ANNEX A: RESPONDENT INFORMATION FORM

Please Note this form must be completed and returned with your response.

Are you responding as an individual or an organisation?

☐ Individual
X Organisation

Full name or organisation's name

NASUWT, The Teachers’ Union

Phone number

Address

Postcode

Email

Where are you resident? (please select one of the options below)

Scotland X Rest of the UK X Rest of the World ☐

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

X Publish response with name
☐ Publish response only (without name)
☐ Do not publish response

Information for organisations:
The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published. If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.
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.

The NASUWT is the teachers’ union, representing teachers and headteachers across the UK.

The NASUWT believes that all pupils/students and staff in schools and colleges have a right to learn and work in a safe environment, where they are treated with dignity and feel valued and respected.

The NASUWT is committed to supporting trans teachers, pupils, and teachers with trans students in their classes.

The NASUWT has provided detailed guidance for members, both trans and non-trans on issues of trans equality in schools and colleges.

The NASUWT also runs a comprehensive programme of Continuing Professional Development seminars and courses on ‘trans awareness’, available to all members.

The NASUWT welcomes the opportunity to submit evidence to the Scottish Government consultation on the Review of the Gender Recognition Act 2004. Please note, however, that the NASUWT has a house-style for all its consultation responses and therefore this submission does not follow the format as per the online form. Answers are clearly marked as to which question is being responded to. The NASUWT is happy to answer any queries if anything is unclear. Please contact using contact information above.

2. The NASUWT is the teachers' union, representing teachers and headteachers across the UK.

GENERAL COMMENTS

3. The NASUWT believes that all pupils/students and staff in schools and colleges have a right to learn and work in a safe environment, where they are treated with dignity and feel valued and respected.

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5. The NASUWT has provided detailed guidance for members, both trans and non-trans on issues of trans equality in schools and colleges.

6. The NASUWT also runs a comprehensive programme of Continuing Professional Development seminars and courses on 'trans awareness', available to all members.
SPECIFIC COMMENTS

The Gender Recognition Act

7. The NASUWT advises schools and colleges that legislation provides the minimum standard that should be expected in terms of trans equality and that it is good practice for employers to focus not just on legal requirements but also the wider wellbeing of staff and how they can ensure a fully inclusive workplace.

Question 1

8. The NASUWT agrees with the Scottish Government’s proposal to bring forward legislation to introduce a self-declaration system for legal gender recognition.

9. The NASUWT recognises that the current process of securing a Gender Recognition Certificate through the Gender Recognition Act places a heavy burden on the individual concerned, causing potential stress, anxiety and mental ill health. Anything which removes the barriers to legal recognition is welcomed.

10. Trans people should not be prevented by society and the legal system from fully accessing their human rights. Requiring someone who is seeking legal recognition of their acquired gender to have undergone medical treatment or have a medical diagnosis is a breach of their right to respect for their private life under Article 8 of the European Convention on Human Rights and is not in accordance with the Yogyakarta Principles, as outlined in the consultation document.
Question 2

11. The NASUWT would question whether the wording required 'to live in their acquired gender until death' is appropriate or just. Placing such a stipulation could result in a trans person feeling that their gender has been assigned to them again, rather than it being their own choice. This would place yet another unnecessary burden on the individual.

12. People who identify as non-binary would find this proposal particularly difficult. The NASUWT firmly believes that any changes to legislation should be fully inclusive for non-binary people.

Question 3

13. The NASUWT believes there should be no limit on the number of times a person can get legal gender recognition. Essentially, any change to the Gender Recognition Act should be about giving freedoms to those who do not have them. There is no limit to the number of times other legal processes, such as marriage, divorce or changing name by statutory declaration, can be exercised and so the NASUWT would oppose the imposition of an arbitrary limit on the number of times a person can obtain legal gender recognition.

14. The NASUWT would oppose anything which would place yet another unnecessary burden on the individual. The NASUWT recognises that the process of undergoing gender reassignment is far from simple, with many bureaucratic issues already existing, such as significant changing of documents. The NASUWT would suggest, therefore, that any fears that the system would be open to abuse are unfounded.
15. The NASUWT believes that any arrangements for legislative change to adopting a self-declaration system for gender recognition should be open to all and not just restricted to those whose birth or adoption was registered in Scotland, or who are resident in Scotland.

16. The NASUWT strongly supports the principle that teacher qualifications should be transferrable throughout the UK. It therefore follows that other rights should also be transferrable.

17. The NASUWT has long campaigned on issues of international LGBTI solidarity. Making self-declaration available to all would extend freedoms and human rights to the maximum number of people, including those who do not have these freedoms in their own countries. It would also ensure that trans people would have access to their rights as soon as they arrive in Scotland.

