

## **Waverley Care**

### **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.:**

Waverley Care welcomes reform of the current process for applying for legal gender recognition and the introduction of a simpler and more straightforward process. We know that trans people find the current application process invasive and embarrassing, as well as administratively complex. A quick and accessible approach to applying for gender recognition, based upon principles of self-determination, would make a significant and positive difference to their lives. International evidence supports such an approach. Further, a system of self-determination would be concurrent with how our services currently operate, and we have not encountered any issues with this approach.

We do not agree that applicants must live in their acquired gender for three months before applying for a GRC. Such an approach would be inconsistent with the processes in place to change a person's name or gender on other forms of identification, such as driving licences and passports. It would also be inconsistent with other kinds of statutory declaration, for example, officially recording a change of name.

We are further concerned that evidential requirements may be re-introduced in order to satisfy the requirement of having lived in the acquired gender for three months. This would be contrary to the rationale behind the Scottish Government Gender Recognition Reform (Scotland) Bill, and would create an unnecessary administrative burden for applicants.

### **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.:**

Waverley Care disagrees with the proposal that applicants must go through a period of reflection for at least three months before obtaining a GRC. Similarly to the requirement that applicants must live in their 'acquired gender' for at least three months, a mandated period of reflection further delays and complicates the process of applying for legal gender recognition. This is contrary to the stated rationale of the Bill, which is to simplify the process of applying for legal gender recognition.

Further, the imposition of an arbitrary three month period of reflection is undermining of trans people. It suggests that they have not already carefully considered their application and cannot be trusted to make decisions about their lives. We know through our work that many trans people have already been living in their acquired gender for a long time prior to applying for legal recognition, and so this process should not be further delayed. There is no evidence from countries where systems based on self-determination are already in place to suggest that people fraudulently apply for legal gender recognition. As above, our services currently operate on the basis of self-determination and we have not experienced issues with this approach.

### **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.:**

Waverley Care agrees that 16 – 17 year olds should be able to apply for legal gender recognition. The current system is inconsistent with other rights 16-17 year olds enjoy in Scotland, such as accessing employment, getting married, and voting in Scottish elections. 16 – 17 year olds can already apply for a passport and officially record a change in name.

The period after a young person turns 16 is often one of transition; many young people leave home, attend university or enter the job market around this time. It would be beneficial for young people to be able to apply for legal gender recognition before taking these next steps in life. Further, it would enable young trans people in employment to enjoy the same protections as older people with a GRC, such as ensuring that their right to work documents do not disclose their trans identity to employers without consent.

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

Yes

#### **If yes, please outline these comments.:**

Non-binary recognition

Waverley Care believes that non-binary people (people whose gender is not exclusively male or female) should be able to access legal gender recognition via a process of self-determination. As non-binary identities are not currently recognised on official documentation, non-binary people often have to use documentation that does not reflect who they are. This causes many non-binary people significant harm and distress. We would also note that 62 per cent of respondents agreed Scotland should recognise non-binary identities in the previous consultation on reform of the Gender Recognition Act 2004.

We would additionally highlight the findings of recent research we carried out into trans and non-binary people's access to sexual health services, in partnership with Scottish Trans Alliance. The results are currently unpublished, but our preliminary findings show that non-binary people reported markedly poorer experiences of accessing sexual health services, partly because their non-binary identity was often not respected and validated by staff. Were the Bill to extend legal gender recognition to non-binary people, this would show that Scottish Government recognises and validates non-binary identities. We would expect that this would set a standard within public services

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

No

#### **If yes, please outline these comments.:**