

Resisters United

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.:

Three months is not a long enough time period to establish a committed and unwavering desire to transition socially and legally to the opposite sex. This is particularly so for adolescents. The pre-frontal cortex, responsible for decision making amongst other executive functions, continues to mature until at least the age of 25.

3 months is just half of the 6 month period that gender questioning minors must have experienced gender dysphoric feelings, in order to obtain a diagnosis of gender dysphoria. It would be negligent to allow a legal change of stated sex on birth certificate, before a medical diagnosis has even been obtained. And there can be no valid reason for individuals who do not suffer from gender dysphoria to legally change sex.

As feelings of distress around their gender often propel sufferers to wish to make transition related changes as quickly as possible, there is a danger young people may consequently rush into this decision if the minimum time period for 'living as your acquired gender' is reduced.

The current time period of 2 years living in role as the opposite sex is a minimum gate-keeping requirement and should not be made shorter. Gate-keeping measures are necessary to safeguard against trans-identifying individuals making decisions they may later regret, as well as to prevent the system being abused by opportunistic predators who wish to enter women only spaces to criminally offend. Recent examples of such here: <https://transcrimeuk.com/2020-convictions/>

Finally, as a women's rights campaign group, we would also question the validity of the phrase, 'live in their acquired gender.' It has no clear operational definition and therefore should not be enshrined in law. A criminal penalty for making a false declaration of intent to 'live in one's acquired gender' has been proposed in the bill, however there is no way this could be enforced in reality when A.) There is no clear understanding of what it means and B.) There is no way to concretely prove or disprove intent at time of declaration within a court of law. In practice this would mean there is effectively no deterrent against abuse of the system of self-declaration. Laws must be made in order that citizens have in built protection against deviant individuals in society. There is also a lack of clarity over how the phenomenon of increasing numbers of detransitioners would square within this framework. As MurrayBlackburnMackenzie policy analysis have written: 'how detransitioners could be protected from prosecution under these provisions is a so unclear.'

<https://murrayblackburnmackenzie.org/2020/01/27/mbm-assessment-of-the-gender-recognition-reform-scotland-bill/>

The definition of 'gender' within feminist theory is that of a socially constructed set of expectations placed on a person, according to their socially perceived sex. How can one establish that one has 'lived as a woman' or 'lived as a man' without relying on stereotypes of how men and women act and dress/present? The only concretely quantifiable aspect of living as a woman, as opposed to living as a man, are the experiences of female biological functions such as menstruation, pregnancy and breast feeding, which can never be part of a trans-identifying male's experience. Self-declaration of sex is incompatible with upholding women's current legal rights to single sex spaces, services and sports, and on this basis the bill must be rejected in its entirety.

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.:

A reflection time period of just 3 months, in addition to the 3 months of 'living as the acquired gender' would make the process of changing sex for legal purposes just 6 months in total. This is far too short, especially for adolescents who continue to develop and change in their sense of self and identity as they mature.

Even more concerning than this proposed short period to make such a life altering decision, is that there is no requirement for the 'reflection period' to include any medical or therapeutic support whatsoever. Given the growing number of young people in their teens and early 20s who have gone on to 'detransition,' after undergoing irreversible hormonal and surgical medical interventions, this law would likely contribute further to a the rise in young people with 'transition regret.'

<https://www.transgendertrend.com/detransition/>

Finally, the shorter the time commitment required to change one's legal sex, the more likely this route would be attractive to opportunistic predatory males, who want to gain access to women's spaces and services to criminally offend. There must be strict gate keeping measures in place to ensure the government takes women and girl's safety as seriously as it does the wishes of trans identifying people.

Self-declaration of sex is incompatible with upholding women's current legal rights to single sex spaces, services and sports, and on this basis the bill must be rejected in its entirety.

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.:

Under Scottish law 16 year olds lack the right to: buy alcohol and cigarettes, drink alcohol in a licensed establishment, rent or buy any film, place a bet, buy or possess fireworks or get a tattoo. This is in recognition of the fact 16 year olds lack adult capacity to make judicious decisions with full awareness of consequences, due to their less developed brain's tending towards impulsivity, risk taking and emotional volatility.

It would be highly irresponsible therefore to allow 16 year olds to make a statutory declaration that they "intend to continue to live in their acquired gender permanently." Teenagers cannot be expected to understand the full ramifications of such a declaration, or to hold to decisions they make today at an immature stage of development, over the course of the rest of their life.

The age for obtaining a GRC should be raised to at least 21 years, based on the age at which the prefrontal cortex reaches full maturity, in view of the gravity of this decision.

Given the rising phenomenon of detransition, we are also concerned about what provisions the Scottish government has included for those who wish to change their birth certificate back to that of their actual sex.

Societal norms and standards are strongly influenced by the law. For example, homophobia has decreased over recent decades thanks to legislation brought in to protect gay and lesbian people against discrimination, as well as the legalisation of homosexual civil partnerships.

