The Gender Recognition Act 2004

1 The initial view of Scottish Government is that applicants for legal gender recognition should no longer need to produce medical evidence or evidence that they have lived in their acquired gender for a defined period. The Scottish Government proposes to bring forward legislation to introduce a self-declaratory system for legal gender recognition instead.

Agree

2 Should applicants to the proposed gender recognition system in Scotland have to provide a statutory declaration confirming they know what they are doing and intend to live in their acquired gender until death?

Yes

3 Should there be a limit on the number of times a person can get legal gender recognition?

Don't know

I think that this should be very much based on circumstances. If someone has been supported well along the way psychologically they will be potentially in a much better frame of mind to be clear and really have a good and very felt sense of who they are in their own body. If religion, family, bullying, mental health issues, sexuality confusion etc is a factor which often it can and will be this can then push someone into a position of having felt themselves to be one gender and then needing to change to the other. Also if interest this could very much be the case as intersex by default in many cases are forced into being transgender to have a position to fit in to societal norms. This could and often is a key factor in why someone may choose one gender and then change to another. If there were a third gender that was neither male nor female this would resolve this problem and would also reduce for many the number of times needed to change gender.

One of the biggest misunderstandings in this area is the basis for needing to change from one to another and possibly back again is that the medical profession place the timeline on transgender people for them to have a system for tracking progress. Like all human beings life is transient and continues to be so in which case change and moving through life with different emotions and understanding of oneself can and does play a huge part in the process of transition. It is never a straight forward this or that it is a linear process that is led by the trans person and not the medical profession or legal profession.

4 If the Scottish Government takes forward legislation to adopt a self-declaration system for legal gender recognition, should this arrangement be open:

B. to everyone?

If you want, you can give reasons for your answer or make comments.

5 The Scottish Government proposes that people aged 16 and 17 should be able to apply for and obtain legal recognition of their acquired gender. Do you agree or disagree?

Agree

6 Which of the identified options for children under 16 do you most favour?

Option 3 – parental application

I think both the court process and parental application should be applied. If parental application is a possible application and shows parental support this should be a less formal statutory declaration process. Where there are difficulties with one or both parents with acceptance then the child should be able to apply to the court. I would say 12 would be a good age with lots of awareness but does lend itself to problems beyond primary school as it would be best to have already transitioned to some extent to the correct gender not reflected at birth. This would make moving into secondary or Higher school easier and more appropriate for the child. I think option 5 could play a big part also as there are many capable and very articulate children who are anything from 7 upwards and who have a very good sense of themselves and an articulate framework to speak from.

Marriage and Civil Partnership

7 Should it be possible to apply for and obtain legal gender recognition without any need for spousal consent?

Yes
If you want, you can give reasons for your answer or add comments:

Too much weight is given to the spouse and it makes for a really disempowering relationship and absolutely hinders trans people whose spouse threaten the process with divorce or the trans partner not being allowed to see the children if they go ahead this way. I think that mediation should play a big part in helping with both the telling the spouse what they are and possibly have been going through for a long time and also mediation can help as they go through the motions to look at positive ways of working together even if at the end they just remain friends and parents of their children and do not remain married to each other. I think this needs a total re-think as many people split up because the initial conversation or telling in a letter or text or whatever is too clumsy and not thought out very well. Psychological support for the trans person straight away can be really helpful in looking at how you come out and how you speak with your spouse and indeed how you approach the GP and start the referral process.

8 Civil partnership is only available to same sex couples. This means that the civil partners cannot remain in their civil partnership if one of them wishes to obtain a full Gender Recognition Certificate.

Yes

If you want, you can give reasons for your answer or add comments:

Civil partnership for all would be the most fair and equitable way forward and would then recognise mixed or opposite sex civil partnerships as well same sex partnerships.

9 Should legal gender recognition stop being a ground of divorce or dissolution?

Yes

If you want, you can give reasons for your answer or add comments:

I agree with 5.2.1

Other aspects of the 2004 Act

10 Are any changes to section 22 (prohibition on disclosure of information) necessary?

Yes

If you answered Yes, describe the changes you consider are needed:

Protected information is exactly that. Exemptions listed in 6.04 should not be allowed without an overarching authority. They allow for transphobia and taking away the protection the law has supposed to have given. I understand where legalities are at stake but this should not be allowed otherwise.

It is also the case that currently laws do not work effectively enough with having the Gender recognition act 2004. Governments have not done sufficient work and as such the law is also unable to deal with the levels of hate crime that affect trans people every single day of their lives. Despite brandishing the I have GRC you are outing me it is illegal. The Police still have a lot of transphobia and this can be secondary when trying to report to the Police. Equally in hospitals, supermarkets, telephone calls, even via postal systems misgendering and dead naming happens all the time. There is totally inadequate training or community to enforce the change that is desperately needed. The law needs to work and government need to care to the extent of helping to make a more progressive society and put out some anti hate crime and positive images of trans and intersex people in the media and on their benches.

11 Should a person who has been recognised in their acquired gender under the law of another jurisdiction be automatically recognised in Scotland without having to make an application?

Yes

If you want, you can give reasons for your answer or add comments:

Trans people are outed all the time why should they have to out themselves when crossing from London to Scotland for instance?

Non-binary people

12 Should Scotland take action to recognise non-binary people?

Yes

If you answered No, and if you want, you can give reasons for your answer:

13 If you answered Yes to Question 12, which of the identified options to give recognition to non-binary people do you support? You can select more than one option.

Option 6: Amendment of the Equality Act 2010

If you want, you can give reasons for your answer, add comments or, if you think none of Options 1 to 6 is suitable, describe your preferred option:

I think option 4 and 6.

14 At paragraph 7.26. and in Annex J we have identified the consequential legal impacts if non-binary people could obtain legal gender recognition using the proposed self-declaration system.

No
If you answered Yes, describe the impacts you have identified.

Conclusion

15 Do you have any comments about, or evidence relevant to:

Yes

If you answered Yes, add your comments or evidence.

16 Do you have any further comments about the review of the Gender Recognition Act 2004?

No

If you answered Yes, add your comments.

About You

What is your name?

Name:
Jenny Aster

What is your email address?

Email:

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:
Co-Chair LGBT+ Network, City, University of London

If you are responding as an organisation and want to tell us more about your organisation’s purpose and its aims and objectives, you can do so here.

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At City, University of London we put together with Gendered Intelligence the first Transgender, Intersex, Gender Non-Conforming people policy in October 2017. We have done a lot of work in making things better and are looking at the infrastructure, the sports areas, accommodation, training all staff particularly frontliners, cleaners, catering, porters up to lecturers and senior managers. Work in progress it will be and continues to be as a policy is only ever as good as it can be if you constantly ensure that it works throughout an organisation and of course in society overall. As Co-Chair for the staff network it is fundamental that equality, inclusivity, dignity and respect are the key drivers for this.

In all things around the TIGNC areas progressive thinking is required. We are always moving forward and evolving and the law makers and decision makers need to really look at their own inmate prejudices and their own conscious and unconscious bias when helping to make decision around other peoples lives. It is always good to see something like this when looking at reviews and reforms but we must always look within and listen carefully to those who are telling us who they are and stop questioning and testing that. They know how they are we have the problem with understanding, making sense of and interpretation of it. It is for us to look at us not to keep creating new methods and forms and documents to get them to keep proving it to us. Thank you

Where are you resident?

Rest of the UK

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