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.:

There are a few, but crucially important reasons, why legally changing sex on your birth certificate can be advantageous and desirable. Having a GRC means a transgender person officially becomes a member of the opposite sex and will be protected by sex-based laws in addition to gender reassignment laws. This means for example a transwoman with a GRC will be legally female and eligible to apply for a position on an all women shortlist for the selection of election candidates by a political party. This is a positive discrimination measure originally designed for natal females. Natal females suffer a unique type of discrimination and disadvantage due to their female biology and place growing up within a patriarchal system (career breaks to have children, caring responsibilities, lower career expectations, women are not seen as leaders, sexism etc). If changing legal sex becomes as easy as filling in a form this means that any man, if he chooses, can change legal sex and will automatically become eligible for the AWS. This undermines the whole principle of the AWS and is strongly opposed by many women’s groups, including Fair Play For Women.

By far the most dangerous consequence of unregulated legal change of sex is in prisons. Under Scottish Prison Service (SPS) rules a male prisoner who has been granted a legal change of sex to female is automatically eligible for transfer to a women’s prison. The introduction of a completely unregulated self-declaration process of legal sex change will mean any male prisoner, if he chooses, could change legal sex and get transferred and live amongst the women prisoners. Men and women are normally housed separately in prison for obvious safety reasons.

There has already been an example of the inevitable consequence of letting male-bodied people in with women prisoners. There is also evidence from the prison service for England and Wales that a disproportionately high proportion of transgender prisoners are convicted of sex offences. Caution must be observed introducing a law that will allow sex offenders unregulated access to women in prisons. Under a self-declaration system the future size of the transgender-identifying male population housed in women’s prisons is likely to rise significantly. Even if just a small % of all male prisoners choose to transfer this will have a large impact because women represent such a tiny proportion of the prison estate in Scotland (approx 5%).

The rights of prison staff should also be considered. Prisoners have the right to have full body searches performed by a member of the same sex. This will mean female prison officers will be obliged to perform more and more intimate body searches of potentially violent and aggressive males who become legally female. There has already been examples of this system being abused in Scottish prisons.

Self-declaration is bad law and has not been thought through. In some cases it will be right for a transwomen to serve her sentence in a female prison, but allowing this in an unregulated manner is simply wrong. It is not only sex-offending males who may self-declare themselves as women under the proposed reforms to the GRA. Any male prisoner, whatever their crime, be it domestic violence against women, murder and torture of women, or any other offence, could self-declare themselves as female and demand to be moved to a female prison. For this reason, Fair Play For Women strongly opposes the introduction of a self-declaration process for legal gender change. Some form of official gate-keeping must be retained.

The republic of Ireland introduced self-declaration of legal gender in 2015. Transactivists say there have been no issues there so women are worrying over nothing. What they fail to mention is that Irish prisons ONLY allocate prisoners based on birth sex. That's why they have not seen major problems – NOT because the system isn’t being abused – it’s because it can't.

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?

No

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

The law should not be introduced. A statutory declaration is a waste of time because it can never be proved that someone has falsely stated they intend to live in the acquired gender.

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.:

The law should not be introduced. If it is, there must only be ONE opportunity to change gender and ONE opportunity to change back to birth sex.

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?
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

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

Option 1 – do nothing for children under 16

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.

The concept of gender identity is already introduced in schools despite this teaching being backed by no credible science. Changing gender is presented as synonymous with changing sex. This has an impact on children's health and learning. The introduction of a process of legal gender change for children is strongly opposed by Fair Play For Women.

Irrespective of whether a child actually changes their legal sex status or not, the message that adult society condones legal sex change for children will inevitably increase the likelihood that some will want to explore a transition process themselves. This may be right for some, but not for others, and they may live to regret the choices they made when young. Childhood transition can and does have serious and lifelong consequences and as adults we have a duty of care to protect children from harm.

Adults are free to make autonomous choices about their lives, but children are still learning and developing. Children can't give 'informed consent' for 'choices' that they don't have the life experience to consent to. The re-framing of children as reflexive, informed, choice-making individuals is fundamentally flawed when it comes to gender identity. The impact of transgender ideology on normal childhood development is comprehensively discussed by Transgender Trend. It is clear that affirmation of a child's gender identity by parents and trusted adults can and will impact the outcome. In the absence of long-term studies to the contrary, there is a real danger that well-meaning parents and teachers may inadvertently push children down a transgender route. The risks are too great and this means children, parents, professionals or courts should not be given the power to facilitate legal sex change for any child. Even if a child of 16 or 17 years old is presenting as certain he or she wants to change their legal sex any undue influence at an earlier age cannot be ruled out.

Essential safeguards if legal gender change is extended to under 18s:

- What would the legal process in each scenario be for reversing the decision? It is important that whatever legal process was chosen it must not be seen as overly burdensome to the individual? The ability for a child to change their mind back must be quick and easy. Legal gender change should also be confirmed at age 18. The decision made as a child or by parents should not automatically transfer over to the adult.

- It is estimated that as many as 1% of children think they are the opposite sex, with a further 3% of boys and 5% of girls choosing activities/interests more commonly associated with the opposite sex. Over 80% of children who think they are the opposite sex will come to terms with their natal sex by the end of adolescence and achieve emotional and psychological stability. A significant proportion of these children will be gay or lesbian.

- If children are actively taught to ignore biological sex as irrelevant and instead form their identity on a subjective 'feeling' based on gendered choices and behaviours, we will create 'trans' children through constant reinforcement and affirmation of their 'preferred gender' by parents, teachers and peer groups.

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- Essential safeguards if legal gender change is extended to under 18s:
EVEN having to fill in a form. There is no point in a GRC if you never have to show it and this is basically the back door for losing our spaces to anyone who says they are a woman without happen to women rather than men and so may be unfairly discriminating on the grounds of sex. self-declare they are legally female will signal the end of women having their own spaces. This opens the door to men just chancing their luck without even having to get a GRC. Merely the possibility that someone can involved. Will she be granted an independent status (and work permit) or will she lose residency and be sent back to country of origin. It may be argued that in some cases women may be to forced against their will to stay married to men who identify as women. It is also true to say that these scenarios are more likely to them into female-only spaces. This opens the door to men just chancing their luck without even having to get a GRC. Merely the possibility that someone can marry a biological man, and their husband changes his legal gender to female, this effectively converts the union to a same-sex marriage. Her marriage has fundamentally and dramatically changed from the marriage she entered into and that must be sensitively acknowledged. The wife may have religious beliefs or many other reasons why she no longer wishes to remain in, what is now, a same-sex marriage. She may not wish for her perceived sexual orientation to be changed in this way. It is easy to say that she can just end the marriage but there are a number of reasons why this may adversely impact her. Divorce may not be an easy option if it is against her religious beliefs, as is the case with devout Catholics. There will be costs and time associated with a divorce. What if she is financially dependent on her husband? What if the wife is a foreign national? Getting divorced may affect her right to stay in the UK which would get more complicated if there are children involved. Will she be granted an independent status (and work permit) or will she lose residency and be sent back to country of origin. It may be argued that in some cases women may be to forced against their will to stay married to men who identify as women. It is also true to say that these scenarios are more likely to happen to women rather than men and so may be unfairly discriminating on the grounds of sex.

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.

No

If you want, you can give reasons for your answer or add comments.: What is easy to miss in the changes proposed by the Scottish government, is that self-declaration and the abolition of the interim GRC will remove this as a route to divorce. In Scotland there are currently two distinct routes for divorce; through obtaining an interim GRC or that the marriage has broken down irretrievably. The latter will be the only option open to couples if the changes go ahead. For a marriage to have broken down irretrievably the petitioner must cite at least one of these four reasons. The spouse has behaved unreasonably, committed adultery, the couple have lived apart for at least one year and both agree to the divorce, or the couple have lived apart for at least two years but one doesn’t agree to the divorce. Would a court accept her reason that legal gender change was a form of unreasonable behaviour? Would this be considered transphobic? This raises many ethical dilemmas.

Arguably the change to a marriage due to one partner changing legal gender is so fundamental that is should be considered grounds for an automatic divorce with no blame attributed. This can be accomplished by making the application for a full GRC as a route to divorce and is another option the Scottish government should give serious consideration to.

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.: Other aspects of the 2004 Act

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

No

If you answered Yes, describe the changes you consider are needed.: Section 22 of the GRA 2004 is intended to protect the privacy of people have a GRC and it is an offence for officials to disclosed this information. There are exceptions when disclosure is for the purpose of crime prevention or detection, required for social security or pensions, or for use in court proceedings. In Scotland there are already additional exemptions allowing disclosure for the purpose of obtaining legal advice, made to medical professionals for medical purposes, made by a credit reference agency, made in relation to bankruptcy or insolvency, and when made to enable a decision about the appointment of the subject as a minister of religion.

The trouble is, if you can’t ask someone whether they have a GRC or not (or even transgender) it means we cannot distinguish between a male-born transgender person who is now legally female or just a man dressed up as women. So this means there’s no way to check if someone really is legally female before letting them into female-only spaces. This opens the door to men just chancing their luck without even having to get a GRC. Merely the possibility that someone can self-declare they are legally female will signal the end of women having their own spaces.

There is no point in a GRC if you never have to show it and this is basically the back door for losing our spaces to anyone who says they are a woman without EVEN having to fill in a form.

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?

No

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:

When someone says they are non-binary it means they do not conform to entirely male or entirely female gender stereotypes. They are a mixture of both or none. This represents virtually everyone in the UK! Non-binary is not a biological state of being. It is not an intersex condition. It merely reflects someone’s gender preferences. Feminists have rejected the concept of gender for decades. Gender is a set of man-made rules that says how a man or a woman should behave or present and should have no place in modern society and we all should, and mostly do, reject all or part of these gender rules some or most of the time. Nevertheless social norms make it hard to do this completely. We are all non-binary. Where the concept has today gone awry is to confuse gender with biological sex. For this reason it is a legal and biological nonsense to equate this to being a third sex category. For this reason Fair Play For Women strongly opposes the full recognition of a non-binary status using the self-declaration system and a GRC. The societal consequences of legal recognition of a third sex are many and discussed below:

1 Impact on single-sex spaces and services:

There are many reasons why, as a society and in certain circumstances, we choose to maintain different spaces and services for men and women. Toilets, changing rooms, occupational roles, hospital wards, prisons, choosing the sex of who provides intimate or medical care are just a few examples. Reasons of safety, privacy, dignity, fairness are all legitimate reasons that some women value. To accommodate a legal third sex would require setting up new and separate non-binary specific services, a change to gender neutral services (e.g. mixed sex) and/or the ability for non-binary people to choose whether a male or female service would suit them best in a specific circumstance. All of these would impact on the men and women who currently choose and prefer single-sex spaces. All three of these changes are just different names for what that effectively means males and females having access to the same space. A non-binary prison is really a mixed-sex prison with males and females. Non-binary status does not stop a female person getting pregnant or raped. Gender neutral toilets are really just fancy way of letting males in while women and girls try to perform their personal business in private. Does a girl really want her male classmates listening to and giggling at her unwrapping the tampon she is about to insert into her vagina? Gender neutral means mixed-sex and sex discrimination laws legal recognise and protect single sex spaces for women. Legal recognition through either a third sex category or changing the protected characteristic of gender reassignment to include non-binary people in Equality law threatens to undermine these existing rights for women.

2 Medical implications:

Many aspects of medical care are based on someone’s biological sex. Drugs can act differently on male and female bodies. Health care screening is based on biological sex; females being called for breast examinations and cervical smears. Males at risk from prostate cancer. By formally designating a person a third sex or simply not revealing which of the two biological sex categories they belong to will have medical risks. We cannot escape our biology.

3 Cost to business:

The financial risk assessment accompanying this consultation paper does not provide any estimates for how much increased recognition of non-binary people would cost. It is stated that this cannot be done as it is unknown which option will be pursued. It is also very likely that costings have not been published because it is so complex and far-reaching that it is not possible to quantify and will be disproportionately high. The cost to businesses to implement the required changes to facilities and changes to IT systems will be considerable. Many systems rely on male and female designations like the PAYE system at HM Revenue and Customs. There would need to be a major overhaul in so many areas. But for what? How does this help the estimated 20,000 male and female people in Scotland who identify as non-binary? Is it reasonable to expect society to accommodate the feelings and preferences of 0.4% of the population when there is no credible evidence to suggest they are harmed by not doing so?

4 Sex-based laws and customs:

Accommodating a third sex will impact on many laws that are based on the existence of the male and female binary. Family law and considerations of parentage rights and basic terms like husband and wife. There would need to be a new category of marriage for non-binary people. New categories added to the register of births, deaths and marriages. There would need to be a change to the definition of sex in the Equality Act. It will also have a major impact on the whole concept and legal meaning of sexual orientation and gay and lesbian identities. This is a not just a small change to progress the rights of an supposedly oppressed minority. This will touch and have relevance to everybody’s lives.

5 Statistics:

The most basic of all demographic statement, the population pyramid, will be impossible if male and female is not accurately recorded, thus rendering a whole range of other demographic statements impossible, and adversely impacting age-standardised morality rates that are vital for epidemiology and public health. This will have real-life impacts such that local incidence rates won’t be able to be compared against the national average and it will be impossible to understand where services need to change, or public initiative on the local level need to happen. Inaccurate recording of sex undermines a whole discipline of statistical population analysis. Of course, the easy counter claim is that the number of people choosing legal non-binary status or choosing not to declare their binary sex on forms will have negligible over all impact. The current estimate of 20,000 non-binary people in Scotland is a drop in the ocean compared to the 5 million people resident there. This may be true today, but exactly the same arguments were used to justify legal recognition of transgender people in 2004 when the Gender Recognition Act was debated. At that time the Act was thought to impact a mere 5000 people and therefore have little consequence to other areas of life. Yet over the past decade or so this figure has increased exponentially and in a way that was totally unexpected. It is not enough to say numbers are small so don’t worry. Numbers can change overnight but laws do not.

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.

None of the above options
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.

Yes

If you answered Yes, describe the impacts you have identified:

It undermine the whole meaning of sex as a legal category is if a third option is added. Non binary people are either male or female.

Conclusion

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

Yes

If you answered Yes, add your comments or evidence:

The assessments focusing on children’s rights and Equality are particularly important yet woefully inadequate and based on the biased assumption that this law only impacts the transgender community and has virtually no adverse impact on others.

1. Partial Child Rights and Wellbeing Impact Assessment:

Reducing the age of legal gender recognition to allow children to change their legal sex designation has the potential to have a major impact on the wellbeing of children. Fair Play For Women strongly opposes reducing the age from 18. Children are already able to socially transition with the support of their parents and schools and their right to do this is protected under the Equality Act. There is nothing that a child who identifies as transgender cannot currently do due to the lack of legal gender recognition. The nationwide NHS Gender Identity Development Service (GIDS) supports ‘watchful waiting’ for children as their thoughts and feelings around gender develops and matures. Confirming and fixing their views during childhood through a legal gender change process is clearly counter to the methods of gender professionals who specialise in children. Transgender lobby groups who wish to see the law extended to include children are not child development specialists and will inevitably be biased regarding outcomes. The trajectory of a gender non-confirming child is complex. Some will develop into a gay or lesbian adult. Some will continue into adulthood as gender non-conforming some will not, both of which is very common and perfectly normal. Only some will progress into adults who identify as transgender. Transgender is NOT the only outcome and this must not be preferentially supported or encouraged or fixed. Legal gender change will do all these things and for that reason is not in the best interests of children.

Article 3:
Is it assumed that legal recognition of gender will be in the child’s best interest. How is it in a child’s best interest teach them a belief in place of facts; affirm them in an identity which will leave them sterilised and medicalised for life; force girls to share spaces with males and take away their right to recognise or name them as males; take away all children’s right to name biological reality?

The Scottish government has been advised solely by pro-trans organisations. These lobby groups provide training in schools and organisations yet have not credible qualifications to do so.

Article 13:
Gender affirmation ensures the denial of access to any other kind of information for children and forces schools and organisations to teach them exclusively an idea with no basis in science as ‘truth.’ Children would be denied the freedom to express thoughts and opinions which contradict gender identity ideology, such as pointing out that someone is male or defining a girl as a member of the female sex. Teachers and youth leaders would be obliged to silence such ‘opinions’

Article 17:
No diversity of sources is permitted if gender affirmation is considered ‘best practice’ and dissent is considered transphobic. Gender identity ideology is harmful to children as evidenced by the exponential rise in referrals to gender clinics, the doubling in the number of children contacting Childline with worries about their ‘gender’ and the growth of the community of young adults who regret their decision to transition before they were mature enough to understand what they were really doing

Article 36: Children are being exploited by adult activists with a political agenda to enshrine their invented ‘born in the wrong body’ idea into law. Children who are experiencing cross-sex confusion and adolescents expressing normal gender and sexual exploration are being used as ‘evidence’ of an incoherent, untested and unscientific belief. Children and adolescents are unknowingly being used in an unacknowledged medical experiment in an untested area for which there exist no long-term medical research trials

2. Equality Impact Assessment.

Despite its importance this partial Equality assessment produced by the Scottish government for this consultation is simplistic in its approach and covers not a single adverse impact! Public feedback here is probably one of the most important parts of this consultation. Four of the most affected protected characteristics are covered below.

DISABILITY:

Mental health:
The impact assessment cites evidence that transgender people have a higher incidence of mental health issues than the general population but that these mental health issues are because of the prejudice and discrimination trans people face. While we agree that mental health issues are indeed high in transgender people there is no robust evidence to suggest this is simply down to the experience of prejudice.
The impact assessment also reports that there is evidence that transgender people’s mental health may benefit from socially transitioning to live in accordance with their gender identity. On the contrary, this area of understanding is far from clear. In the review paper cited to back up this claim it said “Almost all of the studies reviewed showed selection bias. Since most included only individuals attending transgender health-care services, the results can not be generalised to the overall trans population. Many studies are also limited by the inclusion of trans people at different stages of treatment. Longitudinal studies are also limited by lost-to-follow-up data and short follow-up time” also “The variability of tools to measure gender and body dysphoria does not allow firm conclusions to be drawn, and this suggests the need for a stronger measurement tool”. It is plainly wrong for the impact assessment to conclude from this that transgender people’s mental health therefore benefits from transitioning! The benefits of transitioning have only been self-reported by transgender people themselves in questionnaire based studies which are uncontrolled and not peer reviewed.

The impact assessment then goes on to say that this apparent evidence of a benefit to trans people means that the policy to streamline the legal gender recognition process might further reduce stigma and improve mental health. There is no evidence whatsoever to link the two. The research quoted outcomes after hormonal and surgery transitioning in gender dysphoric patients. Streamlining the process will mostly benefit people who are simply socially transitioning and not necessarily under medical supervision or have gender dysphoria. This is a weak supposition presented as fact and will confuse and mislead the majority of people filling in this form who will not check the source details.

In contrast to the claims made in the impact assessment that this policy will benefit the mental health of trans people there is published data showing suicide rates in fact continue to stay high after medical transition. Mental health improves at first but 10-30 years post surgery outcomes are poor compared to controls. Death by suicide, suicide attempts and psychiatric hospitalisation rates are all high. A stronger evidence based, including long term data from other countries who use self-identification, is needed before anyone can claim this policy will benefit the mental health of trans people. It is disingenuous of the Scottish government to present this as if it were fact.

Learning disabilities, Autism and ADHD:
The assessment also highlights the risk that self-declaration of legal gender could present to a person with learning difficulties yet offers no practical solutions.

Alarmingly the assessment makes no reference whatsoever to the fact the 50% of children referred to the gender identity development clinic (Tavistock clinic in London) are on the Autistic spectrum. Other studies back this up reporting a 10 fold higher prevalence of gender dysphoria in children on the Autistic spectrum compared to control children. Attention-deficit/hyperactivity disorder (ADHD) was found in 75% of children with gender dysphoria in another study. Accepting a cross-sex self-identity at face value from any child or adolescent denies them the full level of care and assessment we would expect as part of ethical healthcare practice, but this is particularly true for young people on the autism spectrum or with other brain conditions which affect learning, including those who have experienced trauma, and those with psychiatric conditions. This presents a disproportional risk to this group of people and must be highlighted as such in the impact assessment so measures to minimise this risk can be put in place. An excellent article has written by a Speech and Language therapist discussing the importance of understanding the language used by someone with autism to be sure informed consent has actually been given.

It must also be acknowledged that some women with mental health problems have greater problems with men in their spaces- they may not fully understand the concept of legal vs biological sex and may react strongly to people they perceive as male. This will impact them in the care system and also public places where previously they have been separated from biological males. They will effectively be excluded from public space. Mumsnet had an story of a mum with Autistic daughters who could no longer go swimming because the boys in the women’s changing room triggered an extreme reaction. There was also the story in the Times about the woman on the secure mental health ward who will now think twice about seeking treatment. There may also be extra difficulties for women who have been sexually and physically abused by males which may prevent them seeking refuge. Women’s Aid are currently reviewing their transgender policy and may allow self-identifying transgender males on their staff.

SEX:
Since self-declaration of legal gender will effectively mean anyone can choose to change their legal sex designation (and gain the rights of the opposite sex) is it frankly ludicrous that the Equality Assessment concludes there is no impact here! Not only is there clear evidence that adult males are historically more likely want to legally change gender (meaning this policy change will preferentially benefit males). There is also going to be a disproportionate negative impact on females that has been completely ignored.

Also, these changes will not be ‘promoting good relations’ – how supportive will women be when they come to realise that males will have the right to self-identify into their protected characteristic of the female sex. Sex discrimination laws are the basis upon which women have fought for their rights. It is fundamental that biological females have their own classification so that sex-based disadvantage can be monitored and addressed. These changes put women and trans people in conflict with each other and therefore will cause bad relations as is clearly already happening.

Examples of negative impacts on the female sex:
More young girls are struggling with gender identity issues than boys and so it is likely to be more girls in the future regretting childhood changes of legal gender.

Adult biological males who change their legal sex to female will, for example, be entitled to entry onto all women shortlists for selection of election candidates. This is a measure put in place for biological females to address hundreds of years of political misrepresentation. It is not for people who have grown up with male privilege and then transition in mid life. Other ways to address any under representation of other protected groups exist (reserved places) and should be used instead if there is a problem.

Biological females, by virtue of their physical biology and position within a patriarchal society, are at risk of physical and sexual violence from male-bodied people. The evidence is overwhelming here and why for example it is common sense that women are housed in separate prisons or wings to male prisoners. Yet this policy change will mean any male prisoner will be able to self-declare as female and become automatically entitled to live in a women prison. There is no evidence whatsoever that males who identify as transgender (genuinely or nefariously) pose any less of a risk to women than any other male. In fact, there is emerging evidence that a high proportional of the male inmates who identify as transgender have a history of sexual or violent crimes. The self-identification
system is clearly open to abuse and presents a major risk to women prisoners and should be reason alone to never let this law get enacted. It is unthinkable that the Scottish government has not even discussed this risk in this consultation or impact assessment. The measures the Scottish government offers to offset any risk will be meaningless if any male can choose to become female. The protected category of the female sex will no longer be based on a shared sex! Nor will statistics on the impact of these policies be accurately recorded when they will also include legal females who are biologically male.

SEXUAL ORIENTATION:

Once again none of the negative impacts on gay and lesbian people have even been raised in this assessment. By its very definition, if someone can change their legal sex they will also be technically changing their sexual orientation and the sexual orientation of their partner if they have one. For example a male who is attracted to females will legally become a female who is attracted to females. E.g. a straight man becomes a lesbian woman. His wife or girlfriend will then find themselves in a sexual relationship with a lesbian and therefore technically become lesbians themselves. The ability to change legal sex has unavoidable and direct consequences on the protected characteristic of sexual orientation and this must not be ignored.

Trans-ideology is the belief that the subjective concept of gender identity overrides the objective reality of bodily sex. There is no evidence base for this. It is purely based on the feelings of the individual. This policy will codify this belief into law and prioritise this ideology over and above other widely held concepts such as the male and female sex binary. (This is not the same as a belief in a gender binary of course. Gender means sex roles not sex so the idea of gender fluidity is completely compatible with a sex binary). Gender-based transgender theory is therefore incompatible with sex-based sexual orientation theory (where sexual attraction is based on sex not gender). This conflict has real life adverse impacts on the homosexual community and in particularly lesbian women in many different ways:

Examples of negative impacts on lesbian women:

Gender non-confirming children are more likely to be gay or lesbian and transgender. This policy will uniquely prioritise the transgender identity meaning that many girls who would have otherwise grown into young lesbians are instead deciding they are in fact straight boys. This is decimating the size of the lesbian community.

Many butch lesbians are feeling under pressure to transition to male. They are often mis-sexed as males or told they are in denial about wanting to be male. This is a form of homophobia and gay conversion and is a major issue that is being ignored. This policy does nothing to minimise this.

Lesbian-only spaces and group identities are being impacted. Straight males are transitioning to transwomen and referring to themselves as lesbians and joining lesbian groups. Transgender issues are then being prioritised over lesbian and women’s issues in those groups. These are important support communities for lesbians and it is likely to be discouraging new members from attending. This means they will not be accessing the important women-focused support these groups offer and lesbians are becoming isolated. If a lesbian women voiced any objection to her group being infiltrated by male-bodied lesbians she would most likely be asked to leave and considered transphobic. There are many examples of lesbians being shunned by the LGBT community both on-line and in real life.

The emphasis on gender rather that biological sex means that the LGBT community is becoming home for a much wider range of people. Straight people who have relationships with trans or non-binary people are calling themselves queer (despite being in a heterosexual male:female couple). These ‘queer’ women become involved in what was formerly the lesbian and bisexual women’s community but have a lot of views that are contrary to the interests particularly of lesbians. They believe that lesbians have ‘cis’ privilege and also that lesbians (along with gay men) are the most privileged people in the LGBT community.

Male-bodied ‘lesbians’ with a penis are now commonly found in the lesbian dating pool (see any lesbian on-line dating site). The term ‘cotton ceiling’ refers to the pressure lesbians are under to accept male bodied people as sexual partners and to have penis in vagina sex. This is antithetical to many lesbians who are attracted to the female body and have rejected sex involving a penis. Not accepting a lesbian’s right to choose biological females only is directly homophobic. Ironically however, it is lesbians who are called transphobic and bigoted for not accepting penis within their sexual repertoire.

All of the above is also faced by gay men but to a much smaller extent. There is much less pressure from transmen to join gay men’s groups or to promote the idea than gay men should accept them as female-bodies sexual partners. In fact most transmen remain within the lesbian dating pool.

GENDER REASSIGNMENT:

Even though this policy is fundamentally aimed at supporting transgender people there are still some negative impacts on this group that have been ignored in this assessment. Some members of the trans community do not see this as a positive step forward. Some transsexual people are clear that biological sex can’t be changed but prefer to live in role as the opposite sex to alleviate their gender dysphoria. Some trans people also see the value of a rigorous medical assessment before a GRC is approved. To remove this requirement devalues the process they themselves have been through. There is also the real danger that the general public will not respect the legitimacy of a transgender person when it’s clear that literally anyone can change their legal gender. Gate-keeping processes protect both transgender and non-transgender people alike.

Also gender non-conforming children are under pressure. Children cannot get proper therapy to examine their issues because transitioning is the only answer – this is already happening and will only get worse. The treatment could easily become ‘fill in the form and change sex’ and we know that is not right for children with gender issues. Children also will not be able to get help for other mental health issues because all issues are assumed to be the result of the gender confusion. This new policy offers a simplistic answer which may negatively impact on treatment for a complex issue.

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

Yes

If you answered Yes, add your comments.: 

There is not legal requirement to introduce these changes. This is no more than the Scottish Government virtue signalling its ‘progressive credentials'. However, in reality this is the most regressive sexist and homophobic policy.
About You

What is your name?

Name: Nicola Williams

What is your email address?

Email: [redacted]

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation: Fair Play For Women

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.

Fair Play For Women

We are a group of ordinary women who are concerned that in the rush to reform transgender laws that women’s voices will not be listened to.

Women get called transphobic for simply asking questions. Women are afraid to speak out and fear for their jobs and reputation if they do.

We are the voice of these women. We represent all women from the UK including Scottish women. Members who contribute to this website are resident in Scotland and so we have ticked the 'resident in Scotland' box below.

In a debate that is often clouded by emotion we aim to bring clarity and to enable a rational, evidence-led debate to be had. We are a reliable and authoritative information source on all the key topics in the debate. We are also the platform for women to speak from and we regularly publish new articles written by our supporters.

www.fairplayforwomen.com

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

[redacted]