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.

We support the adoption of a self-declaration system for legal gender recognition. This would bring Scotland in line with international best practice, and put us amongst other European countries such as Denmark, Ireland, Malta and Norway which already have such a system. We believe a self-declaration system would be a fairer, more respectful and appropriate process for legal gender recognition.

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?

Yes

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

We agree that a statutory declaration should be required.

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.

No such limit currently exists and we do not believe one should be introduced.

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.

We believe the system should be open to everyone. As a University with a large number of non-Scottish students and staff, we want to ensure that their gender is legally recognised and respected in this country.

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.

We believe that the same self-recognition process be available for 16 and 17-year-olds. 16 and 17-year-olds are already granted legal rights such as; official name change without parental consent, entering a civil partnership or marriage without parental consent and ability to vote in the Scottish Independence referendum.

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 agree with recommendations made by the Equality Network that option number 3 – Parental Application is the best approach. Parental application is already established as the method for young trans people to change their name, passport information, medical records and school database.

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.:
We believe legal gender recognition should not require spousal consent.

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 people should be able to stay in their civil partnerships if they wish. We do not take issue with the potential for mixed-sex civil partnerships.

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.:
As a group, we discussed both sides of this issue. We all agree that the stigmatising of trans people is unfair and should be avoided. Some of us would support removing gender recognition as a ground for divorce as this could be considered unfairly stigmatising.

However, there were also concerns that without this ground individuals may have to cite irreconcilable differences. This could be considered a worse option as it may be more contentious, invasive or require evidence of unreasonable behavior.

A further concern recognises that the process of gender recognition can have a significant effect on the spouse and the relationship. It seems reasonable that for some people this would be a ground for divorce. Furthermore, there is concern that a spouse changing their gender could have the effect of contradicting their spouse’s sexual orientation. It seems reasonable that this would be a ground for divorce for some people.

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.:
We have no reason to believe that changes need to be made. We recognise the importance of upholding privacy in the legal gender recognition process and do not support any exemptions which may undermine this.

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.:
We believe a person who has gender recognition from another country should be automatically recognised in Scotland. People with a legal gender recognition from another country should not have to go through a difficult or potentially costly process to prove their legal gender.

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.:
We strongly believe that actions must be taken to recognise and support non-binary people in Scotland. We believe non-binary identities are just as valid as those of trans and cisgender people. We have heard the difficulties and discrimination faced by non-binary people and support measures that will ensure they are better recognised and included in 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.


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.:
We agree with the arguments put forward by the Equality Network for this question. We think that OPTIONS 1, 3, 4 and 6 are the best options for non-binary people. Options 1 and 3 will ensure that non-binary people can complete forms in a way that is respectful and true to their gender identity and have identity documents that reflect this. This is an issue which has been brought to our attention from our non-binary student’s. We recognise non-binary identities as legitimate and valid and so support Option 4. We support updating the Equality Act to ensure fuller and explicit protection of trans and non-binary people.

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?  

No

If you answered Yes, add your comments.:  

About You

What is your name?  

Name:  

What is your email address?  

Email:  

Are you responding as an individual or an organisation?  

Organisation

What is your organisation?  

Organisation:  
University of Aberdeen LGBT Staff & Postgraduate Student Network

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.:  

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