The Gender Recognition Act 2004

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 following information has been compiled by student researchers participating in the University of Bristol's Human Rights Implementation Centre:

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**Respecting human rights obligations by demedicalizing and streamlining the process of gender recognition**

1. The Yogyakarta Principles plus 10 along with the original twenty-nine are seen as reflecting existing international human rights obligations in relation to issues of sexual orientation and gender identity and affirm those obligations with which all states must comply with:

   i. Principle 3B requiring states to take all ‘necessary legislative, administrative and other measures… to legally recognise each person’s self-defined gender identity’.

   ii. Principle 31B (YP+10) requiring states to ensure access to a ‘quick, transparent and accessible mechanism… based on the self-determination of the person’.

2. The Parliamentary Assembly of the Council of Europe (hereafter, PACE), in its 2015 resolution on transgender discrimination in Europe, argued that mandatory diagnosis of mental illness (as required by s. 2(1)(a) of the Gender Recognition Act) infringes transgender people’s right to private life under Article 8 of the European Convention on Human Rights.

   The Resolution (2048 (2015)) also recommends:

   i. Mental health diagnosis should not be a legal requirement.

   ii. Allowing transgender people to self-identify their gender would avoid derogation of their right to private life and to physical integrity.

   iii. Quick, transparent processes based on self-determination need to be developed.

3. The current law on legally changing one’s gender identity is regulated by the Gender Recognition Act 2004 (hereafter, GRA) which allows individuals with a Gender Recognition Certificate (GRC) to be recognised for all legal purposes.

   However, applying for a GRC is complicated and subject to arbitrary evidence rules (particularly those related to non-physical medical intervention requirements).

4. Some European jurisdictions (Denmark, Malta, Ireland and Norway) allow individuals to self-identify their gender without a requirement of a gender dysphoria diagnosis, or a panel assessment. Belgium, France and the Netherlands have gone a step further than the UK while not moving on to self-identification completely.

   i. In Ireland, a jurisdiction similar to the UK, the Gender Recognition Act 2015 was hailed as being ‘progressive’ by TGEU as it allows adults to self-identify their gender by statutory declaration.

   ii. Maltese law, which allows self-declaration of gender, was called a ‘ground breaking human rights milestone’ and as setting ‘an inspirational benchmark’ for other European countries by the International Lesbian, Gay, Bisexual, Trans and Intersex Association.

   iii. Danish law allows self-declaration, but has a ‘period of reflection’ of six months to confirm the change as a safeguard (a similar, three-month waiting period new exists under new legislation adopted in Belgium)

   iv. Norway has passed legislation enabling self-declaration in June 2016. Prior to enacting the legislation, the Government commissioned an expert group report on the best way to proceed with reform gender recognition procedures. A majority of the expert group was against imposing a ‘period of reflection.’

5. There have also been shifts in non-European jurisdictions (particularly, the USA and some Latin American countries):

   i. Argentina was the first jurisdiction to pass comprehensive legislation enabling transgender people to self-identify their gender. A 2017 study confirmed the law’s positive impact as individuals mostly perceived it to be a positive development especially in the areas of education, political and civil rights.

   ii. Colombia allows transgender individuals to self-identify but can only do so for a maximum of two times and must wait for 10 years before doing so.
iii. In Mexico City, a bill enabling transgender people to self-declare their gender was passed in November 2014.

iv. California’s Gender Recognition Act would de-medicalise the process starting from 1 September 2018 by providing means for transgender people to self-identify their gender with an option to be identified as non-binary.

6. Potential for identity fraud:

(a) Dutch authorities investigated this issue but found no evidence linking increase in fraud to simplification of gender recognition laws. Given the high emotional burden, it is unlikely that this process will be abused.

(b) Fraud objections can also be leveled against name changing processes but most countries allow people to change their names in a straightforward manner.

(c) There are already laws which criminalize fraud. The Gender Recognition Act 2004 should not establish insurmountable obstacles to trans individuals obtaining recognition (and, for many individuals, diagnosis requirements are such an obstacle) simply because of conduct which (a) is not related to members of the Scottish trans population and (b) over which members of the Scottish trans population have no control. If the Government is truly concerned that fraud might be a consequence of self-determination, the focus should be on those who would engage in that behavior (not morally blameless applicants for gender recognition).

