

Humanist Society Scotland

Questions

1 Do you have any comments on the proposal that applicants must live in their acquired gender for at least 3 months before applying for a GRC?

Yes

If yes, please outline these comments.:

We are mindful that the Scottish Government believes that a three-month required 'living period' marks a seriousness to the individual's application. However, we do not read any specific evidence from the government that this will have any impact on GRC applications or decisions relating to GRC applications. It would be helpful if the government were able to provide a clear rationale for why they believe this three month period is helpful as the consultation document provides no evidence regarding the expected impact of this.

We believe that the proposal to make the process one with a statutory declaration is enough to ensure that individuals have concerned the full ramifications of making this decision.

2 Do you have any comments on the proposal that applicants must go through a period of reflection for at least 3 months before obtaining a GRC?

Yes

If yes, please outline these comments.:

As with our response to question one, the consultation paper has not set out any evidence as to the impact of introducing this. Applicants are likely to have long considered any application for a GRC prior to submitting their application.

Waiting periods do exist in other parts of family law, such as marriage notice periods, but these have been introduced in legislation with the intention to allow others to object to a process and/or to allow for the necessary administrative checks to be carried out. This would, therefore, appear to be the first introduction of a waiting period in order to suggest a person may change their mind. We don't believe the government has given a clear enough explanation as to why in this specific legislation should have a waiting period.

3 Should the minimum age at which a person can apply for legal gender recognition be reduced from 18 to 16?

Yes

If you wish, please give reasons for your view.:

This change brings this area of law into line with that of marriage, certain voting rights, and age of consent. Humanist Society Scotland has actively campaigned in other areas of law to respect decisions of 16 and 17-year-olds where they currently are not respected. For example the current ban on 16 and 17-year-olds being able to exercise their freedom of religion and belief in Scottish schools by opting out of compulsory religious observance.

4 Do you have any other comments on the provisions of the draft Bill?

Yes

If yes, please outline these comments.:

As humanists, we are committed to treating individuals as having inherent worth and dignity and having the right to self-determination of their own lives and bodies. A move to recognising a self-declaration process for gender recognition is in line with Humanist principles regarding the autonomy of individuals over their self.

We believe the proposals in the bill will make the process of applying for a GRC better for those who chose to apply for one. For example, the removal of medical reporting is a positive step that will help reduce an intrusive examination of personal medical records for what is ultimately a legal process for changing a birth certificate.

We encourage the government to give further consideration of the rights of non-binary people as the draft bill does not bring forward any specific actions in this regard. Humanist Society Scotland would welcome action from the Scottish Government to recognise non-binary people.

With regard to section 9 (8S) revocation by a sheriff of a GRC, there appears to be little definition as to whom a 'person who has an interest' is. We believe that the government should make much clearer where this would and would not apply and for what purpose the government have introduced such a section.

5 Do you have any comments on the draft Impact Assessments?

Yes

If yes, please outline these comments.:

We do not believe that the proposals to allow an individual to change their birth certificate impact on other individuals lives negatively. We are aware that there has been significant comment regarding accessing single-sex spaces as part of the proposed changes, particularly for women.

We are mindful to echo the joint statement from Close the Gap, Engender, Equate Scotland, Rape Crisis Scotland, Scottish Women's Aid, Women 50:50 and Zero Tolerance that changes to how a GRC is applied for does not impact on women's rights nor is it in competition with women's rights. Their combined

experience is directly relevant in this matter and informed by evidence and lived experience.

We do believe however that this bill will make positive changes to trans people's lives. We believe that on religion and belief that this will positively impact on humanists. We note that in the EQIA evidence is cited that trans people were more likely to be non-religious than the population. We have already provided ceremony services to trans humanists and will continue to do so in the future.

Allowing these individuals a clear legal route to access a GRC may be important in allowing them to access the correct form of marriage or civil partnership for their specific relationship.