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:

We strongly agree with this proposal.

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:

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:

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:

The group responding to the consultation preferred option 3 (7 votes), but also liked option 4 (3 votes).

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:

Quotes from the group:

‘Civil partnership should be open to mixed sex couples’

‘Equal rights should mean that either everyone or no-one should be able to have a civil partnership’
9 Should legal gender recognition stop being a ground of divorce or dissolution?

Yes

If you want, you can give reasons for your answer or add comments:
Quotes from the group:

‘Legal gender recognition or being trans should not affect property or access to children in the event of marriage / civil partnership breakdown’

‘Being a ground of divorce perpetuates the idea of trans people as being tricksters or liars’

‘It’s completely arbitrary’

‘If that’s someone’s reason for breaking up their marriage then they’ve made a poor environment for their trans partner’

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:

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:
Quote from group:

‘The term ‘acquired gender’ is a bit daft though. It sounds as though I found my gender in the street, or bought it from a shop. I didn’t - it’s just my gender and always has been’

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:
Unanimous and very strong YES to this from the group.

Quotes from the group:

‘The whole system is binary – and that makes me feel like I don’t fit anywhere’

‘It would make a big difference to me if I was to get married’

‘All bureaucracy is binary. And it follows you, which gets depressing’

‘My bank had 21 titles to choose from but not Mx. If non-binary was a legal gender there would have to be an appropriate title available’

‘Mine lets me choose Mx for my title but then I still have to choose Male or Female for my gender – makes no sense to them or me’

‘Medical records are based on M/F too and then medical services eg screening are based on that’

‘There’s knock-on effects to services – these would be improved if there were 3 legal gender options’

‘There’s no real need to have a gender specified on things like driving licences anyway, in my opinion’

‘It would be good to be able to write in your own term if you don’t like the term ‘non-binary’’

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.

No

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?

No

If you answered Yes, add your comments.: 

About You

What is your name?

Name: 
Katrina Mitchell

What is your email address?

Email: 

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation: 
Glasgow Non-Binary Night group (an LGBT Health and Wellbeing community group)

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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The Non-Binary Night group meets monthly in Glasgow. It is supported by LGBT Health & Wellbeing’s Glasgow Trans Support Programme. The group met to discuss this response to the consultation on 7th February, and ten non-binary people took part. Their comments and quotes are included in this submission.

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

________________________

[Signature]

[Date]

[Email]

[Phone]

[Address]