(d) Self-identification does not permit individuals to commit sexual assaults in women’s spaces. This conduct is illegal with or without a GRC. The right to be free from such assaults is still protected by (and will continue to be protected by) existing criminal justice rules.

(e) In the case of rape crisis centres and refuges, there is a strict vetting procedure to prevent sex offenders from entering, so the capacity to obtain a GRC more quickly than before would not affect this. In Scotland, those who provide women’s services have adopted a highly trans-inclusive policy, acknowledging that greater rights for trans individuals do not threaten women’s safety.

(f) Trans individuals are already entitled to benefit from the provisions of the Equality Act 2010 on the basis of self-determination. Trans people (gender reassignment being the protected characteristic) can already enter spaces related to their preferred gender so long as they have the protected characteristic of gender reassignment (which does not require medical transition).

(g) In terms of prisons, trans women have died as a result of the unsatisfactory state of the law on gender recognition. Many trans women are under threat in prisons without legal recognition of their gender as seen in the case of [redacted] (these cases also illustrate that the current processes for obtaining a Gender Recognition Certificate are inaccessible for a considerable number of persons - often those most marginalized - in UK society).

7. The current framework of the Gender Recognition Act 2004 is not a proportionate mechanism for addressing/engaging with trans rights:

(i). This current law is outdated, given that in order to obtain a GRC:

(a) An individual is required to meet a high threshold, and has to wait for a long period of time (2 years) before they can be legally recognized.

(b) Individuals must provide oral and written evidence to the Gender Recognition Panel for the process which makes it arbitrary. The process is unfair because it puts them under the scrutiny of the authority that has little knowledge of the individual’s life.

(c) While the law does not require surgical or hormonal intervention, the panel assessment is intrusive with several trans individuals being asked humiliating questions.

(d) Interference by mandatory psychiatric diagnosis and panel assessment increases the inequality of trans people by privileging the medical and judicial expertise above a person’s own identity and experience. It also assumes that all the doctors are performing their role neutrally without prejudice.

ii. The concerns that the state has, while legitimate, can be addressed without having a medicalized model in place. In terms of having a safeguard:

(a) A ‘period of reflection’ is not necessarily best practice as it not only delays the recognition process (6 months in the Netherlands) but also is patronizing to trans individuals (it expresses that trans people do not really understand their lived-gender, and that they must be invited to undertake a more rigorous period of self-reflection so that they can prove to the State that they truly understand their gender).

(b) However, if the State wants to have a safeguard, it is argued here that imposition of a ‘period of reflection’ is the best way to do it as it still respects trans individuals’ right to dignity and to identify.

Nevertheless, the standard of the minimum time differs from state to state:

- In Belgium, the law reduced the ‘period of reflection’ from 6 months to a minimum three months.
- In Denmark, self-determination is double safeguarded by both ‘period of reflection’ and criminalisation of false statements (giving a false statement for self-reflection is a criminal offence).

8. It is also noted here that de-medicalisation would automatically streamline the process by making it administratively less onerous as the self-declaration model would:

i. Eliminate the necessity for gender dysphoria requirements so the applicant would be wasting neither money nor time.
ii. Eliminate barriers for people who cannot access medical intervention either due to expenses, discrimination or requisite healthcare simply not being available.

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:

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:

C. Don’t know

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:

The following information has been compiled by student researchers participating in the University of Bristol’s Human Rights Implementation Centre:

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Around the world, when looking at national gender recognition laws, the age limit is typically set at legal majority. Though this differs slightly, legal majority is often 18.

However, important exceptions to this legal majority rule for gender recognition can be found. And, in many ways, it is these exceptions - rather than the general rule - which have come to represent international best practice.

a. Belgian law provides two phases that are accessible to minors. From 12, minors are able to have their first name changed to a name that matches their gender identity, with the support of the legal guardian. From 16 years, a minor may apply for a legal gender change, requiring a personal statement from the minor, and support from the legal guardian. There is also a requirement of a statement from a psychiatrist, though this is only in the capacity of confirming the will to change identity is completely free of any outside pressure.

b. In Ireland, the Gender Recognition Act 2015 conferred the right for those aged between 16-17 to apply for a legal gender change, though the procedure is more onerous than the self-declaration for 18 year old persons. It requires a court order, parental consent and a statement from a medical practitioner.

