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.

It is incredibly important that trans people get the autonomy to be in charge of their own lives. The current process is demoralising, dehumanising and forces trans people to conform to certain requirements in order to be who they are.

Allowing trans people to self-identify goes hand in hand with legal progress that is happening around the world, and self-declaration is already a reality for trans people in Malta, Denmark, Ireland and more, without any trouble. This is in accordance to the World Organisation of Transgender Health's Standards of Care, that say self-determination is an important to increase and ensure trans people's well being.

Major organisations such as Stonewall UK, Transgender Europe, ILGA-Europe and more advocate for self-identification and it's a much needed step for the UK to ensure trans people are recognised and respected in UK law.

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.

This requirement is incredibly dramatic and outdated, and suggests that trans people's identity is just something they acquire. Trans people are who they are and they always have been and always will be. It is unnecessary paperwork for everyone, as it's no one's business how people live their lives. It's also unrealistic to think you can force people to live in a gender until death.

What does that mean? Who decides what that means? Does it mean people have to wear certain clothing? Does it mean they have to have certain jobs? Does it mean they have to conform to outdated stereotypes of what men and women are?

Legalising something like this is very dangerous as there is no legal definition of what it is to be a certain gender. Gender is subjective and changes through time. It's effected by social attitudes and norms, and putting something so subjective into law is dangerous and unrealistic.

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.

I believe people should be free to do this as they wish. I therefore think it's important that people have the right to change their gender more than once, as a multitude of reasons can be a factor. Many trans people feel that they have to conform to certain stereotypes in society (just like everyone else) and limiting it to only one time and limit their expression and right to self-identify.

There is no need to worry that this will result in people changing their legal gender continuously. Several countries already allow this and it certainly hasn't proven to be a problem.

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.

Having this open to everyone will allow people that for example are asylum seekers or refugees to change it, or people that are immigrants and have moved to Scotland. Only having it open for people born in Scotland, adopted or residents could preclude a lot of people that do live there or reside there.

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.

According to research, we start to recognise our own gender around 4-5 years old. People who are 16-17 are fully aware of who they are, and most trans people can tell you that at that age they were sure of who they were.

People are now able to come out much sooner because of increased acceptance and support from society, and it's important that teenagers are respected and heard. Trans teenagers are suffering in society today, according to research and this would enable them to take control of their own lives and be able to self-identify. It is immensely important for their well being.

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.

It is vitally important that trans teenagers are in control of their own identity. Allowing those capable of making the decision is vital for their mental well being and respects a child's rights and dignity.

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.

If you require spousal consent, this can lead to trans people being stuck and not being able to change their legal gender because of their spouse. This opens up to potential abuse on behalf of the spouse, that refuses and gatekeeps whether trans people can get legal gender recognition. This could force trans people to live a life they aren't happy with, leading to increased stress and poor mental health. No one should have the power to block a person from obtaining legal gender recognition and there shouldn't be obstacles placed in the way of obtaining it. It should be in the hands of the individual themselves, and them alone.

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.

Civil partnership should be open to anyone who wishes to get it, as not everyone wishes to get married due to the religious or social connotations associated with it. If a person has previously chosen to do a civil partnership, this should be respected.

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.

When someone changes their legal gender, it is often a long process and many couples stay together. It should be left to the couple to work this out and if they do not want to be together anymore, they should file for divorce on the grounds that they no longer want to. Making legal gender recognition a specific ground is discriminatory against trans people as it's targeting their gender identity as a cause.

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.

If a person has already gone through the legal process of changing their gender, that should be respected. Requiring people do go through yet another process to have their gender recognised is unnecessary and poor use of time and resources. Many trans people have to go through great lengths in various countries to get their gender recognised and it certainly shouldn't have to be made even harder for them once they move to another place.

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.:
Recognising non-binary people is a vital step in recognising the diversity of gender and the existence of non-binary people. Non-binary people deserve to get ID and documents that reflect them authentically, as it is the whole point of IDs. Non-binary people are not going to go away, and they are already recognised in countries such as Malta, Nepal, Denmark and Canada.

If Scotland wants to ensure they recognise the rights of all trans people, this is a vital step. It will increase the well being of members of the trans community and enable them to be active members of society.

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.

Option 1: Changes to administrative forms, Option 4: Full recognition using proposed self-declaration system, Option 6: Amendment of the Equality Act 2010

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.:
It is already a reality that non-binary people are facing discrimination because of their gender identity, as stated above. It is therefore vitally important that they are able to register their identity on all types of forms and are able to self-identify like other trans people. Non-binary people also require specific legal protection and the Equality Act (2010) does not protect them specifically. This needs to be amended so that non-binary people are protected by law and can seek legal action if they are discriminated against on the basis of their gender identity.

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?

Yes

If you answered Yes, add your comments.:
It is vitally important that trans people are fully recognised and respected by law. This reform has the chance to send a clear message that trans people are respected in Scotland and that they deserve legal recognition and dignity. It has the chance to result in further change across the UK and beyond, creating positive change for trans people. In society today, trans people are still being discriminated against in most spheres of life, their identities are being gatekept by medical professionals and they are often forced to hide their identities because of shame or in fear of discrimination. The current process is highly humiliating for trans people and many have not changed their legal gender due to the complicated process it is.

All trans people, including non-binary people deserve to have their human rights recognised and respected.

About You

What is your name?
Name: Ugla Stefanía Kristjönnudóttir Jónsdóttir / Owl Fisher

What is your email address?
Email: 

Are you responding as an individual or an organisation?
Organisation

What is your organisation?
My Genderation was originally formed as a film project to celebrate trans lives and trans experiences. It was formed by trans people, to make content about trans people, for a much wider audience. It aims to show trans people in a realistic, authentic way in order to combat stereotypes, myths and misconceptions about trans people and their lives.

My Genderation aims to:
- raise awareness of trans people’s lives and realities through the medium of film
- combat prejudice, stigma and hate through positive representation of trans people
- give people a human reference point to what it is like to be trans
- show trans people in a positive light
- raise awareness that trans experiences and trans lives are diverse and gender identity isn’t restricted to a binary narrative
- elevate trans voices from an intersectional perspective
- showing trans people as people overcoming obstacles and living their authentic lives

My Genderation recognises the importance of working from an intersectional perspective and commits to making their content diverse and inclusive of trans people from different backgrounds and experiences in relation to, but not limited to; ethnic background, class, gender identity, sexual orientation, sex characteristics, disability, body diversity, cultural background, religious background and other factors and dynamics that contribute to people’s status and position in society.

My Genderation supports the fight for human rights and realises that we are stronger together than we are divided and that trans people are not a homogenous group. Groups, minorities and human rights organisations need to work together in order to reach true equality and make sure no one is left behind. This means supporting different organisations and minorities that are fighting for equal rights, equal opportunities and justice.

Fox Fisher, co-founder, trustee and director
Ugla Stefania Kristjonsdottir / Owl Fisher, trustee and director
Lewis Hancox, co-founder and trustee
Shannon Kilgannon, trustee

Where are you resident?

Rest of the UK

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name