

Brighton ReSisters

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 believe three months is too short. We also question the usefulness of the term "acquired gender".

It is impossible to define the term "acquired gender". The phrase "acquired gender" is unmeasurable and therefore unworkable. "Gender" as we understand it, is a social construct. It refers to subjective notions of We are unclear as to how the GRC assessors would measure this in a meaningful way when assessing the validity of each case.

The current standard requiring a diagnosis for gender dysphoria seems both more measurable and a more relevant requirement.

We believe courts would struggle with negotiating this in cases where they are asked to adjudicate on the validity of claims a person has a transgender identity. We also believe that HR departments will struggle with interpreting and fairly administering this. In reality anyone could claim to have a protected characteristic without any material way of proving or disproving this.

We reject the concept of "living as the acquired gender". As feminist women we perceive this to be sexist and offensive. We reject the notion that there is a correct or appropriate to live as a gender. We also consider this to increase sexism by validating the notion that life style choices are aligned with sex. This notion is harmful, reductive and offensive to both men and women. We should be challenging gender constructs and sexism not embedding them in our society and law.

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.:

Three months is too short.

It is not possible to make a lifelong decision based on such a short period of time. Three months is too short to practically test if you like living as the opposite sex. A three month period is too short as it does not protect vulnerable people who may be in crisis, have experienced a trauma and their perceived trans identity is a short term response to that.

Having such a short period allows predators to change legal sex quickly to take advantage of female spaces, lighter sentencing etc.

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

No

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

Health Impacts:

The majority of children socially transitioning, if affirmed, also go onto medically transition. Therefore, the GRC process is intertwined with medical and surgical transition. By extending the GRC process to 16 the Scottish Government should understand that they are in part validating and normalising the process of medical transition and all that entails (cross sex hormones, puberty blockers, breast binding, penis tucking, packers, double mastectomies, castration, sterilisation). The long term impacts are not fully known. Young people will assume that change in law is the Government signalling that this is a safe process, arrived at as a consequence of rigorous and excellent care standards. We don't not believe the Scottish Government could evidence that this is the case.

We believe that any age under 18 is too young and cannot make an informed decision about transition because the issues are so complex and consequences are unknown even by health professionals. The human body is still developing until our early to mid-twenties. It is therefore unethical to rubber stamp medical transition on developing bodies.

In fact we believe the age should be increased to 21 or 25 until robust evidence is gathered on the effect of medical transition on the developing body and mind. The Scottish Government should not be validating the use of cross sex hormones or breast binding via normalising and extending the GRC to young teenagers. The long term use of either is not fully known although some negative health impacts are known.

Consent:

We believe that even until the age of 18 young people cannot make an informed decision as the ramifications of transitioning are both complex and not fully known. "The development of cognitive and emotional maturity in adolescents and its relevance in judicial contexts' provides evidence of the neurobiological changes which contribute to "the poor problem solving, poor information processing, poor decision making and risk-taking behaviours often considered to typify adolescence. "This report specifies that cognitive maturation occurs as late as 25 – 30 years of age.

"<https://www.scottishsentencingcouncil.org.uk/media/2044/20200219-ssc-cognitive-maturity-literature-review.pdf>

A 16 year-old girl with a birth certificate which states that she was born male, or a 16 year-old boy with a birth certificate stating that he was born female, are putting themselves at risk in general healthcare services. No legal change should be contemplated until the NHS sorts out its conflation of sex and gender in the way it collects personal data. This is one many examples of unintended consequences that we believe will not be fully considered.

Also a 16 you girl cannot understand safeguarding around single sex spaces. We are concerned that a girl can seek affirmation, be treated as a male and therefor placing herself at risk of sexual assault. For example a girl identifying as a boy would be placed in a male dorm for overnight accommodation (eg school trips) and this would place her at risk of sexual assault. This is a huge dereliction of best odds safeguarding obligations.

Homophobia, sexism, ableism:

There is emerging evidence from the Tavistock that a disproportionate amount of children referred to Gender Identity services have Autism. There is also a disproportionate amount of girls, gender non-conforming girls, and lesbian girls being referred. The Scottish Government must fully investigate and address this before they validate this process in the law.

We think this legislation looks like government support of the sterilising and breast binding of a growing number of girls, autistic children and gay children. This is abhorrent and has no place in our society in 2020.

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

Yes

If yes, please outline these comments.:

Legislation exists that allows women and girls the legal right ot have single sex spaces. It also exists to allow them to advertise for workers according to sex. It also enables women and girls to ask for a woman to do their intimate care, body search, provide their therapy and a range of other rights. If the Scottish Government allows people to change their birth certificate this right is removed. There is no way any organisation or patient could question a birth certificate. This is undemocratic and breaks existing law. It also removes women's basic right to set consenting boundaries. This is unethical.

We also believe that a sizable amount of our population is "gender non-conforming". This is because most of us are not the embodiment of sex stereotypes. We should be encouraging the awareness that this is normal and healthy. Under existing law gender non-conforming people are already protected under Equality 2010. They are protected under the categories of "sex", and potentially "sexual orientation". Trans identifying people are protected under "disability" (gender dysphoria) and "gender reassignment". We therefore see no legal compulsion or reason to add additional legislation.

We also have concerns about the consultation process. Stonewall misrepresents the Equality act, lobbies for single sex exemptions to be removed and is using its considerable reach to get people to respond to the consultation:

<https://www.stonewallscotland.org.uk/our-work/campaigns/act-trans-equality-scotland-gender-recognition-bill-consultation-guide?fbclid=IwAR1PCcSPjAfonb6qgMVWHOEJpy2P4MMbm6yjJlpP6o5u1->

Some of its guided responses given to people to cut and paste is inaccurate. For example it says: "There are major gaps that will mean it only benefits some trans people. Non-binary people will still not be legally recognised, which will leave them with inconsistencies in important documents as well as a lack of recognition in day to day life."

Please see our comment above about the existing legal protections for trans identified and gender non-conforming people. Their guidance also goes on to state the following which is both untrue and spreading misinformation on the true impact of legislative change: "The only thing that the Bill covers is how trans people's birth certificates are changed. Tell the Scottish Government that this Bill will not have a detrimental impact on anyone else's rights. The only thing that the Bill covers is how trans people's birth certificates are changed, which impacts the level of privacy they are entitled to, such as when getting a job or marrying, and how they are recognised after death.

This doesn't take into account the impact of changing legal sex on the collation of sex based data. Same sex marriage and civil partnerships have been granted since the GRA 2004, therefore a changed birth certificate is not required to access marriage or civil partnerships.

Access to single-sex spaces and facilities, such as toilets, changing rooms, and women-only services will not be impacted. Nobody is required to show a birth certificate to prove their eligibility for these spaces or services now, and this will not change. In fact, much of the women's sector in Scotland has been including trans women in their women's services for a decade, with no reported difficulties.

We take issue with this response. It will be impossible for women only spaces to remain women only if males can change all their ID to show incorrectly that they are female/women. We also dispute the evidence given by the "women's sector" in Scotland, State funding is largely only being granted to women's organisations that don't enact the single sex exemption.

<https://www.gov.scot/publications/delivering-equally-safe-fund-2020-to-2023-process-for-applicants/>

[https://thirdsectordumgal.org.uk/funding-to-tackle-violence-against-women-and-girls-in-scotland-may-17/?fbclid=IwAR16P4q3FkX3PaUdk_56QtluYZUwP62z-kWhf54PIBSfM4ew49NpKK9Yu_\(https://www.mumsnet.com/Talk/womens_rights/3829726-Funding-for-womens-sector-in-Scotland-LBTI-inclusion-plan?fbclid=IwAR1JYzI4fuST3pgHeZimV8iSxoN_1HtgTzKkjFdmXzbdrWvdokzaMb4iGT0\)](https://thirdsectordumgal.org.uk/funding-to-tackle-violence-against-women-and-girls-in-scotland-may-17/?fbclid=IwAR16P4q3FkX3PaUdk_56QtluYZUwP62z-kWhf54PIBSfM4ew49NpKK9Yu_(https://www.mumsnet.com/Talk/womens_rights/3829726-Funding-for-womens-sector-in-Scotland-LBTI-inclusion-plan?fbclid=IwAR1JYzI4fuST3pgHeZimV8iSxoN_1HtgTzKkjFdmXzbdrWvdokzaMb4iGT0))

Therefore there is a financial coercion placed on these orgs to be (fully inclusive) unisex. This happens in the context of funding to women's services being slashed

by £7m. We feel that this impacts on organisations ability to give honest feedback as funding streams are dependent upon them successfully delivering inclusive/unisex services:

(<https://www.theguardian.com/society/2018/mar/23/council-funding-womens-refuges-cut-since-2010-england-wales-scotland>)

We believe that legislation to make the GRC easier will add to a culture where women feel unable to challenge males in their spaces. It will also lead to organisations, institutions and businesses to do away with single sex spaces altogether in favour of unisex facilities. Unisex facilities are less safe for women and girls:

<https://www.thetimes.co.uk/article/unisex-changing-rooms-put-women-in-danger-8lwbp8kgk>

Remember that how someone applies for gender recognition – or whether their birth certificate matches who they are - does not impact on their access to single sex spaces, or anything else that does not require a birth certificate. Trans people can already change the sex on their passports and medical records by statutory declaration as soon as they start living as who they are.”

