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.

Disagree

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

Should the process of changing legal gender be made easier this will effectively nullify sex-based protections for women. Single sex services exist to stop women being attacked and assaulted by men. One in five women have been sexually assaulted and being able to question visibly male people in women's facilities, be that hospital wards or changing rooms, is vital to our safety. How male bodied people chose to identify should not be prioritised above women's comfort, safety or indeed material reality. This is particularly important given that only twenty percent of transgender people plan to have any treatment and only five percent have sought a medical opinion.

Many of those who call themselves transgender would have been regarded as transvestites only five years ago. Obviously men who choose to wear women's clothes should not be subject to discrimination, but the rest of the population should not be expected to share their self-perception of themselves as women as the rate of criminality is the same as with the rest of the male population. Making the process of legal gender change easier will lead to greater discrimination against transsexual people, many of whom have struggled to attain a Gender Recognition Certificate. Removing the need for a professional opinion will undermine the identity of transsexual people as undoubtedly it will be used by some transvestites for vexatious purposes.

Making the process of changing recorded gender easier will also have a detrimental impact on lesbians. Many young lesbians are led by social media to misunderstand their same sex attraction as evidence of being 'born in the wrong body.' There is no medical evidence for anyone being 'born in the wrong body' as this would presupposed that brains have a sex, the most up to date research suggests this is not the case. Children and young people in particular must not be misled in this way as they are at risk of taking decisions that will impact on the rest of their lives.

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

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

I think it unlikely that this declaration will be enforceable. However, it would be a necessary safeguard to try to stop those who will inevitably change their legal gender for vexatious reasons.

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

Yes

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

it would be a necessary safeguard to try to stop those who will inevitably change their legal gender for vexatious reasons.

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

A. only to people whose birth or adoption was registered in Scotland, or who are resident in Scotland?

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

B. should also be open to people who have migrated to Scotland from another country?

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?

Disagree

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

Over recent years there has been an explosion in the rate of child and adolescent referrals to Gender Identity (GID) Clinics with the numbers quadrupling from 2012/3. As referrals have increased so has the disparity between girls and boys, with three natal girls seeking to transition for every one natal boy. This poses the question, why are increasing numbers of girls undertaking painful procedures, such as binding their breasts, in order to avoid growing into an adult female body? Research suggests that children who are gender non-conforming are more likely to be lesbian, gay or bisexual as adults. There is a very real risk that by understanding gender non-conformity as evidence of being 'born in the wrong body' children who would otherwise grow up to be same sex attracted will be misdiagnosed as transgender.

Children do not always know what is best for them, and as adults it is our job to make sure that they are protected - we must protect 16 and 17 year olds from anything that has such lasting
and drastic consequences.

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

None of these options

If you want, you can give reasons for your answer, add comments, or describe your preferred option if none of the options given reflects your views.: Absolutely in no circumstances should children be encouraged to transition. Those who seek to do so often have a range of mental health issues that are masked by apparent ‘gender dysphoria.’ Treatments for children with eating disorders do not depend upon confirming their delusion that they are fat, and similarly children who feel discomfort in their bodies should be supported to accept themselves. No child's body is wrong - these kids need help and not to be made into life-long medical patients.

Marriage and Civil Partnership

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

No

If you want, you can give reasons for your answer or add comments.: There is a pattern whereby older men transition to become transwomen in later life. This can have a devastating impact on their wives who should have every right to veto their partner's transition.

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.: This is likely to impact on couples who were previously lesbian where one transitions to have the appearance of a man. They have enough barriers to contend with.

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

No

If you want, you can give reasons for your answer or add comments.: Declaring an intent to change legal gender is not just a personal matter - it has implications on the family, friends and colleagues of the person transitioning. Forcing a spouse to accept this is absolutely unacceptable. No heterosexual woman should be expected to pretend to be lesbian in order to validate a man's identity.

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.: It is imperative that data regarding the natal sex of trans individuals is made available.

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?

Don't know

If you want, you can give reasons for your answer or add comments.: Non-binary people

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

No

If you answered No, and if you want, you can give reasons for your answer.: There is no accurate definition of non-binary. Essentially it is a belief system. Everyone should be free to identify as they wish, that should not mean that others should be forced to accept their chosen identity. Markers of gender are based upon sex stereotypes of masculinity and femininity. No-one is one-hundred percent masculine or feminine - in that respect we are all non-binary. The term is meaningless and should not be protected in law where definitions matter.

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.
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.:

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.

Not Answered

If you answered Yes, describe the impacts you have identified.:
The current wave of 'non-binary' students who think they can identify out of gender with an asymmetric hair-cut and 'they/them' pronouns will have a shock when they enter the workplace. Changing terminology will not change the fact that the be-penis-ed will be at an advantage to the be-vulva’ed in terms of pay, experiences of sexual assault and career progression. Discrimination does not depend on how you see yourself; none of us identify into pay scales or harassment, these injustices happen because of how we are identified by others.

There will be huge legal, administrative and practical costs toward accommodating those who consider themselves ‘special.’

Conclusion

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

Not Answered

If you answered Yes, add your comments or evidence.:
Sex discrimination will be invisible if the process of changing legal gender easier. In Ireland, where gender identity has superseded biological sex on documentation, individuals are free to change their legal 'gender' purely on the basis of self-declaration. This has led to the ridiculous situation whereby men can give birth but those who identify as women are still unable to obtain abortions.

If we really want to support trans people we must make them visible in data; failing to recognise trans people as a distinct group risks hiding their experiences.

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

Yes

If you answered Yes, add your comments.:

Over the past twenty years the terms ‘Gender,’ and increasingly ‘Gender Identity,’ have crept across application forms. Despite having distinct meanings, these terms have bedded-in presumably because the upright British are somewhat squeamish about the double entendre the word ‘sex’ potentially invites.

Objecting to the misuse of these terms isn’t a matter of linguistic pedantry – it is ideological. To be clear, sex refers the biological categories of ‘female’ and ‘male.’ The clumsy phrase ‘assigned male or female at birth’ has been mooted an alternative to the category ‘sex’ but aside from a tiny proportion of intersex people, sex is determined by observation and it really isn’t complicated. There will always be those who seek to undermine this truth by reference to the tiny proportions of people with chromosomal abnormalities. This is about as logical as saying that, because some people are born with one leg, humans are not bipedal as a species.

Sexologists in the 1950s began to use the term ‘gender’ when observing intersex children. It was used by these conservative men to label what feminist historian Sheila Jeffreys deservingly describes as the ‘behavioural characteristics’ that they ‘considered most appropriate for persons of one or other biological sex.’ Latterly ‘gender’ has been used by social scientists and some feminists to refer to the social categories of masculinity and femininity.

Understanding the difference between sex and gender is essential if we are to tackle sex-based injustice. To be clear, there is no biological predisposition for pink and sparkles that is activated by the presence of a second ‘X’ chromosome, and nor does possessing a ‘Y’ chromosome mean lead to a love of guns or the scent of musk. The aggressive gendering of toys, clothes and even language both enforces and creates this gender role divide; it hurts both women and men. In short, as social animals, the differences in the behaviour of women and men is more likely to be learnt than based in biology.

With regard to this consultation, in practice organisations from the NHS to EHRC already use self-identified gender as a marker in place of sex. For example, despite the hefty fines for failing to place patients in single sex wards, most hospitals trusts will accommodate people according to an individual’s gender identity rather than their sex. Accordingly, the 75 per cent of transwomen who retain their penises are placed in hospital wards with women irrespective of the whether the rest of those on the ward consider them to be female. When I sent a Freedom of Information request to my local police force it became apparent that they were unaware of any difference between the terms and consequently were recording crimes according to individual’s stated ‘gender identity’ rather than their empirically observable sex. This has serious ramifications. At present there are 11 prisoners in one specialist facility for male sex offenders – Littlehey jail – who are on the ‘transgender pathway’ to seek legal recognition as women.

No-one can identify out of the gendered norms of a patriarchal society. Collapsing the terms sex and gender makes it all the harder to name our oppression because sexist gender roles are presented as natural and inevitable. Allowing people to change gender more easily will effectively be a state sanctioning of a sexist ideology. I for one refuse to describe myself as ‘identifying as a woman.’ Being a woman is not a choice, it is a biological fact - women’s safety and rights deserve to be prioritised above the fantasy of 0.03 percent of the population.

About You

What is your name?
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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation: Critical Sisters

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.

If you are responding to this consultation as an organisation and want to tell us more about your organisation’s purpose and its aims and objectives, please do that here. Founded by a diverse group of left-wing feminists, we recognise the harm that can be done when debate is stifled for fear of causing offence. Critical Sisters are proudly secular and gender-critical. We stand in opposition to man-made beliefs; be that religious faith or the ideology of gender.

Where are you resident?

Rest of the UK

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