A Scottish law reform to allow minors to change legal sex would likely increase societal support for the affirmation model of treatment and for the highly invasive and irreversible medical treatments gender questioning children are now being prescribed. Practitioner's at the UK's only Gender Identity Disorder clinic, Tavistock, have spoken out about the current political pressure to affirm children in their dysphonic gender identity, and to follow a prescribed highly invasive medical pathway in every case.

<https://www.telegraph.co.uk/news/2019/03/07/nhs-transgender-clinic-accused-covering-negative-impacts-puberty/>

This is already preventing gender confused children from receiving best practice care, which MUST involve through a careful and considered clinical exploration of all underlying causes, as well as the different treatment pathways. Allowing 16 year olds to change their legal sex would only increase this pressure, both in Scotland and the UK. It would also interfere with children with gender dysphoria properly exploring the best medical/therapeutic treatment's for their condition, since the easily available 'solution' of changing legal sex, would come to be seen as necessary and normative. In reality the 'affirmation only' model, as well as ne drastic drug and surgical treatment methods are entirely experimental and lack any clinical or research evidence base to support claims of their efficacy. We believe the Scottish government is gambling with the health and wellbeing of vulnerable young people in taking this cavalier approach to endorsing, 'affirmation only' treatment pathways through this proposed legal reform.

Before steamrolling through such changes, we call on the Scottish government to launch an evidence gathering enquiry into the following.

1. The 5377% rise increase in teenage girls being referred to Gender Identity Disorder services in England less than the past 10 years.

(<https://www.transgendertrend.com/surge-referral-rates-girls-tavistock-continues-rise/>)

2. The high occurrence of those diagnosed with autism in gender dysphoria patients. (<https://www.transgendertrend.com/autistic-girls-gender-silent-frontier/>)

3. The high percentage of gender dysphoric patients who identify as lesbian or gay. (<https://www.transgendertrend.com/lesbian-detransitioner-must-question-primary-solution/>)

4. Longitudinal studies into long term outcomes of gender dysphoric patients receiving these new treatment methods. Since there are no such studies currently, these must be funded and set up as a matter of urgency.

5. The phenomenon of detransition. Information must be gathered on: how many detransitioners are there in Scotland? How old are they? What percentage of each sex is this group comprised of? What treatments did they undergo? What are their current medical needs and are they being met adequately? Dr James Caspian's research proposal on detransitioners was disallowed by Bristol University as it was deemed 'too controversial' politically. This is unacceptable.

(<https://www.theguardian.com/education/2017/sep/25/bath-spa-university-transgender-gender-reassignment-reversal-research>)

No reforms should take place until proper evidence on these issues has been gathered and analysed.

Finally, we are concerned about how changing birth certificates to the opposite sex to one's physical body would adversely impact on trans-identifying individuals receiving sex appropriate healthcare. For example, a young women with a male birth certificate would still require cervical cancer screening appointments, and may require birth control and prenatal healthcare if sexually active. How can she be assured of this if medical practionner's have on record that her sex is male?

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

Yes

If yes, please outline these comments.:

There is no sound justification for the drafting of this bill as current legislation is in full accordance with European Law. People diagnosed with gender dysphoria already have the right to change their birth certificate sex, and there is no convincing rationale to extend this right to other groups or individuals.

Women's campaign groups were either not invited to participate at all in the bill consultation process, or not consulted in a timely manner. (<https://forwomen.scot/06/01/2020/meeting-with-scotgov-officials/>)

Fair Play For Women has stated, 'The omission of evidence from FPFW, and indeed any advocacy group for sex-based rights, means that a full and comprehensive

search for evidence was not conducted by the Scottish government consultation team and this casts serious doubt over the validity of the EQIA.’

Further, there is no evidence that any other professionals with experience in working with gender dysphoric children, nor any other child and adolescent healthcare professionals such as psychologists or psychiatrists were consulted either.

The conflict of rights that occurs in drastically reducing women’s ability to access single sex spaces and services has not been recognised in this bill. The bill recommends that single sex exemptions only be used in exceptional circumstances, which is unacceptable.

Already there is pressure on female specific service providers not to exclude trans identifying males, in direct conflict with the needs of their service users, including vulnerable women traumatised by male violence. The threat of organisations having their funding withdrawn if they do not accept male service users is widespread. It amounts to financial coercion and the government must step up to take measures to stop it. Evidence of how marginalised women are suffering due to this here:

<https://fairplayforwomen.com/our-research/>

<https://fovas.wordpress.com/response-to-stonewall-2/>

The claim is made in the draft bill that there have been no negative consequences to women and girls where a self-ID system has been introduced, however no country that has monitored the impact of self-ID on the rights of women and girls. The failure to gather this information is typical of the systemic sexism women and girls still face. The needs and safety of females is given low priority in policy making decisions and this is unjust.

Whilst the Scottish government claim they wish to reform law on GRC in order to align with ‘international best practice,’ the proposed bill in fact goes further in abolishing any gate-keeping measures to that of comparative countries who have introduced self-ID. The Republic of Ireland necessitates two medical reports to confirm the applicant’s capacity; Chile: psychological or psychosocial reports and Belgium: parental authorisation and consultation with a psychiatrist, in contrast to Scotland’s proposal of solely self-declaration.