c. Dutch law allows transgender people to change the gender marker in their official identity papers to their preferred gender. It does away with previous requirements for taking hormones and surgery, including irreversible sterilization, though it is a step short of complete personal autonomy for the decision. These requirements in an outdated 1985 law violated transgender people’s rights to personal autonomy and physical integrity, and denied them the ability to define their own gender identity. Under the new law, anyone over age 16 may file a request to change their gender. But the request must be accompanied by an expert statement affirming the person’s permanent conviction to belong to another gender.

d. In Sweden, under the terms of a new law which came into effect in January 2016, trans individuals can self-define their preferred legal gender from the age of 16 years. The law also caters for trans individuals aged between 12 and 15 years, although their application for gender recognition must be made through a parent.

e. In Argentina, there is no specific age limit, though there is a certain procedure for those under 18. Article 5 of the Gender Identity Law allows for those under 18 to request a legal gender change, through their legal guardian with explicit agreement by the minor.

f. In Malta, the Gender Identity, Gender Expression and Sex Characteristics Act, 2015 has stated that all persons being citizens of Malta have the right to the recognition of their gender identity and request the Director for Public Registry to change the recorded gender without requirement of providing proof of a surgical procedure for total or partial genital reassignment, hormonal therapies or any other psychiatric, psychological or medical treatment to make use of the right to gender identity. As for children whose ages are under 18, in the section 7, parents and tutors who have parental authority may file an application in the registry of the Civil Court (Voluntary Jurisdiction Section) requesting the Court to change the recorded gender on behalf of children. The court must ensure that the best interests of the child as expressed in the Convention on the Rights of the Child be the paramount consideration and give due weight to the views of the children having regard to the children’s age and maturity. If the court upholds the request, it shall order the Director to change the recorded gender and first name in the act of birth of the children. If the gender of the child has not been declared at birth, parents and tutors with parental authority shall file an application before the child attains the age of eighteen.
On June 6, 2016, Norwegian Parliament approved a new law, the Legal Gender Amendment Act, regulating gender recognition. As for children, the first paragraph in section 4 regulates that, once a person has reached the age of 16 years, they are themselves able to apply for a legal gender amendment (self-determination). Consent of the person or persons with custody is not required. Those between the ages of 7 and 15 can apply through a parent or guardian, taking into account the views of the child.

In this respect, international best practice is beginning to shift. Whilst the Gender Recognition Act 2004 was undoubtedly pioneering for the acknowledgement of transgender rights comparatively at the time, the lack of any acknowledgement of the rights of those under 18 years now appears outdated.

In accordance with this, and the success of the implementation of acknowledging legal recognition rights for transgender children in domestic law in foreign countries, we encourage the Scottish government to create a legal recognition framework for persons under the age of 18 years (for those aged between 16-17 years at the very least).

International Law and Children's Rights

The UN Convention on the Rights of the Child (“CRC”) advocates the protection of transgender children to be free from discrimination and violence. The Human Rights Committee (which monitors compliance with the International Covenant on Civil and Political Rights), in the seminal hearing of Toonen v. Australia, 1994, set the tone of this jurisprudence by placing a positive obligation upon states to protect individuals from discrimination on the basis of their sexual orientation. This line of argument has periodically extended to gender identity.

Article 2 of the CRC provides that States shall ensure the rights of children, without ‘discrimination of race, colour, sex… or other status’.

‘Other status’ has been construed by the Committee on the Rights of the Child (“Committee”) to include gender identity.

“States parties must give careful consideration to prescribed gender norms within their societies with a view to eliminating gender-based discrimination as these norms impact on the vulnerability of both girls and boys.” (CRC General Comment No. 3, 2003)

Explicit mention of the protection, and non-discrimination of children’s rights, for transgender children is also evident. The Committee advocates that:

“A positive obligation on states for children in potentially vulnerable situations [including, but not limited to those] who are lesbian, gay, transgender or transsexual… to make proactive efforts to ensure that such children are assured their right to protection on an equal basis with all other children.” (CRC General Comment No. 11, 2011)

More recently, gender identity has become a key consideration for the Committee when interpreting ‘other status’:

“A number of grounds on which discrimination is proscribed are outlined in article 2 of the Convention…. including sexual orientation, gender identity… All policies and programmes affecting children’s health should be grounded in a broad approach to gender equality that ensures … the elimination of all forms of sexual and gender-based violence.” (CRC General Comment No. 15)

Specifically on the UK, the CRC Committee within its Concluding Observations (on the Fifth Periodic Report of the UK and Northern Ireland) commented:

“many …lesbian, gay, bisexual, transgender and intersex children...continue to experience discrimination and social stigmatization, including through the media” and concluded by recommending:

“expanding legislation to provide protection of all children under 18 years of age against discrimination on the grounds of their age”.

