

Q1. WILL THE GOVERNMENT 'S PROPOSED CHANGES MEET I TS AIM OF MAKING THE PROCESS "KINDER AND MORE STRAIGHTFORWARD"?"

No, the proposed changes to the Gender Recognition Act do not go far enough or improve the process in any meaningful way. A kinder and more straightforward gender recognition process should proceed from the starting point that every individual – whether cis or trans – is the best judge of their own gender. This process should avoid pathologising and stigmatising trans identities. It simply needs a mechanism to ascertain that the individual is serious in their declaration and intent.

A kinder gender recognition process would also allow non-binary people like me to have their gender recognised in law.

Q2. SHOULD A FEE FOR OBTAINING A GENDER RECOGNITION CERTIFICATE BE REMOVED OR RETAINED? ARE THERE OTHER FINANCIAL BURDENS ON APPL ICANTS THAT COULD BE REMOVED OR RETAINED?

The cost should align with that of other legal identification documents such as a driving licence.

Q3. SHOULD THE REQUIREMENT FOR A DIAGNOSIS OF GENDER DYSPHORIA BE REMOVED?

Absolutely. As a trans and non-binary person I am horrified that trans people require a certification of mental illness by medical gatekeepers in order to obtain a GRC. Transgender identities cannot and should not be reduced to a medical diagnosis: this is the opposite of self-determination. Rather, each individual should get to define their own gender. In their book *Trans Like Me* (2017), trans author CN Lester defines "trans" as "any person who, in some way or combinations of ways, has found that how they experience their gendered self does not fit with the gender and sex they were assigned at birth" (8). In other words, gender dysphoria is not the measure of transness. Trans identities are diverse; not all trans people experience this form of bodily or physical dysphoria. Personally, I do not experience bodily dysphoria, and this does not make me any less trans.

This requirement is the opposite of kind; it is cruel and has no place in contemporary law.

Q4. SHOULD THERE BE CHANGES TO THE REQUIREMENT FOR INDIVIDUALS TO HAVE LIVED IN THEIR ACQUIRED GENDER FOR AT LEAST TWO YEARS?

Yes. The requirement to live in an "acquired" gender without any legal recognition puts trans people in danger, particularly trans women. Trans people meet with ignorance and prejudice and even harassment and violence. Providing legal recognition earlier in a transition process – if the individual desires it – would provide some much-needed protection during a time of intense vulnerability.

Further, notions of "living in" and "acquiring" a gender are highly problematic and can be interpreted subjectively. Definitions of "living in" a gender are likely to rely heavily on stereotyped norms around clothing and external presentation. Each individual should get to define their own gender and no one should be assigned or denied legal rights based on their pronouns or hairstyle.

Q5. WHAT IS YOUR VIEW OF THE STATUTORY DECLARATION AND SHOULD ANY CHANGES HAVE BEEN MADE TO IT?

A statutory declaration puts the individual at the heart of the gender recognition process. A medical diagnosis and "proof" of "living in" a gender turn the recognition process into a test, and require strangers to make life-altering decisions about an individual's identity. Instead, a statutory declaration should suffice for legal recognition. In this way the law would take seriously every individual's right to determine their own gender. Through a legal declaration, the applicant can show their seriousness about their gender identity without a requirement for medical and other "evidence."

However, the current declaration could be improved. An individual cannot be expected to know how they will feel "until death." Older trans women like Kate Bornstein and Juno Roche have stated that they are more non-binary than female now and this evolution of identity should never be held against a trans individual.

Q6. 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 one should have the right to prevent another from living in the gender which feels right to them. Further, it is humiliating to expect the individual to ask their spouse "for permission," and as outdated as requiring cis women to get their husbands' permission to open a bank account.

Q7. SHOULD THE AGE LIMIT AT WHICH PEOPLE CAN APPLY FOR A GENDER RECOGNITION CERTIFICATE (GRC) BE LOWERED?

I suggest that voices of young trans people and those who support and work with them be taken into account regarding this decision.

Q8. WHAT IMPACT WILL THESE PROPOSED CHANGES HAVE ON THOSE PEOPLE APPLYING FOR A GENDER RECOGNITION CERTIFICATE, AND ON TRANS PEOPLE MORE GENERALLY?

The proposed changes will do very little to lessen the difficulties for people applying for a GRC. Disappointingly, they will have no impact on non-binary people, and we will still be unrecognised in law.

The government should take seriously the outcomes of the 2018 consultation, where over 70% of respondents supported making substantive changes to the GRA. Those changes should be implemented at a minimum. Failure to do so erodes trust. Trans people are feeling abandoned and mistrustful. We are also exhausted from dealing with daily discrimination which is fed by misinformation in the media.

Q9. WHAT ELSE SHOULD THE GOVERNMENT HAVE INCLUDED IN ITS PROPOSALS, IF ANYTHING?

The government should have included:

- Legal gender rights for people who do not fit into the gender binary.
- Explicit protection (for everyone) from demands to reveal one's gender unless there is a legal requirement to do so.
- Explicit protection from harassment for gender non-conforming people, and those perceived not to conform to gender norms, whether they are trans or not.

