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.

Disagree

If you want, you can give reasons for your answer, or make comments.:

The present system provides a vital protection against bad faith from applicants for legal gender changes. It provides at least some measure of assurance that those applicants seeking to make a transition based on spurious or dangerous reasons may be screened out.

This is important in order to protect women and children. An example of the present system working in this respect is the following study from Oxford University which found that a small minority of male to female applicants were turned down because they gave as a reason to a doctor for making the transition that they were paedophiles and becoming a woman would make it easier to gain access to children:


Beyond this important consideration it is important that the person transitioning receives adequate access to healthcare services and discusses their options with a qualified professional.

It is also a concern that the fewer screening processes adopted, the easier it will be for people to change gender on spurious grounds. This is a concern not only for those who wish to maintain the integrity of the process but also those who do not wish to see gender, or the institutions based upon it such as marriage, trivialised.

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.:

Asking young people to make a binding commitment to living the remainder of their lives as a person of the opposite gender does not allow room for reflection which may come about later in life.

A person who later wishes to live as a member of their birth sex later in life should not meet any legal impediment to doing so.

3 Should there be a limit on the number of times a person can get legal gender recognition?

Yes

If you want, you can give reasons for your answer or make comments.:

A limit of two gender changes would allow a person who has transitioned to decide to return to their birth sex but prevent further changes of a frivolous character.

4 If the Scottish Government takes forward legislation to adopt a self-declaration system for legal gender recognition, should this arrangement be open:

A. only to people whose birth or adoption was registered in Scotland, or who are resident in Scotland?

If you want, you can give reasons for your answer or make comments.:

This would best ensure that the Scottish Government is acting only with respect to Scottish citizens.

It would also act to prevent Scotland becoming a magnet for gender change tourism, both from within the United Kingdom and elsewhere. This would potentially create a substantial demand on public funding and draw money away from the other medical and citizenship needs of Scottish citizens.

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?

Disagree

If you want, you can give reasons for your answer or add comments.:

The United Nations Convention on the Rights of the Child defines children as those under 18 years of age. Given the rapid developmental changes and the extent of social pressures experienced by children of 16 and 17 years of age, it would not be appropriate to allow them to commit to such a radical course of action,
particularly if required to sign a declaration that they do so for life.

This is particularly important given the high attrition rate for adults seeking to change gender. It is estimated that as many as 50% abandon the process midway through:


Children require special protections and it is essential that the precautionary principle is used with respect to allowing changes in gender to be recorded before adulthood.

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

None of these options

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:

For children under the age of 16, it is vital that a precautionary principle is adopted and children are not allowed to make life-changing and possibly permanent legal decisions before they are sufficiently mature to understand the likely consequences.

The Portman Clinic in London reported that 80% of children who were referred for gender dysphoria before adolescence returned to identifying with their birth gender in adulthood, demonstrating the importance of not rushing to make long-term changes too soon:

Spiegel A, Parents consider treatment to delay son’s puberty, National Public Radio, 8 May 2008

Beyond this it is also important that the Government does not usurp the role of parents and legal guardians by seeking to support applications made without the consent of parents by minor children.

Marriage and Civil Partnership

7 Should it be possible to apply for and obtain legal gender recognition without any need for spousal consent?

No

If you want, you can give reasons for your answer or add comments:

It is important that a spouse who entered an opposite-sex marriage is not forced into a same-sex marriage with a person who legally shares their gender, against their will.

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.

Don’t know

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?

No

If you want, you can give reasons for your answer or add comments:

It is important that those who believe marriage is between a man and a woman are not forced into same-sex marriages by virtue of their spouse’s decision to change gender.

However, a husband who legally becomes a woman should not have the right to divorce his wife against her wishes on the basis of his own gender change. These situations only arise if the spousal veto is removed (see question seven).

Other aspects of the 2004 Act

10 Are any changes to section 22 (prohibition on disclosure of information) necessary?

Don’t know

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?

Don’t know

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?

No

If you answered No, and if you want, you can give reasons for your answer:

Such a change may result in a further alteration to marriage laws, as non-binary is not a presently recognised category of person, this would undermine marriage as currently legislated.

In addition such a reform would likely necessitate the creation of multiple categories of gender identity beyond male and female, given the multitude of identities proposed by activists creating confusion and further divorcing gender from biological reality.

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.

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:

Removing the protections and safeguards which exist in current legislation would create the opportunity for serious harm, both to individuals and wider society. It is very unlikely that any gain in terms of convenience and time saving outweighs the potential problems inherent in the proposed approach.

About You

What is your name?

Name: Thomas Pascoe

What is your email address?

Email: [Redacted]

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation: The Coalition for Marriage

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 Coalition for Marriage is Britain's largest campaign organisation working to support the common law definition of marriage as established by Lord Penzance in Hyde v. Hyde (1866). We campaign across issues related to marriage and family life. We have 7,000 active supporters in Scotland.

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