

SIAA

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?

No

If yes, please outline these comments.:

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?

No

If yes, please outline these comments.:

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

Don't know

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

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

Yes

If yes, please outline these comments.:

The Scottish Independent Advocacy Alliance (SIAA) is a membership organisation with the overall aim of ensuring that independent advocacy is available to any vulnerable person in Scotland. Independent advocacy safeguards people who are marginalised and discriminated against or whom services find difficult to serve, empowering people who need a stronger voice by enabling them to express their own needs and make their own decisions.

Independent advocacy is about defending human rights, supporting individuals and groups and standing up to injustice. We strongly support an explicit focus on human rights and are keen to see a rights-based approach underpinning a wide range of policy and practice so that all our citizens can live with dignity.

SIAA welcomes this opportunity to respond to the Scottish Government's consultation on its Gender Recognition Reform (Scotland) Bill. This response draws on the experiences of our members and their expertise in supporting vulnerable people to have their voices heard and realise their rights.

The existing system for obtaining Gender Recognition Certificates (GRCs) has a number of features that make it time-consuming, overly-medicalised,

bureaucratic and expensive. Some people engage with the system but find it distressing to do so, while others encounter so many barriers that they are not able to engage with the system at all. Ultimately, for many trans people, the current system does not do what its users want or need it to.

Consequently, SIAA welcomes the Scottish Government's commitment to reform. Improving the system for trans people who want to have their change of gender legally recognised will secure and enhance their human rights, making it easier for them to live openly and authentically.

Whilst SIAA welcomes the removal of some of the requirements of the current system, we support the Equality and Human Rights Commission's position that removing these barriers must be accompanied by appropriate safeguards, "both to assist applicants and to address legitimate concerns about potential risks of any new system" (Equality and Human Rights Commission Response to the Review of the Gender Recognition Act 2004 Consultation, March 2018). For instance, we would welcome an explicit commitment from the Scottish Government that it will gather robust evidence about how the new system is working in practice and conduct a formal review after a specified period of time.

We also recognise that much of the discussion around the proposed GRA reform has focused on its potential impact on women. Whilst much of this has erroneously focused on policies and practices that would not actually be affected by the Gender Recognition Reform (Scotland) Bill (e.g. changing the existing exceptions in the Equality Act 2010 which allow trans people to be excluded from, for example, single sex services, when this is a proportionate means of achieving a legitimate aim), it would be disingenuous not to recognise that this is a complicated and nuanced area where feelings run high. However, SIAA believes that upholding the rights of both women and trans-people are not mutually exclusive goals, as sometimes framed - with open, honest and respectful debate, solutions can be found that carefully balance and respect the rights of all citizens.

Non-binary people account for a sizeable proportion of the trans population (LGBT in Britain: Trans Report, Stonewall, 2018) and, consequently, SIAA is disappointed that the Gender Recognition Reform (Scotland) Bill does not include measures to legally recognise their identities. SIAA believes that non-binary people should be afforded the same rights and protections as other members of the trans community – i.e. having their gender recognised through a process of self-determination - and would urge the Scottish Government to amend the Bill to bring about legislative parity for the whole of the trans population.

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

No

If yes, please outline these comments.: