

## Written evidence submitted by Government Equalities Office on behalf of HM Government [GRA2016]

### Overview

We want transgender people to be free to live their lives as they wish in modern Britain.

The Gender Recognition Act 2004 (GRA) sets out the process by which a person can change how their legal sex is recorded by obtaining a Gender Recognition Certificate (GRC).

The previous administration ran a public consultation on the GRA from 3 July to 22 October 2018. The Government made a commitment to listen to all voices and to understand the legitimate concerns that were raised from all sides of the debate.

The previous administration engaged with just under 140 organisations before and during the consultation period, including LGBT groups, women's groups, faith groups, other Government departments, foreign governments and other civil society organisations<sup>1</sup>.

There was an exceptional response rate to the consultation, with over 102,000 responses. We published our response to the consultation on 22 September this year.

It is the Government's view that the balance struck in this legislation is correct, in that there are proper checks and balances in the system and also support for people who want to change their legal sex. However, there were opportunities to improve the process and experience of transgender applying for a GRC. We will therefore make the application process kinder and more straightforward. We will cut bureaucracy by enabling applications via gov.uk and we intend to reduce the fee from £140 to a nominal amount.

The minimum age limit for changing legal sex with a GRC is 18 years. This is set out in the GRA and can be found at <http://www.legislation.gov.uk/ukpga/2004/7/section/1>. This will not be changed. The age of 18 is widely recognised as the age at which one becomes an adult and gains full citizenship rights; we feel this is the appropriate point at which an individual should be able to make such a major decision, in their own right, on changing their legal sex. It is therefore important that under-18s are properly supported in line with their age and decision-making capabilities. That is why we support the work of Dr Hilary Cass, former President of the Royal College of Paediatrics and Child Health, who is leading an independent review into gender identity services for children and young people. NHS England are also currently reviewing their evidence base related to young people on the gender dysphoria pathway, including the evidence base that underpins the administration of puberty blockers and cross-sex hormones.

It is also important that we protect single-sex spaces in line with the Equality Act. The law is clear that service providers are able to restrict access to single-sex spaces on the basis of biological sex if there is a clear justification.

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<sup>1</sup><https://www.whatdotheyknow.com/request/615173/response/1466435/attach/html/3/FOI328883%20REPLY.pdf.html>

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### Context

As of June 2020, there have been 5,677 full GRCs granted since 2005, of which 4,040 (71%) have been issued to transgender women and 1,637 (29%) have been issued to transgender men.

Prior to the launch of the GRA consultation, the previous administration ran a National LGBT Survey in 2017. This asked transgender men and women about their experience of the process to legally change their sex. Of those who were aware of the process, but did not have a GRC, the most frequently given reasons for not having applied were:

- 34% said they found the process to be too expensive
- 38% said they found the process too bureaucratic
- 44% said they did not satisfy the requirements

However, many were mistaken about the requirements. 43% thought a personal interview with the Gender Recognition Panel was required and 15% that surgery was. It may be the case that another important reason why few people apply is that a legal change of sex is not necessary in order to be transgender. Individuals can change their name and identity on most documents (including passports, driving licences, bank accounts and credit cards) without it. People are also protected by the provisions of the Equality Act relating to gender reassignment without needing a legal change of sex.

### Healthcare

We know from our engagement with transgender people and stakeholder groups that improving healthcare support is a priority for transgender people. That is why we are opening at least three gender identity clinics this year, which should see waiting lists cut by around 1,600 people by 2022. This will lead to greater patient choice, shorter waiting times, better geographical coverage and easier access.

GEO currently funds the National Adviser for LGBT Health, Dr Michael Brady, and his team within NHS England. This year the National Adviser's team has led engagement with the LGBT voluntary and community sector on the impact of Covid-19 and are working with the voluntary sector and the Primary Care Team at NHS England to produce guidance to improve transgender health care in primary care. The team have also advised on work including mental health services, suicide prevention, cancer and specialised commissioning of gender identity services.

### Domestic abuse and Hate Crime

This government is determined to protect and support the victims of abuse and bring perpetrators to justice. This of course includes transgender people. We will support transgender people facing domestic abuse, within the Government's wider domestic abuse work, including the measures in the Domestic Abuse Bill and its supporting non-legislative package. These measures include a new statutory definition of domestic abuse – recognising the many forms abuse can take – and changes to ensure those fleeing domestic abuse will be automatically considered a priority need by their council for housing.

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We are working with stakeholders to ensure the commissioning of services for domestic abuse survivors is LGBT-inclusive. The Government continues to fund the LGBT domestic abuse helpline and £500,000 was allocated to a project to build capacity in the charitable sector to support LGBT victims of domestic abuse. The Crown Prosecution Service has also committed to working with partners to improve the recording and monitoring of equality data for LGBT victims of domestic abuse, rape and hate crime, identifying any gaps in service provision.

We understand concerns about abuse faced by transgender people more widely. We would strongly encourage anyone who has been harassed or assaulted because they are LGBT to report this to the police. They can advise on whether the behaviour is criminal and on avenues of support available.

### LGBT bullying

We want to ensure that all children are kept safe in schools. In our 2019 Manifesto, we made clear our commitment to continuing to help teachers tackle bullying, including homophobic bullying. Since 2016, the Government has invested £4m to support schools in preventing and addressing LGBT bullying, reaching 2250 schools in England.

We are currently evaluating this programme to increase our evidence base on what works in schools, and, in June, the Department for Education announced it has extended its anti-bullying programme until March next year.

The Department for Education will also be rolling out new statutory Relationships Education guidance in all primary schools and Relationships and Sex Education guidance in all secondary schools, so that children leave school prepared for life in modern, diverse, Britain.

The Government has engaged with the Office for Students on the barriers faced by LGBT students in higher education including instances of LGBT bullying. We are considering how best to take this work forward.

### **Conclusion**

Our response to the GRA consultation upholds the rights of transgender people and women, ensures that our system is more straightforward, and sets out how we will address the concerns of transgender people about healthcare. This Government is committed to supporting transgender people and tackling discrimination so everyone is free to live their lives as they wish.

**November 2020**