

Scottish Catholic Education Service

Questions

1 Do you have any comments on the proposal that applicants must live in their acquired gender for at least 3 months before applying for a GRC?

Yes

If yes, please outline these comments.:

The Scottish Catholic Education Service would be concerned that this minimum period is insufficient for a life time commitment. It is our understanding that as part of the process the individual must declare that this is a permanent change and cannot revert back to their original gender. To suggest that 3 months is sufficient time to decide, change, live as and apply for permanent recognition for this decision seems to be disproportionately short.

Our main concern is for the young people within all Scottish schools. People are complex, and young people going through puberty and navigating their way into adult hood have particular complex issues. Schools are acutely aware that when a young person presents with a situation, it is rarely a linear “one issue” matter.

Home life, mental health, academic achievement, physical well being, friendships, romance are only some of the factors that a school considers when offering pastoral care to a young person. It is rarely the case that a young person can be pastorally supported within (or through) a situation within 12 weeks. This reduction in timescale, coupled with the de-medicalisation and the proposed change in minimum age, means that it will be legally possible for a teenager who has not yet fully matured or developed, to change their gender permanently, quicker than a pastoral care teacher can get a referral appointment for them with mental health support agencies.

2 Do you have any comments on the proposal that applicants must go through a period of reflection for at least 3 months before obtaining a GRC?

Yes

If yes, please outline these comments.:

While the wording of the new proposal suggests that there is a ‘reflection’ period, there is nothing within the recommendations that outlines how the individual will be supported in this period. The proposals state that the applicant will confirm their decision after 3 months. This means that the application has been processed and there is a confirmation date. It may be called a reflection period, but actually it is nothing more than a processing period.

With the de-medicalisation of this change it will mean that an individual can permanently change their gender without any external support.

3 Should the minimum age at which a person can apply for legal gender recognition be reduced from 18 to 16?

No

If you wish, please give reasons for your view.:

The Scottish Government are currently looking at incorporating the UN Convention on the rights of the child into Scot's law. This convention recognises childhood as being up to and including 18 years of age.

As previously stated, as educationalists, we are aware of the breadth of maturity and experience within our teenage population. We are also aware of that maturity is not a direct progression – we witness on a daily basis young people who are mature physically who cannot cope with the expectations put on them emotionally or academically. We see children with mature thinking and emotional intelligence behave erratically or immaturely at times of stress and crisis. The recognition that childhood experiences, especially adverse ones, can impact on young people in multiple ways across numerous years has led to holistic and comprehensive approaches to care for our children – recognising that while they may be in the body of an adult they are in fact still children.

In schools we plan learning and teaching to help children as they grow and develop, and the Scottish Government initiative to “Get it right for every child” is at the heart of the Scottish education system. We would suggest that reducing the age limit is being driven by an adult agenda, and does not have the common good of our young people at its basis. We recognise that some will argue that there are currently laws that allow 16 year olds to make significant decisions, including voting and marrying. We would caution that these are not permanent legal decisions though, as there are legal routes to divorce and one can change one's mind at every election. This proposal is for a permanent and irreversible change to the identity of a person. As a society, as adults, we should be ensuring a duty of care for our children and young people. We would therefore suggest that 16 is too young.

Furthermore, we would ask that consideration is given to increasing the age. We are aware of the current debate and a public consultation regarding the age a young adult can be fully accountable for criminal actions. If, as a country, we have guidelines that state that due to imbalances in the brain development, under 25's participate in risk taking and emotionally driven behaviour, and this immaturity should be taken into account when considering criminal behaviour – surely this evidence of immaturity and developmental maturity should be taken into account when legislating for irreversible decisions (of any kind).

<https://www.scottishsentencingcouncil.org.uk/news-and-media/news/research-indicates-the-brain-does-not-fully-mature-until-you-are-at-least-25/>

4 Do you have any other comments on the provisions of the draft Bill?

Yes

If yes, please outline these comments.:

The Scottish Catholic Education Service is concerned that there is not a formal question regarding the significant change to de-medicalise this process, and that this issue may therefore not receive as much feedback from those who only answer on the highlighted issues.

While this consultation is regarding the legal fiction to recognise an individual as a gender other than their birth gender, there are implications for the associated processes linked to the requirement to 'live in their acquired gender'.