Article 2 of the CRC explicitly provides a positive obligation upon states to protect the right of children to be free from discrimination. The Gender Recognition Act 2004, in refusing to acknowledge the rights of those under 18 years of age, promotes discrimination on the grounds of age for transgender children.

Though the Equality Act 2010 provides for ‘gender reassignment’ as a protected characteristic, providing protection for children who have a trans identity, the failure to recognise the gender of a child by denying children recognition creates an inherent inequality, and suggests an inconsistency between the provisions of the Equality Act, and the denial of legal gender recognition for children.

Right to identity

Article 8(1) of the CRC recognises the right of the child to preserve their identity without unlawful interference. The inclusion of nationality, name, and family relations are given as explicit examples, though are not considered as exhaustive.

Implicit interpretation of ‘identity’ has included sexual orientation. The Committee, speaking in regards to the interpretation of ‘identity’ within the scope of the best interests of the child observed:

“The identity of the child includes characteristics such as sex, sexual orientation, national origin, religion and beliefs, cultural identity, personality” (General Comment 14, 2013)
Gender identity, in this context, has also been included when considering the proper application and the meaning of ‘identity’.

Article 8 includes that States must ‘respect’ the right to ‘preserve’ the identity of the child. In respecting this right, article 8(2) clarifies that States must “provide appropriate assistance and protection, with a view to re-establishing speedily [the] identity of the child”.

The ‘preservation’ of identity implies the non-interference of identity. The preservation of a trans child’s identity implies the non-interference of their identity. Though preservation is often linked to the absence of change, preservation in this context cannot be interpreted to suggest opposition to any change of the legal recognition of the child’s gender. Contrarily, preservation constitutes the protection of the mental state of the child’s identity. In this way, as the child’s mental state for their identity has shifted, so too should the preservation of his gender, and his identity.

‘Respect’ of the child’s identity places a positive obligation upon the State to protect, with a view to ‘speedily re-establish’ the identity of the child. This positive obligation to respect the identity of a trans child may, then, be satisfied with the legal acknowledgement of a child’s identity, which implicitly includes gender, and by consequence, the preservation of their decision to change gender.

To continue to exclude, without exception, the rights of trans children within the Scottish gender recognition framework, is to promote the discrimination of trans children, fails to adequately protect those who suffer the social stigmatisation of gender dysphoria, and fails to preserve the self-determined identity of the child. To do so violates, and is in complete opposition to the obligations posited as a result of the United Kingdom being a signatory, and therefore a party to, the CRC treaty.

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.:

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?

Don't know

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?

Yes

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.:

**This information has been compiled by students research as part of the University of Bristol Human Rights Implementation Centre**
Despite its shortcomings and outdated nature, there is still some form of recognition by UK legislation that allows a transgender person to change their legally recognized gender to either a male or female. However, this is not the case for those who identify as non-binary persons (those who do not identify as male nor female); the current law is insufficient, if not non-existent.

This was made clear in the Transgender Equality Report 2016 by the Women and Equalities Committee (England), who highlighted the need for the government to start a "wholesale review of issues facing non-binary and non-gendered people" and "the need to create a legal category for those people with a gender identity outside that which is binary and the full implications of this." Similarly, the current position of legal recognition for non-binary individuals in Scotland has been recognised as unsatisfactory by the Scottish government in a recent review of the Gender Recognition Act 2004.

In both jurisdictions, non-binary persons are also not adequately protected by the Equality Act 2010 leaving them vulnerable to discrimination. This means that their human rights - including the right to a private life under Article 8, freedom of expression under Article 10 and prohibition of discrimination (in enjoyment of Convention rights) under Article 14 of the European Convention on Human Rights (ECHR) - are insufficiently respected.

In turn, those who do not identify as either male or female are isolated from society and reports indicate that they consequentially suffer from poor mental health. While entirely de-gendering the law would bring benefits (e.g. non-binary people are less likely to experience discomfort or disadvantage if they did not have to declare a gender), it would not solve all inequalities as gender is also a social phenomenon.

