Most men with a legal sex of woman are quite obviously men, so they may experience prejudice but not because they are a woman. A ‘legal sex’ is simply a legal fiction.
25. The protected characteristics in the Equality Act pertain to historical and consistent forms of discrimination against people of colour, people with disabilities, women and religious persecution. There were a number of laws protecting these different groups. Gender Reassignment only made it into the EA because of lobby groups rather than the same conditions that gave rise to the other protected characteristics. The GRA was developed 6 years before the Equality Act and unlike the laws that informed and were assimilated by the EA (sex discrimination, race discrimination, disabled rights) there was no pre-existing precedent for ‘gender reassignment’.
26. In the Equality Act (Section 7) a person has protection for Gender Reassignment as soon as they announce an intention to undergo processes to change their physical characteristics and presentation. This is a very high level of protection. EA2010 Part2 S7 (1) ‘if the person is proposing to undergo, is undergoing or has undergone a process’ (<https://www.legislation.gov.uk/ukpga/2010/15/section/7>).
27. We question the whole basis of the idea of the GRA allowing someone to change their legal sex. There are many other ways that people would wish to be recognised that do not match up with actual facts, but no-one would consider it sensible to ‘affirm’ such a request.
28. For example, a person cannot change their age, as it is a fact, no law will force people to address someone differently or alter legal records if a person has a face-lift and looks ten years younger. No-one can claim they are actually older than they are and request their pension early. Recently in the Netherlands a 69 year old man tried to change the law so that he could be registered on his birth certificate as a 49 year old man (<https://www.bbc.co.uk/news/world-europe-46133262>).
29. Moreover there was a case where an able bodied man was seeking treatment to disable his body, to fit with his ‘inner identity’ as a disabled person. In 2000 a surgeon who

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argued that elective amputations were important to fix body dysmorphic people's mental health was stopped once it was realised what he was doing (<http://news.bbc.co.uk/1/hi/scotland/895177.stm>). All these cases bear a strong resemblance to the gender reassignment surgery and the GRA, but quite correctly, do not have legal recognition.

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?

30. The provisions for single-sex and separate-sex spaces in the Equality Act are clear. The problem comes that too many organisations do not seem to realise that the provisions exist.
31. The importance of these provisions can be seen by the problems caused when women do not have safe single-sex facilities to use. On the 19th november it was international toilet day. The World Health Organisation warns that lack of access to safe lavatory facilities for women and girls represents a threat to them, not only in terms of sanitation but also safety. Historically, in this country the lack of provision of toilet facilities was known as the 'Urinary Leash'.
<https://www.independent.co.uk/news/uk/home-news/public-toilets-listed-status-urinary-leash-a9700826.html>
32. Hampstead Heath ponds, have a situation where there are mens, womens and mixed-sex spaces. It would seem reasonable for a male trans person to use either the men's or the mixed-sex, but the decision was made to include male people in the women's only spaces. In this situation it is only about validating their identity. Not about access to facilities or fairness. Unfortunately many women, for religious, safety and personal reasons will now avoid visiting the pond.
<https://www.dailymail.co.uk/news/article-7062651/Council-rules-identifies-female-swim-Hampstead-Heath-women-pond.html>
33. Sports organisations have ignored the exemptions in the Equality Act for women to have single-sex sports due to differences in physical strength and speed. This is the whole reason women's sports are separate, women are simply not as physically strong or fast as men. One of the few organisations which has considered this properly is World Rugby, who have published guidelines based on thorough research that realise women's and men's rugby should be played separately. "the new guidelines do not recommend that transwomen play women's contact rugby on safety grounds at the international level of the game where size, strength, power and speed are crucial for both risk and performance"
<https://www.world.rugby/news/591776/world-rugby-approves-updated-transgender-participation-guidelines>

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34. As a group we have felt anxious about what facilities will now be available when we go out. In workplaces, clubs, bars and restaurants increasingly mixed-sex toilets are being introduced. We have all been impacted by this decision refusing to attend certain venues because of concerns about personal dignity and safety.

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

35. No. All people have rights protected according to sex and gender reassignment if applicable. These are sufficient. There is no possible way of defining what a gender-fluid or non-binary person is in law.

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