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.

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.

We agree that there should be a statutory declaration made confirming the applicant understands what they're doing but there should not be a commitment to live in their acquired gender until death. Gender can be fluid and asking an applicant to make the above commitment could prevent them from obtaining gender recognition. This becomes even more important if the proposals to recognise non-binary genders don't become law.

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.

Applicants can vote at 16, so it would make no sense if they weren't allowed to obtain legal gender recognition too.

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.

We're supporting a parental application over capable children as we don't believe in introducing pathologisation or "experts" into the process for those under 16 when we're asking for it to be removed for everyone else.

While we're supporting parental application, we also feel it's crucial that there's a route to recognition for children whose parents aren't supportive. In these circumstances we'd like to see the capable children model used.

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.

An applicant's decision to obtain legal gender recognition should not be blocked by anyone else; regardless of their relationship to them.

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.
We believe civil partnership should be open to everyone regardless of their genders. This could be an important first step.

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.
If someone wants to end a marriage / partnership because of the other person obtaining gender recognition that’s about how they feel and shouldn’t be put onto the transitioning partner as it is now.

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.
We think files should still be protected, but that only certain information should be protected i.e previous gender. This means that the information for someone who’s changed their gender can already be accessed without the often difficult process of having their file unsealed. It also means that those with access to these aren’t speculating as to which of the restricted categories the person falls within.

If the records are to remain sealed the system should be able to grant access to the information required, rather than taking an all or nothing approach.

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.
There is no justification to make those who move go through a similar process again. This is especially true as Scotland will have one of the most progressive systems in the world, which means any system the applicant has already been through will have been more difficult to obtain recognition through.

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.
It’s inexcusable that non-binary people aren’t recognised by law. Legal change would lead to greater recognition and acceptance while at the same time allowing non-binary people to be recognised for who they are. Nobody should ever be forced to “pick a side”.

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: Trans Masculine Scotland

What is your email address?

Email: 

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation: Trans Masculine Scotland

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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Trans Masculine Scotland is a support group run by and for the trans masculine community. We welcome all trans masculine (including non binary) folks aged 16+ who were assigned female at birth or socialised as female.

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