The Scottish government’s lack of interest or concern about the material impacts on women and girls is apparent in this draft bill which handwaves away women’s concerns with the claim that existing Equality Act exemptions will protect them. In practice however, they are already being under-used. Political pressure antagonistic to women only spaces and services, and unfounded accusations of ‘transphobia’ for attempting to enforce single sex exemptions, would almost certainly escalate with the introduction of this bill.

The legal analysis put forward by ‘MurrayBlackburnMackenzie’ refutes the claim that this would not erode women’s sex based rights as follows. “There are many sex-based rights, which are negatively affected and, in the case of equal pay, completely extinguished by suspending recognition of a person’s biological sex.

Currently there are sex discrimination exceptions in the Equality Act which allow single sex service providers to exclude both men and transwomen who do not have

a GRC. Once a transwoman obtains a GRC a service provider may only rely upon a gender reassignment discrimination exception. This disallows a public body from undertaking the supporting public functions required to provide the service such as allocating budget to it.

There is cause for significant concern that single sex service provision on the lines of natal sex will be rendered unworkable and severely compromise the rights which women currently have to single sex services. Scotland is already experiencing a chilling effect on the use of the sex exceptions, which is, in my view putting local authorities at risk of breaching women's human rights."

This bill is unworkable on many counts and would have numerous detrimental impacts on both women and girls and gender confused or questioning children.

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

Yes

If yes, please outline these comments.:

The Impact Assessments are not fit for purpose. They mislead as to nature of the overlap between self-ID and Equality Act 2010. The claim that there is no conflict is out of step with current legal analysis.

<https://mbmpolicy.files.wordpress.com/2020/02/final-mbm-gra-reform.-assessment-of-draft-bill-and-consultation-24-january-2020-10-feb-2020.pdf>

Impact assessments on those with other protected characteristics under Equality law: i.e: sex, sexual orientation, religious faith and disability have not been carried out in a satisfactory manner.

We know from the experiences of members of our group, many of whom are disabled women and victims of sexual violence and domestic abuse, that the negative impacts of self-ID on females will be borne particularly by these most vulnerable and discriminated against women. Disabled women, who are especially vulnerable to male violence and male sexual violence and would no longer have the right to choose caring services from a biological woman. Lesbians, who currently face a highly hostile climate,

(<https://www.telegraph.co.uk/news/2019/10/23/stonewall-splits-accused-promoting-trans-agenda-expense-gay/>) would lose the right to host lesbian (women) only public events. Jewish and Muslim women would be unable to use public facilities where women only changing rooms and toilets are unavailable, due to religious sanctions on mixing with others of the opposite sex. It is discriminatory and negligent of the Scottish government to fail to properly assess the needs and concerns of these special groups.

The consultation document states that: 'The Scottish Government is of the view that there is lack of evidence that including trans women in women-only services and spaces has negative impact.' Besides providing no evidence for this claim, it also fails to acknowledge that the law change would open up women only services and

spaces to being forced to admit a far wider pool of biological males, which would entail new impacts.

We agree with MurrayBlackburnMackenzie policy analysts that likely impacts of this bill coming into law would be as follows. An increase in not only the number but the range of people who obtain GRCs, including those without authentic intent to transition. More male GRC holders who present and are read socially as males accessing female only spaces. Reduced discretion for service providers to refuse a male admission to a female only space.

A further group of males who identify as female but have not or may never apply for a GRC, but who feel emboldened by 'liberalised' social norms, would seek access to women's spaces on the grounds they believe they would be entitled to a GRC if they took necessary action.

Increased practical difficulties in using single sex exemptions, due to wider availability of GRCs and service providers experiencing anxiety about asking an individual whether they hold a GRC for fear of being labelled 'transphobic.'

The effect of these changes on women and girls would likely include the following. An increase in how often women are accurately aware of male people being present in women only spaces.

An increase in incidents of male people accessing women's spaces to physically harm, intimidate, humiliate or act voyeuristically towards women.

An increase in the number of women and girls self-excluding from spaces they had previously felt and expected to be safe in.

An increase in the number of public bodies and service providers removing sex separated provision entirely due to reasons of cost or fear of legal challenge.

This is already happening throughout UK and Scotland.

<https://mbmpolicy.files.wordpress.com/2020/03/murrayblackburnmackenzie-gra-consultation-response-final-copy-16-3-2020-2.pdf> P13

The Scottish government failed to identify any of these likely impacts in its Impact Assessments.

Finally, in plowing ahead with this bill proposal, the Scottish government is ignoring the growing public backlash to legal and policy reforms driven by the transgender lobby, and their pushing of gender identity ideology through schools, the media, and training of public bodies.

Sound law should take into account the needs and rights of all members of society, in balance with those of special interest groups. We believe the proposed bill would not reflect the will of the majority of the population, but rather represent the tyranny of powerful interests, such as drug company's, who stand to benefit, (<https://www.thetimes.co.uk/article/puberty-blocker-drug-firm-donated-cash-to-lib-dems-cf3x77nh3>) at the expense of women and children in particular.