

YWCA Scotland - The Young Women's Movement

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.:

YWCA Scotland – The Young Women’s Movement support making the process simpler and fairer for trans people. However, we do not believe that this arbitrary 3-month time period is necessary. There is currently no such requirement to do this for any other form of ID.

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.:

We appreciate that the suggested reforms of the Gender Recognition Act make the overall process of obtaining a Gender Recognition Certificate more straightforward for trans people but there is no evidence to suggest that a 3-month reflective period is necessary. We do not support this requirement and would advise for its removal. We believe that a person applying for a gender recognition certificate and changing all other forms of ID would have already considered their decision and should not have to go through a so-called ‘period of reflection’. There is also no requirement to do this for any other form of ID.

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.:

We support your proposals to lower the age for gender recognition to 16. This is in line with rights of 16 and 17-year olds to marry, work, vote and be held legally responsible for their actions. They should be able to change their birth certificate to match who they are.

We also believe that trans children and young people under 16 should be able to update their birth certificate with the aid of parental or guardian support. This would match their existing ability to do this on school records, medical reports and passport. Often under 16s need to use their birth certificate more than adults do so it is important to protect their privacy.

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

Yes

If yes, please outline these comments.:

YWCA Scotland – The Young Women’s Movement would like to take this opportunity to express our support for the Bill and the measures it would put in place to improve the lives of trans people in Scotland. The current process for obtaining a Gender Recognition Certificate can cause a considerable amount of stress for trans people. We support the removal of the need to gather evidence and medical reports for individuals to be recognised as who they are. Trans people will still be able to access medical care and social and psychological support as part of their transition, but this should be separate from their application to update their birth certificate, in line with practice for all other forms of ID.

We would like to highlight what we view as a major gap in the Bill and highlight lack of legal recognition for non-binary people. If the Bill passes, 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. Non-binary people deserve to be recognised and treated with respect. This Bill is not a success for the whole trans community if it leaves non-binary people out.

As a women’s rights organisation we want our programmes and campaigns to include all women. We welcome women of different races, different religions, disabled women, lesbian and bisexual women, transgender women, and non-binary people. We do not regard trans equality and women’s equality to contradict or be in competition with each other.

The consultation document suggests that there may be additional exceptions introduced to Section 22 of the Gender Recognition Act which protects people’s privacy and governs the rules about disclosure of information about people who have a Gender Recognition Certificate. The existing exceptions seem sensible and we do not believe there is no need for any additional exceptions. Upholding trans peoples’ privacy is a key principle of a legal recognition process and additional exceptions undermine this.

We would like to ask for more clarity on what the Government mean by “a person who has an interest in gender recognition certificate” could apply to the sheriff to have a Gender Recognition Certificate revoked on the grounds of a fraudulent application. It is unclear who would constitute “a person who has an interest in gender recognition certificate”. We do not want individuals to be able to make frivolous applications to the sheriff to revoke a trans persons Gender Recognition

Certificate as this process could be used by an unsupportive family member, or ex-spouse, to cause greater difficulty and extreme stress for a trans person by someone who has preferred they had not obtained a Gender Recognition Certificate. We are concerned that a system such as this could be used to abuse and oppress trans people.

Finally, we are concerned that the requirement for a someone to be “ordinarily resident” in Scotland may prevent some people from being able to apply for a Gender Recognition Certificate. We want to ensure no one, such as such as asylum seekers, refugees or others without current, valid leave to remain in Scotland, are unfairly blocked from being able to apply.

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

Yes

If yes, please outline these comments.:

YWCA Scotland – The Young Women’s Movement do not believe that this Bill will have a detrimental impact on anyone else’s rights. We agree with chapter 5 of the Scottish Government’s consultation paper, and with the Equality Impact Assessment, that this Bill will not have a detrimental impact on women’s rights. This Bill only covers how trans people’s birth certificates are changed. This then has a positive impact for trans people as they will receive a higher level of privacy in situations such as getting a job, marrying and being recognised after death.

This Bill will have no impact on single-sex spaces and facilities. There is currently no need in Scotland for anyone to show a birth certificate to prove eligibility for these spaces or services and this will not change. 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.

We would like to note that in line with much of the women’s sector in Scotland, we have been including trans women in our services. We run programmes for women of all ages through our national work and community based programmes in Scotland. Our programmes are not designed for crisis intervention but for personal growth and empowerment. As long as trans women have wanted to access our services they have been able to and there has never been an incident due their inclusion. This Bill will have no impact on how we continue to run our services, and there will be no change in how we provide services to trans people.

As a sector, we are enriched by the trans women who have added to our movement through their support, through volunteering, and as staff members of our organisations.