Furthermore, it would be a costly and complex process and removes the symbolic significance of individuals gaining legal recognition of the state of being they identify with. It is unlikely that a fully-fledged response and solution to the problem will be formulated within the next few months due to the wide scope and difficulty of the issue.

Increasing guidance and improving support for non-binary persons in society

Use of services by non-binary persons

A survey by the Scottish Trans Equality Network found that the only services where non-binary people felt comfortable about being out was in LGBT services (72% of respondents ‘always’ or ‘usually’ felt comfortable sharing their non-binary identity).

On the contrary, people were least comfortable being open about being non-binary with the police (69% of respondents say they ‘never’ felt comfortable sharing their identity). With regards to the NHS, 60% of the people surveyed ‘never’ felt comfortable being open with the staff. Issues that arise include GPs not knowing enough to even start the conversation, or not wanting to have the conversation in the first place. These results suggest that non-binary people have little confidence that the police and health services will respect their identities, and therefore, there is a need for greater training of staff working in these, and other, crucial public sectors.

In response to claims that staff didn’t know enough about non-binary people to be able to help them, training should aim to increase understanding and visibility of non-binary people. There have also been calls for the public sector to acknowledge the systemic inequalities experienced by trans and non-binary people, and to commission and publish research on how to tackle this. In addition, anti-discrimination laws should be extended to specifically include non-binary people, so that they can feel confident that they won’t face discrimination when accessing services.

The importance of the voluntary sector cannot be overlooked. These voluntary sectors are often a ‘safety net’ for those who have not been able to obtain the services they require from the NHS. It is recommended that better funding be allocated to the voluntary sector to enable them to better work together and support clinical services. Moreover, while specialist identity clinics have been developed in recent years, there is no central planning involved in setting them up and this has led to an uneven distribution of clinics around the country. There is thus a need for the NHS to take the lead in finding a collaborative way forward in ensuring that all patients have reasonable access to the services they require.

Access to services for non-binary people should also be the same as for anyone else, with no additional or excessive barriers/rules/tests to receiving that treatment. The current binary nature of public services pushes people into binary choices that they may not otherwise have chosen. This is a very significant cultural problem and long-term change is needed to get the right approach and attitude.

Non-binary persons and the workplace

Unsurprisingly, non-binary people are usually uncomfortable sharing their identities at work. This is due to a variety of reasons including worries that they may not be respected for their gender, concerns that it will affect their career progression, and uneasiness over possible harassment or discrimination. Moreover, non-binary people do not feel obligated to educate people in their workplace about non-binary identities, so do not feel comfortable coming out.

Another area of concern lies in relation to gender stereotyped dress codes/uniforms. Having dress codes specifically for ‘men’ and ‘women’ could be difficult for non-binary persons whose gender identities may be fluid and changing. Such dress codes effectively force trans and non-binary people to express themselves through their clothing in a way which doesn’t align with their gender identity. It is recommended that if employers have to specify that employees must wear certain clothes, they should not specify for which gender, and allow employees to choose for themselves dress code/uniform that suits them best.

There is little evidence to suggest that non-binary people are supported in the workplace. In addition to anti-discrimination policies and anti-bullying/harassment policies, employers may seek to highlight specific examples of discrimination, explaining why they constitute discriminatory language or behaviour because staff may not be aware of the subtle ways in which discrimination or harassment can occur. Employers should also recognise the need for flexibility to help non-binary people feel included in the workplace. For instance, on top of flexible dress codes, non-gendered facilities such as toilets and changing rooms can be provided. Lastly, employers should understand that with trans and non-binary people, there is a possibility of having different information recorded about them across...
Rights do not tend to flow from one’s passport, meaning that this amendment would not disrupt the entire legal system. The International Civil Aviation Organisation still requires gender to be acknowledged on passports, but their Document 9303 acknowledges that X passports are valid for travel. A number of countries, including Australia, Canada, Malta, and New Zealand - now issue passports with an 'X' or third option for gender so individuals do not have to identify as either male or female.

In New Zealand, an X Passport can be issued without the need to amend details on birth or citizenship records; one is simply required to indicate which gender they wish to appear on their passport and how long they have maintained their current gender identity. Under 18s can also apply for this option but are also required to produce a statutory declaration of parental support and a letter from a counsellor or medical professional. This is an effective approach as the process is simple for adults and does not affect other rights. Children are still granted the opportunity to change their gender identity, but the additional provisions address concerns about young people making rash decisions in this area.

