Response ID ANON-ETBC-GFDG-P

Submitted to Review of the Gender Recognition Act 2004
Submitted on 2018-03-01 16:50:55

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.:
The Glasgow Feminist Collective supports self-identification of gender, and welcomes cis women, trans women and non binary people in its online membership and at its face-to-face meetings. We also welcome men (both cis and trans) to the online group, who are recommended by GFC members in good standing, and who remain in good standing themselves.

Self-declaration is the only way to ensure maximum support and inclusion in society for trans people, and to remove unnecessary, intrusive barriers defined by others, which additionally may not suit all trans people's circumstances. These barriers have for years added to the stress, social exclusion, violence and other harms trans people face.

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.:
A statutory declaration could potentially be much like affirming citizenship for new citizens, or registering a birth (i.e. a potentially positive experience). It would also provide for penalties if people use this route for malicious or fraudulent reasons - something we believe is extremely unlikely, but this provides some reassurance along those lines as such actions, if ever taken, would harm trans people. Overall, the added level of seriousness will give the opportunity for pause, reflection and comfort, as well as an official record if this is ever needed, without being punitive or a barrier. Given the oppressed and marginalised state of trans people's place in society currently we would additionally recommend that this process be free of charge, or very low cost, with reductions for those in need.

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.:
People change and evolve throughout their lifetimes, both in sexuality, and, to a far lesser extent, with gender. There are already people who have reversed their decision to transition for a whole host of reasons - a small minority, but their needs must be supported too without stigmatisation or further barriers.

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.:
We believe there should never be a two-tier system for a mechanism that is designed to include and support people across the whole spectrum of needs, advantages and disadvantages. Everyone should be on the same footing. It will be particularly useful for asylum seekers and refugees, especially if they are fleeing persecution based on their gender identity.

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. Doyou agree or disagree?

Agree

If you want, you can give reasons for your answer or add comments.:
16 and 17 year olds have many other legal rights and responsibilities in Scotland - they are already recognised as having significant maturity and agency in a host of ways. Research shows that gender identity will have long been known and fixed for most trans youth by this age. Even if this wasn't the case, there would still be the provision to change again later in life if our response to Question 3 is heeded. There is no reason to deny them the same rights as those 18 and over.

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

Option 5 – applications by capable children

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.:
While not being experts in child development or children's rights, we support the agency of children in knowing, and wishing to live in their gender from a young age. We also recognise that not all children grow up in an ideal, loving, supportive home. They must also live in a society where there may be a disadvantage to their lived identity and their bureaucratic records are in conflict. We therefore believe Option 5 would cover all cases where recognition is needed - if the child has
a good relationship with a supportive parent then the parent can certainly encourage, support and supervise their application, but if the child doesn't have that, they are still able to apply on their own.

If this option is not selected, we would support Option 3 with Option 5 as a back-up system.

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 understand through our feminist and other trans networks that this provision has been a very harmful impediment to trans people achieving recognition in England and Wales. We therefore believe that bringing this to Scotland would be a retrograde step. Being someone's spouse does not and should never give any person rights over something as personal as another's gender recognition. This provision places one spouse in a position of power over the other in a way that is inherently degrading and dangerous.

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 provision would prevent yet another bureaucratic, potentially costly hurdle for folk going through gender recognition and their partners.

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

Don't know

If you want, you can give reasons for your answer or add comments.: This provision would prevent yet another bureaucratic, potentially costly hurdle for folk going through gender recognition and their partners.

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.: We are advised by trans members, and other activists and organisations that this is not necessary - the current protections are sufficient.

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.: Similarly to agreements to accept marriages, birth records, and so forth recognised in other countries, there is no need to erect additional barriers for immigrants.

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.: Glasgow Feminist Collective has many beloved and valued trans and non-binary members. We also acknowledge that some of us identify as trans and non-binary, some only as trans and some only as non-binary. We would draw the Scottish Government's attention to this distinction for future documentation and language. Our Group Rules specifically acknowledge, welcome and attempt to support non-binary members through swiftly challenging any mis-gendering, abuse, or inappropriate language both inside and outwith the group. We also aim to make Glasgow Feminist Collective the safest space possible, to bring together cis women, trans women and non-binary people to offer mutual support, to organise and agitate, to enjoy each other, and to build community. We therefore believe that this action on the part of the Scottish Government would be a huge leap forward for Scotland, and would inspire other countries who are not there yet. Non-binary people exist, and suffer under the current binary gender system, and should be recognised in every way that men and women (trans and cis) are recognised.

This will be a big challenge to Scotland's bureaucracy - but putting this in place in law will give the necessary impetus and support to make changes happen as
quickly as possible, and also push the public’s awareness and consciousness forward.

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.: We believe that Options 1, 3, 4 and 6 will genuinely improve the current situation in a way that is least disruptive and stressful for NB people.

For the two Options we didn’t select, the reasons are as follows:
Option 2: Book of Non-binary Identity - this is unnecessary and appears to indicate potential for a good deal of extra work, when NB people can just be recorded as NB in all other National Records and other databases.

Option 5: Incremental Approach - we feel this would again be more work, as well as likely to cause confusion, and uncertainty for years, to both NB people and those working in record-keeping services.

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.

Don’t know

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

Conclusion

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

No

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.: 

Glasgow Feminist Collective has grown increasingly concerned at what appears to be a coordinated campaign of media articles and programmes, and social media attacks concerning trans and non-binary issues in the past 6-8 months. The public discourse on this has been full of vicious abuse, threats, and misinformation, and has heightened the sense of threat to mental health, physical safety and access to employment, entitlements and services, that trans and non-binary folk already experience in the UK. We are particularly concerned that the very existence of trans and non-binary people is deemed to be up for debate, that supporting trans and non-binary children is being called child abuse, and that those objecting to these non-scientific, ideologically or religiously based attacks are said to be threatening free speech. Adopting the most inclusive, supportive framework possible for trans and non-binary people into Scottish law would be a massive statement and would offer considerable push-back in the current climate.

We ask that “evidence” submitted to this consultation by those who are conservative about gender recognition is properly scrutinised, as, in our experience, none of it stands up as actual scientific evidence.

Overall, our intersectional feminist principles demand that the voices of the oppressed are listened to first and foremost. We ask that the Scottish Government to take the same stance.

About You

What is your name?

Name: Sarah Currier

What is your email address?

Email: 

Are you responding as an individual or an organisation?

Organisation

What is your organisation?
Glasgow Feminist Collective

The Collective is an intersectional feminist group. When we engage critically in the world’s issues, we look at all parts—racism, sexism, cissexism, classism, ableism, misogyny, transantagonism, homoantagonism, colonialism, etc, and how they interconnect. We examine many parts of society—from pop culture to politics, we see the world through a critical lens and we don’t educate on demand.

Crucial to an intersectional understanding of feminism is that women (and other people) experience oppression in varying configurations and in varying degrees of intensity, depending on a range of factors in their lives, such as their social class, race or ethnicity, disability or health status, age, nationality or migrant status, sexual orientation, or gender expression or identity (including such people as trans women and men, and people with non-binary or gender-queer identities). There is no unified women's experience to base feminism around. Women with privilege must challenge themselves and allow themselves to be challenged by others, as well as offering and receiving mutual support.

All of our members sign up to the above principles. We are independent, unfunded and free to join.

This Consultation response was developed by a sub-group of the Collective led by group moderators. We thank the Trans Alliance for their very thorough guidance on how “they” responded to the Consultation as that assisted us with preparing ours.

Where are you resident?
Scotland

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