18. The NASUWT recognises the burdens that gender questioning and gender dysphoria place on the mental health and wellbeing of young people.

19. According to the Stonewall School Report 2017, more than two in five trans pupils have tried to take their own lives and more than four in five trans people have self-harmed. These figures cannot be ignored. There is evidence that transitioning improves trans people's mental health. Although the NASUWT has no fixed view on the reduction of the age limit to 16, all measures that remove the barriers which place such a heavy burden on the mental health and wellbeing of young people should be welcomed.
20. Young people can change their name, seek employment, join the armed forces and train to be an officer and enter into marriage or a civil partnership at the age of 16. All of these are actions which are not entered into lightly. The question must be asked, therefore, why there are different age limits for different situations. There may be an argument for the equalisation of age limits.

Question 6

21. The NASUWT has no fixed policy on what should happen to trans children under the age of 16. However, the Union wishes to reiterate here the stance that any barrier, constraint or approach which leads to additional burdens for children and young people and therefore puts their mental health and wellbeing at risk, is undesirable. One single approach for all children has the potential to do this. Children whose parents are not supportive would be put at risk by Option 3, parental application. A focus on ‘capable children’ (Option 5) could produce a barrier and lead to discrimination against some children with disabilities. The NASUWT believes that a number of options should remain open.

Question 7

22. The NASUWT supports the right and freedom of the individual to exercise their human rights without the consent of others. If no medical certificate is required to obtain legal gender recognition, then spousal consent is also unnecessary. Self-declaration implies that the decision lies with the individual, therefore this would be negated by adding a layer of consent elsewhere.

23. The NASUWT also believes that spousal consent gives the spouse inappropriate power and risks issues of coercive control, which will become an offence in Scotland, when the Domestic Abuse Bill becomes legislation.
Question 8

24. The NASUWT supports and campaigns for equality for all of its members. It follows, therefore, that both civil partnerships and marriage should be open to everyone, including same-sex and opposite-sex couples, as well as those who identify as non-binary.

25. The NASUWT believes that having to convert from a civil partnership to a marriage because one of the people involved has acquired a new gender would be an unnecessary burden and, as such, should be avoided.

Question 9

26. As with question 7, the NASUWT supports the right and freedom of the individual to exercise their human rights without the consent of others. If a marriage or civil partnership were to break down following an individual obtaining legal recognition of their acquired gender, then it is already possible to seek divorce or dissolution on the grounds that the relationship has broken down irretrievably. There is no requirement for a new, additional ground to be created.

Question 10

27. The NASUWT believes strongly in the right of privacy of the individual and would object to any exclusions or exceptions to the prohibition on disclosure of information which could detrimentally impact on the rights of an individual in the workplace.
Question 11

28. The NASUWT believes that a person who has been recognised in their acquired gender under the law of another jurisdiction should be automatically recognised in Scotland without having to make an application.

29. Having to go through the process of another application would be an additional, unnecessary burden for an individual arriving in Scotland. It would seem to be in contravention of the spirit of a model of self-identification, as proposed by the Scottish Government.

Question 12

30. The NASUWT believes strongly that Scotland should take action to recognise non-binary people.

31. Non-binary people suffer great disadvantage in society and the workplace and are not protected from discrimination or harassment by the provisions of the Equality Act 2010. According to the Stonewall LGBT in Britain: Trans Report, 2017, three in ten non-binary people have experienced a hate crime or incident in the last 12 months because of their gender identity. More than half of people identifying as non-binary feel they have to adjust the way they dress because they fear discrimination or harassment.

32. The NASUWT believes that the provisions of the Equality Act 2010 and the Gender Recognition Act 2004 should be extended to recognise and include non-binary people.

33. The NASUWT believes that the failure to recognise and protect those who identify as non-binary is a contravention of the Yogyakarta Principles, which emphasise that 'Each person's self-defined....gender
identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom’.

Question 13

34. The NASUWT firmly believes in the principle of inclusivity in the campaign for equality. This includes those who identify as non-binary. The NASUWT believes that the provisions of the Equality Act 2010 should be extended to recognise and include non-binary people, in order to protect them from the discrimination and harassment to which they are subjected as a result of their gender identity.

35. The NASUWT asserts that people who self-identify as non-binary should have access to the same rights and systems as those who identify as trans men and trans women. Consequently, the NASUWT is of the opinion that non-binary people should be included in the self-declaration model, and all provisions that need to be made to guarantee this inclusion should be made.

Chris Keates
General Secretary