Malta has adopted a similarly simple procedure - the applicant uses the standard application form, but must attach an oath taken in the presence of a notary.

Canada introduced gender neutral passports in 2017 and this change was welcomed by the immigration minister Ahmed Hussen, as well as immigration lawyer Adrienne Smith and the advocacy group Egale. This demonstrates that the option is supported by those in politics, the legal profession and those campaigning for greater rights, meaning it is a pathway worth considering in the UK.

This progress in Canada was endorsed by Rebecca Stinson, head of trans inclusion at Stonewall, who stated that she would like to see the approach adopted in the UK so travel documents reflect gender identity. Additionally, 64% of respondents in Scottish Trans’s report on non-binary experiences said they would like to have their legal gender recorded as something other than male or female on official documents. One participant stated that they would ‘feel far more comfortable’ if this were the case.

Therefore, this option is one which non-binary individuals themselves and pressure groups are in favour of. Activist Christie Elan-Cane has secured a date to judicially review the UK government’s decision not to issue X passports in April 2018, arguing that ‘legitimate identity is a fundamental human right’ and that the government are discriminating against their own citizens by accepting but not issuing such passports.

Following the announcement that post-Brexit, the colour of British passports is going to change, it would appear that the government could no longer use the argument that introducing X passports would be too costly. Furthermore, the Women and Equalities Select Committee recommended the introduction of X passports and 65 MPs have signed an early day motion to this effect. It was also suggested as an option in the Scottish Government’s consultation on the Gender Reform Act.

However, this solution to non-binary recognition is not without its flaws. The process would be expensive, and difficulties would inevitably arise in implementing it properly. We live in a binary-orientated society and introducing an X marker could be both over and under inclusive - it groups together potentially conflicting identities while simultaneously excluding fluid gender identities.

Aaron Devor, chair in transgender studies at University of Victoria, voiced concerns that travelling on an X passport could open up possibilities of discrimination and harassment that may not otherwise have existed. The Australian government has also recognised similar issues as their guidelines for those seeking X passports point out that although X passports are valid by international standards, individual countries can still refuse entry. But ultimately, these issues are outside the UK’s control and as a nation, we must do what we can to be more inclusive. Those who wish to have an X passport should have the option, and in doing so they accept the risks outlined. This change has been welcomed overseas, is supported by the non-binary community, pressure groups and politicians so we would recommend that the UK starts issuing X passports to give individuals symbolic and practical recognition.

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.

Option 5: Incremental approach

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 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

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:
Human Rights Implementation Centre, University of Bristol

What is your email address?

Email:

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:
Human Rights Implementation Centre, University of Bristol

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.

The Human Rights Implementation Centre is a leading institution for the implementation of human rights, that works in collaboration with a number of organisations and bodies, including those in the United Nations, the African Commission on Human and Peoples’ Rights, the Council of Europe, governments, and organisations at the national level.

The Human Rights Implementation Centre (HRIC) was established in 2009, within the Law School of the University of Bristol, to enhance the implementation of human rights worldwide through research, education and discussion. Accordingly, it leads a portfolio of research projects and provides advice to institutions and organisations.

HRIC works at the national level with governments, statutory and constitutional bodies, such as national human rights institutions and civil society organisations; and at the international level with regional bodies (such as the African Commission and Court on Human and Peoples Rights, the AU, the Council of Europe, and the Organisation for Security and Co-operation in Europe); and institutions under the UN, both treaty bodies, the Special Procedures and the Office of the United Nations High Commissioner for Human Rights.

HRIC is keen for its research to be practically applicable and relevant to a variety of policy-makers and other stakeholders. It is often approached for expert advice and its staff are asked to participate in various events.

Staff at the HRIC include leaders in the field of international human rights law. They are recognised as being at the forefront of human rights research and have contributed major academic publications to leading journals. HRIC welcomes a number of visiting staff who are human rights experts to work with the Centre. The Centre hosts a series of Visiting staff seminar at the University of Bristol by experts among its visiting staff.

The Centre involves students in its work and has created a number of opportunities which helps them to gain experience, as well as develop essential skills for human rights-related work. The Centre runs a Human Rights Law Clinic, which enables students to provide pro-bono legal research assistance to organisations litigating alleged human rights violations before international and regional human rights bodies.

Where are you resident?

Rest of the UK

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