At the heart of any reform should be a recognition that an individual is the best judge of their own gender. Any proposals for reform should enshrine the right to gender self-determination.

Q10. DOES THE SCOTTISH GOVERNMENT'S PROPOSED BLL OFFER A MORE SUITABLE ALTERNATIVE TO REFORMING THE GENDER RECOGNITION ACT 2004?

Yes, in particular the removal of the requirement to "prove" one's gender to a panel (usually comprising cis people). The only experience of comparable humiliation and anxiety I can think of for cis readers of this document is having to prove your virginity before a group of gynaecologists.

Q11. WHY IS THE NUMBER OF PEOPLE APPLYING FOR GRCS SO LOW COMPARED TO THE NUMBER OF PEOPLE IDENTIFYING AS TRANSGENDER?

I hypothesise that trans people who are already exhausted trying to carve out a space to exist in a transphobic society simply don't have the resources to apply for this stressful, bureaucratic and expensive process. I hope you will test my hypothesis by funding independent researchers, using trans people as experts on their own experiences and identities. This would be a valuable research project and I look forward to reading it once it is published.

Q12. 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.

Language and terminology evolve across decades, as does our understanding of marginalised groups such as trans people. In referring to "gender reassignment" instead of "trans people" the Equality Act is out of date. It appears to exclude those, like me, who do not transition medically (n.b. there are many other ways to transition), and those, like me, who do not transition neatly across the gender binary. Personally, I do not feel adequately recognised or protected by the Equality Act in its current form. An amendment could be made stating that all trans people are legally protected from discrimination and harassment. This is in the spirit – but not in the language – of the original Act.

Similarly, the definitions for "sexual orientation" assume that there are only two genders. This binary thinking is reductive and excludes, for example, those whose partner changes their gender, those whose partner is non-binary, and those who are non-binary themselves. However, the spirit of the Act intends to protect all those whose sexual orientation is not exclusively heterosexual. Again, this could be clarified without substantively changing the Act.

Q13. 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 instructions on single-sex spaces and services are generally clear, although the language is in some cases outdated, and all the examples are predicated on the assumption that gender is binary.

The Act could be clearer that trans people have the right to self-select which spaces they use according to how they identify. It could also state more explicitly that service users may not challenge, harass or exclude other users on the basis of *perceived* gender. Many gender non-conforming people (whether trans or not) are likely to experience harassment in single-sex public spaces, such as toilets, and may opt not to use these spaces, even when no alternative is available. Contrary to recent opinion on social media, trans and other gender-non-conforming people are far more likely to be harassed

or attacked in both mixed-sex and single-sex spaces. The Equality Act could make clearer that someone's discomfort at another's non-conformity to gender norms does not provide grounds for harassment.

As an intersectional feminist I have carefully analysed the issues and conclude that trans rights and the rights of cis woman are not in opposition. There is no zero sum game where one benefits at the expense of the other. Moreover, as a non-binary trans person – like all trans people – I think very carefully about the spaces I enter, and I avoid spaces which are designated for (cis and trans) women only.

Q14. DOES THE EQUALITY ACT ADEQUATELY PROTECT TRANS PEOPLE? IF NOT, WHAT REFORMS, IF ANY, ARE NEEDED?

The Equality Act does not explicitly protect and should be reformed to protect the following:

- Trans people who do not medically transition
- Trans people not transitioning to the "opposite" side of the gender binary
- Non-binary people
- Gender-nonconforming people (including cis people who are perceived by others to fall outside traditional gender norms)

Q15. WHAT ISSUES DO TRANS PEOPLE HAVE IN ACCESSING SUPPORT SERVICES, INCLUDING HEALTH AND SOCIAL CARE SERVICES, DOMESTIC VIOLENCE AND SEXUAL VIOLENCE SERVICES?

From my trans peers I know that waiting lists for gender identity clinics are at or over two years, which for vulnerable and desperate people is traumatic. In my own experience coming out and transitioning I have had to educate all my service providers – my GP and support staff at the surgery; dentist; optometrist; solicitor – about my identity, and advocate for the use of my name, pronouns and title. This is stressful and exhausting. Further, there is no national standard of trans care so trans patients may be met with ignorance or outright transphobia. I strongly recommend that all health care staff undertake training in basic trans awareness.

Q16. ARE LEGAL REFORMS NEEDED TO BETTER SUPPORT THE RIGHTS OF GENDER-FLUID AND NON-BINARY PEOPLE? IF SO, HOW?

The Equality Act and the Gender Reform Act currently do not extend rights and protections to non-binary people, or to gender non-conforming people.

This could be rectified in one of two ways:

- 1) The definitions be regularly updated and added to in order to make explicit reference to all groups who fall under the trans umbrella. Currently, the Acts would need to make explicit reference to non-binary, Intersex, gender-fluid, gender non-conforming people and many other groups.
- 2) The definition be altered so that it automatically includes all who fall under the trans umbrella. For example "trans includes anyone who does not identify with the gender associated with the legal sex they were assigned at birth."

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