



Party Meeting
Sunday 8th March 2020
Committee Room 9, Glasgow

REPORT

Gender Recognition Consultation

The Government wants to know what you think about their Gender Recognition Reform (Scotland) Bill. Contributions to the consultation close on the 17th of March 2020. Any individual or group can make a submission.

There has been much debate around the proposed changes and much acrimony. The proposed changes to the Bill have been demanded by, in the main, Trans and equality groups who argue that the current legislation is outdated.

It should be noted that current legislation already offers protection for trans people via their protected characteristics via the Equality Act 2010 and the 1998 Human Rights Act.

The current Gender Recognition Act 2004 places a number of restrictions of any person who wishes to transition from Male to Female or Female to Male.

Under the current legislation anyone wishing to legally change their gender must follow one of 3 paths:

“Since the Gender Recognition Act 2004 came into force, trans people have been able to obtain a gender recognition certificate by applying to the Gender Recognition Panel, a tribunal. A full gender recognition certificate provides legal recognition that a person has transitioned from male to female or female to male.

Current position on legal gender recognition

Most applications to the Panel are under a standard track. Under the existing legislation, there are three tracks for applying for gender recognition: the standard track; the overseas

track (used when a person has obtained legal gender recognition outwith the UK) and the alternative track (which applies only in limited circumstances and is rarely used).

An applicant under the standard track must:

- Satisfy the Panel that they have, or have had, gender dysphoria and produce two medical reports (Gender dysphoria is where a person experiences discomfort or distress because there's a mismatch between their biological sex and gender identity).
- Satisfy the Panel that they have been living as a man or woman, as the case may be, for at least 2 years. The Panel will consider evidence demonstrating this such as a passport, driving licence and utility bills.
- Make a statutory declaration before a notary public or a justice of the peace that they have lived as a man or woman, as the case may be, for at least 2 years and intend to do so until death.

Once a full gender recognition certificate is granted, trans people can obtain an updated birth certificate. In addition, they are legally recognised in the UK as having become a man or a woman in terms of the 2004 Act, except in some limited circumstances. At present, around 25 people a year from Scotland are granted legal gender recognition' (Scotgov 2019).

The Scottish Government propose to change the above conditions and those changes are listed below.

'The Bill will propose that applicants for a gender recognition certificate:

- Will no longer need to provide medical evidence to the Panel.
- Will continue to have to provide a statutory declaration that they intend to live permanently as a man or a woman. It is, and will remain, a criminal offence to make a false statutory declaration.
- Will need to state in the statutory declaration that they have already been living as a man or woman for at least 3 months.
- Will be given a mandatory 3 month reflection period after an application has been made and checked to ensure the necessary information and statutory declaration has been provided. The gender recognition certificate will only be granted once the 3 months have passed and the applicant has confirmed that they still wish to proceed' (Scotgov 2019).

This means that applicants will need to live in their acquired gender for at least 6 months – 3 months before applying for a gender recognition certificate and 3 months after applying – before a gender recognition certificate can be granted.

The government state that these proposed changes will not change the current legislation in relation to the Equality Act 2010 which in certain circumstances excludes trans people from receiving single sex services.

The government has stated that they are not proposing to make any changes the the exceptions outlined in the 2010 act.

As part of the consultation the government are offering the opportunity for comments to be made with regards their proposed changes.

A number of organisations have suggested further changes to the proposed act,including:

1. That the 3 month pre and post timeframe be removed
2. That the Bill includes Non-Binary people
3. That under 16's should be able to update their birth certificates with parental or guardian support

Women's groups and many feminists do not want to see any changes to the current 2004 legislation. They argue that the changes remove the need for the individual to obtain a diagnosis of Gender Dysphoria. In the main this is obtained after living in their preferred gender for 2 years, having changed documents and utility bills to their preferred gender and for two doctors to confirm the diagnosis.

They argue that by removing this process and introducing Self-Identification it will actually marginalise many trans people from accessing medical support to physically transtion their bodies.

They also argue that some people will abuse the opportunity to self-identify to for example identify as female in order to have themselves tranferred to a Woman's Prison, even if they have been convicted of offences against women.

They also argue that the current protection of some services under the 2010 Equality Act will be lost.

As a Party, we can contribute to the consultation.

Report compiled by

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EQUALITIES OFFICER

SOLIDARITY

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