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. :

At the Women’s Rape and Sexual Abuse Centre, we offer support to our service users on a self-declaration basis. We always have done and we always will do. The Scottish Government’s proposal to adopt a self-declaration system for legal gender recognition would therefore not have any impact on who accesses our services. We encourage the Scottish Government to operate on this basis too as it is integral to transgender and non-binary people’s rights to autonomy, dignity and privacy. These rights are at the core of our ethos and values as a feminist organisation and so we fully support this proposed change to legislation and would advocate that it is extended to include provision for non-binary people too.

Further, WRASAC feels strongly that the current procedure and evidence requirements to obtain a Gender Recognition Certificate are in conflict with our feminist values. They are discriminatory, humiliating and afford institutions the power to assess and police gender, thus stigmatising trans people further and reinforcing the gender binary which WRASAC work to dismantle.

We are aware that there is discourse which suggests that a system of self-declaration would be a threat to women’s safe spaces. This is not our viewpoint. We want to emphasise that we already welcome self-identifying trans women into our safe spaces, that their inclusion does not in any way determine the safety of that space and that to suggest otherwise would be a disservice not only to our trans service users, but to the trans women working within our sector creating those safe spaces every day.

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.: It makes it serious and would likely prevent people who aren’t genuinely trans from applying in order to make a point.

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.: 

We agree with this proposal as 16 and 17 year olds have full legal capacity in other aspects of life, including being able to marry and vote. Just as they are able to make serious decisions about marriage and voting, they should be able to decide for themselves if they want to obtain legal gender recognition. Further, as part of our feminist analysis of inequality, we believe that children and young people experience abuse due to their position in society and therefore welcome legislative change which improves young people’s rights. Our children and young people’s support service strongly values listening to young people, believing them and allowing young people to have a voice in what is right for them. The proposal to allow 16 and 17 year olds to apply for legal gender recognition is therefore in line with these core values and we fully support it.

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.: 

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:

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:

Other aspects of the 2004 Act

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:

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?
Yes

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?
Yes

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

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:
WRASAC fully supports the proposals to change the Gender Recognition Act 2004 to enable trans people aged 16 and over to obtain legal gender recognition on a self-declaration basis. These changes have the capacity to significantly improve the lives and rights of trans people, something WRASAC wholeheartedly advocates.

About You

What is your name?

Name: Laura Wylie

What is your email address?

Email: [redacted]

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation: Women's Rape and Sexual Abuse Centre (Dundee)

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: We support women, young people, including boys and members of the trans community, who have experienced any form of sexual violence, abuse or exploitation in their lives. We promote equality and raise public awareness of the routes of sexual violence and its damaging and life-changing effect

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

[redacted]