We understand that anyone who is being supported for gender dysphoria receives significant psychological, emotional and medical support, as outlined through the NHS support pages. We are not sure if there is an implied presumption that someone looking for legal gender recognition is already being medically supported, and therefore does not need to supply that information to the registrar? We would question whether this new process will circumvent any medical processes or support. With these proposed changes, it will not always be the case that an individual applying for legal gender recognition has sought or had the benefit of medical support. We would question if there is sufficient duty of care for individuals.

We have already seen in the media details of young people who are taking legal action because they consider the duty of care at the time of transitioning was inadequate, by removing the need for this medical check at the point of permanent legal change, there is the possibility that individuals could claim that they were not adequately supported for such a significant change.

As a faith community we are unwavering in love and acceptance of those who experience gender dysphoria and ask that the government provides appropriate support to those who need it. We are concerned that in de-medicalising the wish to legally transition, and be recognised as such, society may fail to provide the necessary support for those affected by gender dysphoria in the form of contact with health professionals. We would urge that, where gender dysphoria is experienced, significant support should be afforded to the person experiencing it, including at the time of application for legal gender recognition.

Again, while we recognise that this consultation is regarding the legal change to recognising gender, we would suggest that this reform is inherently interconnected with the capacity to self identify and transition from a very early age to another gender. We would therefore urge a broader conversation regarding the implications of self identification and transitioning to another gender for children.

The Scottish Catholic Education Service would ask that robust research is undertaken regarding the impact on school aged children in light of the current approaches being taken by partner agencies including social work, health professionals and external 'support groups' in the area of gender dysphoria. Current NHS advise states that where children are thought to have gender dysphoria...

"Most treatments offered at this stage are psychological, rather than medical or surgical. This is because the majority of children with suspected gender dysphoria

don't have the condition once they reach puberty. Psychological support offers young people and their families a chance to discuss their thoughts and receive support to help them cope with the emotional distress of the condition, without rushing into more drastic treatments.

However, experience within our schools has been that pre pubescent children are being actively encouraged to change name, pronoun and uniform and schools are being asked to make adjustments in accordance with this. These changes are being recommended for children as early as primary one.

School staff report that there are an increasing number of situations arising in schools where the child or the family has other complex needs or issues within their lives – yet the request for the child to transition is considered in isolation.

School staff are reporting that when they seek advice from their local authority they are inevitably being told to accommodate requests, even if these are based solely on the desire of parents, children or partner agencies and NOT on medical decisions. Staff are increasingly concerned about repercussions in terms of legal action linked to the Equality Act and even that their professional recognition with the GTCS could be removed, should they raise questions or genuine concern about processes and recommendations.

This is not only a significant concern for pre-pubescent children, but for pubescent and post pubescent children in Scottish schools. Staff at all levels within our schools are concerned that the access to gender identity clinics, or indeed the speed by which a child's self identification without medical confirmation is accepted, is far greater than access to psychological services, mental health practitioners and counselling. An holistic approach to meeting the needs of the child seems to have been discarded in place of a un-questioning acceptance that if a child states that they are a different gender then this must be accepted and accommodated. We are unsure if this is because of fear from colleagues of being labelled trans-phobic, undue pressure, or simply social perception that this is now a norm – but we are concerned that this approach has knock on implications for allowing children to permanently change their gender without any kind of medical (and by medical we mean in the broadest sense) consultation/intervention.

Furthermore, we would ask that the evidence and experience of schools supporting children who have stated that they identify as another gender and then change their mind, be researched and reported on. We believe this has significant implications for the current process which requires you to permanently, legally change your gender. We would ask that the permanency of the current process be reviewed.

All of the comments above are rooted in our belief that we are made in the image and likeness of God, and that it is our responsibility to love and care for others.

While we may have a very different view from some responding to this consultation regarding the capacity to change gender, we would hope that our comments are not judged or dismissed because of our religious belief. We hope that the points made above are understood as being considered, reasonable and applicable

to people of all faiths and none. Indeed we would suggest that as our concerns and comments are based on genuine concern for the care and development of all young people, that they can be appreciated by all, no matter what their personal understanding of gender is.

5 Do you have any comments on the draft Impact Assessments?

Not Answered

If yes, please outline these comments.: