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.:

By requiring a psychiatric report which states they have been diagnosed as having gender dysphoria, trans people are being pathologised and that this violates their right to privacy and self-determination. There is still significant stigma of trans identities within our society and, as a result, there are many barriers trans people face in being open about their identities. This process forces people to give up their relative rights in order to gain legal recognition of their identity, a process which makes you consider the reality for those who do not gain this through the current system.

Forth Valley Rape Crisis already include and work with trans people on the basis of their self-declared gender identity and hope that the gender recognition law will be brought in line with our practice. We are hopeful the legislation will be reformed and believe that the rights and safety of trans people will be greatly improved and as a result.

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.: 

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.: 

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.: 

At the age of 16, young people in Scotland are deemed to have full legal capacity. The current legislation prevents people under the age of 18 from accessing legal gender recognition. This leaves young trans people aged 16 and 17 in a precarious position and sets them apart from their peers who do not identify as trans. It makes you consider why this right is an exception to all of the other legal rights a young person aged 16 or 17 is entitled to. Much concern has been reported in the media about young people accessing medical interventions, such as hormone blockers and surgical procedures, but the proposal around the reform is completely separate from those about gender reassignment medical treatment. When young people aged 16 and 17 are legally able to marry but unable to have their gender recognised, the heteronormative norms of our society and legislation couldn’t be more glaring.

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

Option 3 – parental application

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.: 

Through support and prevention work that we have carried out with trans young people, they have shared their experiences of growing up with their gender identity not being formally recognised. They have told us that it has an isolating effect on them and as though this is something which they are not able to decide
for themselves. They have told us that it makes them feel like they are not listened to.

As a feminist organisation, we know that sexual violence, along with other forms of gender based violence, is a cause and consequence of power inequalities within our society. We believe that children and young people experience sexual violence due to their lack of power in our society. We also know that trans people are disproportionately affected by sexual violence due to their identities. By denying trans young people their legal rights and the ability to have these recognised, we only further disempower them and reinforce a culture which normalises this occurring.

For trans young people who have the support of their families and peers, it can create a negative impression with the legal system as this is the only institution which does not recognise their gender identity. As they can already change their gender on their medical records and passport but under the current system the gender on their birth certificate remains unchanged, this creates unnecessary distress and conflict.

Forth Valley Rape Crisis believes that it is important to listen to young people's voices, especially when making decisions that will have a direct impact on them. We also think it is important to have their identity recognised at any age. As young people grow up we should be enabling their growth and self discovery in any way that we can, not taking it away from them.

### 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.

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.

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?

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.

At Forth Valley Rape Crisis, we think that non-binary people should have access to the same legal gender recognition process as trans men and trans women. For all of the reasons that the Scottish Government accepts and recognises that trans men and women should be able to have their gender legally recognised, it should follow that if they consider non-binary people's identities to be as legitimate and valid, that they should also have access to an equal legal gender recognition process. Non-binary people shouldn't have to face the discrimination of completing forms in a way which denies the existence of their identity and causes them distress. Updating the Equality Act is important for all transgender people.

We support non-binary people through all of our services at Forth Valley Rape Crisis and would welcome legal gender recognition taking the same approach. Non-binary people should be entitled to the same fundamental right to have their identities recognised as everyone else.
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:

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:

As a movement, Rape Crisis have always fought against the rigid gender stereotyping that each of us experience, which is rooted in patriarchal notions of gender as binary. Alternatively, we advocate that everyone should be able to express themselves in the way in which feels reflective of their individual identity and not that which is ascribed to us by society.

Forth Valley Rape Crisis is a support service for people of all genders who have been affected by sexual violence. We have a strong commitment to the inclusion of all LGBTI people both within our service and wider society. It is well-documented that transgender people experience a high level of sexual violence and face additional barriers to accessing services as a result of their identity, and it is as a result of this that we believe it is imperative to work alongside organisations which trans people are already in contact with to support the rights of trans people.

We currently support a model of self-declaration for those accessing our services and acknowledge that this will not change the way in which we work alongside survivors and those affected by sexual violence. If we do not allow space for survivors to self-declare their experience of their gender, we are not a survivor-led organisation and do not offer support which is relevant to those accessing it. We believe what survivors tell us about their experiences and know that they are best placed to tell us how this has affected them.

About You

What is your name?

Name: Loraine Williams

What is your email address?

Email: [redacted]

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation: Forth Valley Rape Crisis

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:

Forth Valley Rape Crisis provides free and confidential information, advocacy and support to anyone, over 13, in the Forth Valley area (Clackmannanshire, Falkirk and Stirling) affected by sexual violence.

This includes survivors of sexual violence and their friends and families. We also provide advice, support and training to staff in other agencies who are working with survivors so they can provide a good response to survivors of sexual violence.

We aim to be inclusive and welcoming to all, regardless of age, disability, gender reassignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex, gender identity, intersex status or sexual orientation.

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