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

If you want, you can give reasons for your answer, or make comments.:
Edinburgh Rape Crisis Centre currently operates on the basis of self-declaration and have done so for 10 years. We would encourage the Scottish Government to adopt this as practice for legal gender recognition and stress that the introduction of it would have no negative impact on our own service provision.

Recognising trans people on a self-declaration basis is key to our feminist principles in which we support people of marginalised gender identity to have full autonomy over their rights, identities and bodies. Further, it would remove the current process which is unnecessarily intrusive, expensive and lengthy. We believe recognising trans people on a simple self-declaration process will increase their safety, privacy and dignity and fully support this.

We are aware there are concerns relating to the impact of self-identification on gender based violence services and would like to emphasise our support of the proposed changes. In our experience, our self-declaration practice has never been misused or exploited and we have no concerns that it will begin to be if and when it is legislated. We are confident in our current practice of self-declaration as best practice and would like to encourage the Scottish Government to similarly adopt it.

Our centre currently have women's only times and spaces and we recognise that trans women - and trans women on the basis of self-declaration - are women, and are therefore included in those spaces. The safety of our spaces is dependent on our routine risk assessment, practice and policy, and not on the identities of the people who are in them.

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.:
ERCC support this as a reasonable and sensitive mechanism to ensure people applying for legal gender recognition are doing so because they are serious.

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

No

If you want, you can give reasons for your answer or make comments.:
We believe that people should be allowed to change their legal gender as they need and understand that gender identity can and does change. If and when this happens, people should be allowed to have legal recognition that reflects this.

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

If you want, you can give reasons for your answer or add comments.:
We believe the right to apply for legal gender recognition should be extended to 16 and 17 year olds. We see this is as reflective of the rights and legal provision of this age group in other areas; such as marriage and the right to vote. Our organisation work with and support 16 and 17 year olds and we recognise this proposal as positively furthering the rights of young people.

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

Not Answered

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.:
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:
We don’t believe it is appropriate for anyone to have control over their partner’s identity. This would fundamentally undermine the autonomy of individuals seeking legal gender recognition. To invite spouses into this process and afford them such a level of power would encroach on the rights and safety of individuals who are already more likely to be marginalised on basis of their identity.

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.

Not Answered

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

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

Not Answered

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

Other aspects of the 2004 Act

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

Not Answered

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

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:

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.


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:

Conclusion

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

Not Answered

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?

Yes

If you answered Yes, add your comments:

Edinburgh Rape Crisis Centre support the proposed changes to the GRA and see the changes as in-keeping with the ethos of our trans inclusive feminism. We see furthering the rights of trans people and the rights of women as overlapping and not in conflict. It is part of our ethos to support individual’s autonomy over their own identities, rights and bodies and we believe this is reflected in the proposed changes.

We are hopeful that the consultation leads to legislation that is reflective of the inclusivity we aim for in our practice. The proposed changes to the GRA are in-keeping with our ongoing work in which we strive for accessible, inclusive and safe sexual violence support. We do not anticipate any of the proposed changes to have a negative or hindering aspect on our capacity; we will continue to run our service the way we currently do, and have done for 10 years.

About You

What is your name?

Name:

What is your email address?

Email:
leaon.jack@ercc.scot

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:
Edinburgh Rape Crisis Centre

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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We offer free and confidential emotional and practical support, information and advocacy to women, all members of the trans community, non-binary people and young people aged 12-18 in Edinburgh, East and Midlothian, who have experienced sexual violence at any time in their lives. This includes, rape, sexual assault, sexual abuse, childhood sexual abuse and commercial sexual exploitation.

We work to change attitudes about gender based violence and improve services for survivors. Our prevention project offers free sexual violence prevention education to 11–25 year olds in schools and other youth settings in Edinburgh. We also run a series of training courses for workers and provide tailor made courses.

Where are you resident?

Scotland

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name