

Statement for the HOC Women and Equalities Committee on reform of the GRA

- 1 It might be thought that applying for a GRC is a trivial administrative requirement, like applying for a driving licence or passport. That would be a fundamental mistake. Let me explain why, by reference to my own personal circumstances.

- 2 Until 2009, I sailed under different colours, as Michael Harrison. I was a moderately successful barrister. I was also transgender. In 2009, with the support of friends and professional colleagues I was finally able to live and work as Caroline. To do this with the medical endorsement and support that was appropriate, the law required me to undergo extensive counselling beforehand. That was acceptable, even if not logical, because what prompts many people in my position to engage with the medical profession in the first place, is the fact that after a lifetime of agonising about our feelings, we have finally come to terms with accepting that the route to peace lies in accepting that we truly are the person we feel. After I began living and working as Caroline, I then had to wait for a minimum of a year before it was lawful for me to undergo gender reassignment surgery. What public conveniences, spas or swimming pools are appropriate for that stage?! But the law was still not done with me, even after surgery. It did not (and does not) recognise me as a woman.

- 3 I had to live for a minimum of two years as Caroline before being eligible to apply for a GRC. By that stage in our lives, many people in my position have already moved on and are just getting on with their life and work. The gender conundrum has been addressed, resolved, and surgically corrected. All that most of us want to do thereafter, is to be treated and accepted in our identified gender, and to get on with our lives as (hopefully) responsible citizens making a valuable contribution to society. To be required to see a psychiatrist (not a gynaecologist?) and pay for a report, gather official identification documents, complete a long form, and apply to an unaccountable, non-medical, committee to be certified as a woman, is deeply offensive and runs counter to all norms of human dignity. At the least, it is like picking at a scab which has finally healed with reassignment surgery.

- 4 Since 2009, I have been elected as a Bencher of Lincoln's Inn; been appointed as one of Her Majesty's Counsel and have twice appeared before the Judicial Committee of the Privy Council. I am treated as a woman by my peers, by my clients (who include public bodies and Government Departments), by eminent expert witnesses, and by Judges up to and including the President of the Supreme Court. My public role as a Human Genetics Commissioner managed my transition seamlessly. Why is society, as manifested in the GRA, incapable of treating me as a woman? What threat do I pose? What mischief justifies treating me as tantamount to an alien, with no legal rights or status as a woman? Why have I been 'de-legitimised' because of being transgender?

- 5 If it was only me that was affected, I would probably just continue to ignore the provisions of the GRA and get on with my life and practice. However, it does not affect just me. I am unable to marry, as a woman, the person I love. It might be lawful for me to marry as a man, possibly even without changing my name again; but without a GRC, I cannot marry as a woman. Yet to marry as a man would surely be a gross deceit and an affront to right-thinking members of society, who have been treating me as a woman for the last 11 years. It would also require my female partner to masquerade as heterosexual, rather than being true to herself as a gay woman. Surely Parliament cannot have intended such consequences when passing the GRA? The fact that without a GRC, I cannot marry my beloved partner, has real consequences for the arrangement of our property and financial affairs. It means that we are unable to benefit from the tax and inheritance provisions that apply to married couples or those in a civil partnership. If one of us dies before the other, the surviving partner will face substantial tax liabilities, that would not apply if we were married. How can such discriminatory treatment be justified? To what legitimate aim could the requirement for a GRC, be a proportionate response?

- 6 I am regularly asked to speak to law firms, law students and barristers about diversity issues. In 2018 I gave a talk to around 80 Judges, including the Lord Chief Justice and the then Vice-President of the Court of Appeal. Amongst other things, I

usually share the fact that I do not have a GRC, am not legally recognised as a woman and cannot marry as a woman. Without exception, my audiences have been shocked and outraged that society requires me to obtain a ‘licence’ to be recognised and accorded legal rights a woman. My experience will not be unique, and Parliament should know that the effects of the GRA include those I have described. Action is required this day, to remove this discriminatory and unnecessary piece of legislation.

- 7 Therefore, my answers to some of the specific questions posed by the Committee, are as follows:
- a) No, the Government’s proposals will not make the process “*kinder and more straightforward*”. They are perpetuating unjust and discriminatory treatment, without a legitimate aim and in a disproportionate manner.
 - b) Yes, the requirement for a diagnosis of gender dysphoria should be removed. Adults with legal capacity to make decisions about their health are perfectly entitled to refuse medical treatment that would save their life. They are entitled to refuse for good reason, bad reason, or no reason at all. Their decision must be respected by doctors, and any attempt to treat a patient in the face of such refusal, is an assault. The law protects competent adults, and reinforces their right to self-determination. Why should a decision about gender identity be treated differently, or be accorded less respect, than a decision to refuse a blood transfusion on religious grounds, for example?
 - c) The requirement to have lived in one’s identified gender for a minimum of two years, is tantamount to a cruel and unusual punishment. For the first year, transgender individuals have to occupy a kind of ‘no man’s land’ if you will forgive the expression, where you are neither fish nor fowl. Following gender reassignment surgery, most trans people achieve a resolution that they have been seeking for many years. To require them to re-open painful issues that they have dealt with and resolved, not less than a year later, is cruel and unnecessary.

- d) Spousal consent. The same rationale applies as at b) above. A spouse has no legal standing to interfere with the medical decision of a competent adult, so why should gender-related issues be any different? The law provides extensive protection for the financial, property and bodily integrity rights (protection from abuse, assault etc.) of partners and spouses; surely those should be sufficient to meet any concerns about protecting family members?
- 8 I have not sought to answer detailed questions about Equalities legislation, because I am not a legal expert in that field. I am sure the Committee will hear from many people who are experts. I do hope however, that my contribution might provide a perspective that the Committee may not otherwise hear.

Caroline Harrison QC

November 2020