“Ask the Scottish Government to go further and include trans children and young people under the age of 16. They should be able to update their birth certificates with aid of parental or guardian support.”

Stonewall also asks for respondents to ask for the age to apply for a GRC to be lowered well into childhood. This is very worrying that Stonewall is encouraging people en masse to request a considerable lowering of age when the ethics and risks of socially and medically transitioning children is unknown. Many of those filling out Stonewalls guidance will NOT be aware of the growing concern amongst the medical profession [REDACTED]:

<https://www.telegraph.co.uk/news/2019/12/12/childrens-transgender-clinic-hit-35-resignations-three-years/>

<https://www.thetimes.co.uk/article/therapist-raised-alert-at-troubling-practices-at-tavistock-clinic-nfhsbb76n>

[REDACTED]

In summary, we have no faith that this consultation will harvest quality responses from those advocating for legislative change to make acquiring a GRC easier.

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

Yes

If yes, please outline these comments.:

They are wholly unfit as they mislead women as to the nature of the overlap between self-ID and Eq 2010. In fact they clearly state that there is no overlap. This is not accurate. It is out of step with contemporary legal analysis.

There is a large body of evidence that demonstrates the negative impact on women of self-ID. As a women's organisation we do not have faith in this consultation when basic facts are misrepresented.

We refer you to this extensive report on female survivors of rape and assault. This document outlining the need for single sex spaces and services:

https://fovas.wordpress.com/response-to-stonewall-2/?fbclid=IwAR1H5TXQoBiM4hdd_9YFI-zevKBiWNIR2TrLAYj8gN8flg9joWgXj8I9Sek

https://fairplayforwomen.com/wp-content/uploads/2018/09/FPFW_report_19SEPT2018.pdf

We are also in the process of publishing a large study of women and their need specifically for single sex DV services. So far the qualitative evidence we have gathered is shocking and clear. Women do not want unisex spaces. They will and do self-exclude. We remind you that the Scottish Government has a legal statutory duty to ensure women are not excluded because of their sex and the specific vulnerabilities this entails.

We also feel they fail to understand the impact of the GRC system on women of faith and their frequent need for single sex spaces. Their inclusion in public space and public life would be inhibited by removing the ability to have enforced single sex spaces. This also impacts women whose culture (outside of faith) requires this.

We also feel they fail to understand the situation of women and girls with disabilities. Women with disabilities have the highest probability of enduring sexual assault and rape. Higher than any other demographic. Their sex and disability leaving them incredibly vulnerable. It is fundamental to their safety and dignity that they are supported in choosing the sex of their carer, support workers and the right to single sex wards and psychiatric units. We know sexual assault is more likely in unisex facilities:

<https://www.theguardian.com/commentisfree/2017/jul/30/mixed-sexed-wards-endanger-and-humiliate-women>

<https://www.telegraph.co.uk/news/2020/01/07/1000-sex-assaults-mixed-sex-wards-investigation-finds/>

We also feel the impact assessments fail to acknowledge the needs of lesbian women to have lesbian only spaces. Not only social spaces, but political spaces. It is unacceptable that lesbian women would be forced to perceive men as lesbian women. This is an intrusion on their rights and dignity. We believe lesbian women will self-exclude, therefore alienating them from public space and public life.

<http://www.gettheloutuk.com/blog/tag/cotton-ceiling.html>

We also believe that the impact assessments fail to acknowledge the toxic nature of the discussions around proposed legislative change. Women who have spoken publicly on this have received unprecedented targeted harassment. From violent assaults, losing their jobs, having violent threats and their meetings subject to smoke bombs, setting off fire alarms, kicking windows and having venue staff targeted. (this is not an exhaustive list). The detrimental impact on the political engagement of women, and silencing of voices cannot be known. It is not reasonable to expect that

women feel able to raise concerns, either as part of this consultation process or when faced with situations in their real lives when they are coerced to perceive men as women.