

Christian Concern

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.:

It is very clear that reducing the requirement to live in the acquired gender from 2 years to 3 months goes hand in hand with removing the requirement for a medical diagnosis of gender dysphoria. This is because obtaining a medical diagnosis might take time, especially if a person sees several doctors. We are opposed in principle to the removal of a medical diagnosis and as such opposed to the severe shortening of the time a person is required to live in their acquired gender.

No evidence given for superiority of self-determination model

It is not proven that the current system has ‘an adverse impact on people applying for gender recognition’ due to ‘requirement for a medical diagnosis’ and ‘intrusion of having their life circumstances considered by the GRP’. On the contrary, no study has ever been conducted in Scotland or the rest of the UK, or by comparison with any of the jurisdictions listed in Annex E of the differences in outcome between people’s health and well-being by reference to length of time lived in the acquired gender before gaining official legal gender recognition. We note in this respect that for the majority of countries listed in the table (Chile, Colombia, Denmark, Iceland, Norway, Portugal) no sources are indicated in the footnotes for any of the claims made. For the Scottish Government to be able to make the case that its proposed new system is better than the current one, it would need to be able to prove this by detailed scientific peer-reviewed comparison with data from those countries that have self-determination models, such as Argentina, Belgium, Chile, Colombia, Denmark, Iceland, Ireland, Malta, Norway and Portugal. As no such evidence has been provided by the Scottish Government, it has no objective scientific basis for its rationale for reforming the Gender Recognition Act to improve the lives of transgender people. It should therefore withdraw the Gender Recognition Reform (Scotland) Bill.

The importance of medical checks – the right to access healthcare

Instead we propose an alternative policy, modelled on the one that has been in use until very recently in NHS Wales, which is not only to keep medical checks, but to adopt a treatment protocol which requires everybody who considered themselves to have gender dysphoria to be referred by their GP initially to local NHS psychiatrists for general psychiatric tests. Such tests often uncover the underlying problems that have led individuals to experience serious problems with living as members of their sex at birth. We say this knowing that NHS Scotland’s treatment protocol has irresponsibly allowed GPs to refer patients straight to gender identity clinics and bypass NHS psychiatrists, thus depriving people who identify as transgendered of

the vital and basic psychiatric care which they need. In effect this treatment protocol deprives such people, if they are resident in Scotland, of the right to access healthcare. This is particularly true of all kinds of vulnerable adults, those with learning disabilities, younger adults, all of whom are vastly overrepresented among those referred to gender identity clinics and applying for gender recognition.

The case against rushing gender recognition process

There are other good reasons not to reduce the minimum time limit for living in the acquired gender. A process as sensitive and controversial in so many respects as gender recognition should not be any easier than other bureaucratic processes such as obtaining British citizenship or obtaining permission to adopt children. Public policies on all issues around identity typically have to take many different interests into consideration, not just the wishes of the individual applicant.

Gender dysphoria is a serious public health challenge for Scotland and the rest of the UK. It is unethical for the Scottish Government to speak with the voice of one section of transgender rights campaigners and preach to the public that the current procedures, intended to protect the health and well-being of all, are 'demeaning, intrusive, distressing and stressful.' Processes for less controversial matters relating to identity, e.g. becoming a UK citizen, may or may not be experienced as intrusive (due to needing to provide documentary evidence), or demeaning (needing to reply to certain kinds of questionnaires). These are subjective opinions that in no way reflect the views of all inhabitants of Scotland, including all Scottish government employees. The Scottish Government has no moral authority to speak in this manner about the current gender recognition processes.

Finally, the Scottish Government says that of the current procedures' allegedly being 'demeaning, intrusive, distressing and stressful', 'that is quite simply, not right for our citizens.' It is a matter of grave concern that the Scottish Government has never expressed concern about the demeaning, intrusive, distressing and stressful effect upon so many other members of society caused by the push for reform of the Gender Recognition Act. This is precisely why Impact Assessments are so important.

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.:

Our views on this matter are identical to those given in response to Question 1, as the principles are very similar. Simply adding 3 months as a period of reflection for the individual before obtaining a GRC is not good enough, because it still means the minimum time between starting to live in the acquired gender and obtaining a GRC is drastically shortened, leading to a much higher risk of subsequent medical and social problems.

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.:

We have already responded to this kind of question in our response to the previous consultation on the Gender Recognition Act in Scotland. The age of gender recognition should not be lowered. Adolescents' brains are still developing. Late adolescence is a time when many are still vulnerable to the power of suggestion and to peer pressure. Social and legal problems will increase for schools and colleges and families, following the current trend for some pupils and parents to sue by interpreting the law such that gender reassignment is permitted for minors.

Recently published findings suggest that approximately 98 percent of gender confused boys, and 88 percent of gender-confused girls, naturally resolve the disjunction between their subjective feeling of gender identity and the reality of the biological sex. [American College of Paediatricians, *Gender Ideology Harms Children*, Aug. 17, 2016, available at <https://www.acpeds.org/the-college-speaks/position-statements/genderideology-harms-children.>]

While some researchers have reported that they have identified some factors associated with the persistence of gender dysphoria into adulthood, there really is no evidence that any clinician can identify perhaps the one-in-twenty children for whom gender dysphoria will persist with anything approaching certainty. [See, e.g., Thomas D. Steensma et al., *Factors Associated with Desistence and Persistence of Childhood Gender Dysphoria: A Quotative Follow-Up Study*, 52 J. if the Am. Acad. of Child & Adolescent Psychiatry 582-90 (2013).]

Furthermore, according to a 2013 article in The Times, the United Kingdom saw a 50% increase in the number of children referred to gender dysphoria clinics from 2011 to 2012, and a nearly 50% increase in referrals among adults from 2010 to 2012. Chris Smyth, "Better Help Urged for Children with Signs of Gender Dysphoria," *The Times* (London), October 25, 2013, <http://www.thetimes.co.uk/tto/health/news/article3903783.ece>.

It is also reported from the same study that in 2012, 208 children were referred, whereas only 64 were so referred in 2008. And staggeringly, in 2013 there were 18, 000 people treatment in comparison to 4000 15 years ago. No doubt these numbers have grown significantly since this study was done. Given the staggeringly high rates of self-harm and suicide among the transgender community, efforts should be made to find the underlying cause for this increase rather than liberalising the law.

In light of this we have questions as to what departments within the Scottish Government, in particular those dealing with children, education, social work and young offenders' institutions are doing in the field of policy development. It would be unacceptable for them to be proceeding with writing policy as if self-declaration were a fait accompli.

Do not bring in surveillance behind the backs of parents

We also note with interest the judgment handed down in 2016 by the Supreme Court of the United Kingdom in [2016] UKSC 51 against the Scottish Government regarding the Named Person Scheme breaching the Human Rights Act 1998.
<https://www.supremecourt.uk/cases/docs/uksc-2015-0216-judgment.pdf>

We say this because the Scheme aimed to permit data sharing about children without their parents' knowledge. Across the western world the push for the normalisation of transgender identity among children and teenagers has resulted in the erosion of parental rights and responsibility, specifically the right to know what their children are being taught about gender identity in school, and the right to know if their children have told a school staff member that they identify with a particular gender identity. If the Scottish government were to allow self-declaration for under 18s and under 16s this would be a way of sneaking in elements of the surveillance regime proposed by the original Named Person Scheme through the back door.

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

Yes

If yes, please outline these comments.:

Depathologisation of gender dysphoria put on statutory footing

The consultation document says that the depathologisation of gender dysphoria by the World Health Organisation means that the current definition of gender dysphoria in section 25 of the Gender Recognition Act needs to be revised. This means there could be a move to amend it in Parliament (page 18). This could lead to serious dissension between Holyrood and Westminster. We can foresee escalation of disputes concerning teenagers given that there is mounting public concern about administering puberty-blocking drugs to teenagers by the Gender Identity Development Service in London.

Furthermore, the World Health Organisation's move to favour depathologisation is a sign of its ideological capture by transgender rights activists, and abject surrender of its medical responsibilities. The Scottish Government should not be blindly accepting everything that the WHO, an unaccountable international body, says on the matter.

New section 8E: Applications processed through Registrar General for Scotland

This is reminiscent of years of strategic litigation aimed at the Registrar General for England and Wales, in relation to matters such as transsexual parents getting their children's birth certificates changed so as not to denote them as biological parents. An unwelcome precedent could be set for amending section 6 of the Gender Recognition Act 2004 in England and Wales.

New section 8D - marriage

There is an imbalance and an inequality in treatment of the non-transgendered spouse in New Section 8D(3)(b). There is a clear bias towards signalling that a marriage may continue despite one spouse obtaining gender recognition, because the section allows for either a statutory declaration for the applicant's spouse in favour of the marriage continuing, or a statutory declaration by the applicant that there is no such declaration by the spouse. This proposed system subtly diminishes the status of the non-transgendered spouse.

The proposed system introduces the appearance of same-sex marriage into opposite-sex marriages. What should happen is that the non-transgendered spouse should have the right to provide a statutory declaration stating that they do not wish the marriage to continue, and to be allowed to file for divorce or separation on grounds of the applicant's pursuit of gender recognition.

New section 8E

Paragraph 30 of the Explanatory Notes says that New section 8E 'does not require the Registrar General to notify the applicant's spouse or civil partner when an interim GRC is issued.' The problem here is that a spouse or civil partner could remain unaware of the issuing of an interim GRC if the transgendered spouse did not want to be divorced.

There should be no room for keeping the non-transgendered spouse in the dark about the intention to seek gender recognition.

New section 8I: Scottish courts involved in gender recognition process

A court granting a divorce or dissolution on the ground of an interim GRC issued to a party in a marriage or civil partnership (including an interim GRC issued elsewhere in the United Kingdom under the GRA) must issue a full GRC and give a copy to the Registrar General, unless a full GRC has already been issued under the new section 8H.

New section 8H says that the GRP may grant and issue a full GRC to a married applicant only if the applicant includes a statutory declaration by the spouse consenting to the marriage continuing after the issue of a full GRC. If the spouse has not made any such a statutory declaration, the GRP must issue an interim GRC instead.

Why not just have the Registrar General for Scotland issue the full GRC in 8I? Why have a Scottish court issue it and give a copy of it to the Registrar General for Scotland? Is the real purpose of involving the courts here to provide an excuse for more transgender awareness training for the Scottish judiciary? The more the courts are involved, the more the judiciary encroaches on the policymaking powers within the executive.

New section 8N of the Bill

Overseas gender recognition is to be treated as if the person had been issued with a full GRC by the Registrar General for Scotland. 'But this rule doesn't apply if it would

be manifestly contrary to public policy (for example, in a case where gender recognition was obtained overseas at a very young age). Whether or not a public policy exception applies will depend on the facts and circumstances, and may be determined by the courts under new section 8P.'

This equivocation is a Trojan horse for allowing people to get gender recognition for children overseas then come back to Scotland and have this rubber-stamped by the courts, whose judges will have been suitably trained by transgender activists.

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

Yes

If yes, please outline these comments.:

Annex G: Draft Child Rights and Wellbeing Impact Assessment
CRWIA Stage 2 key questions – all relevant articles of the UN Convention on the Rights of the Child.

It is unacceptable that the Scottish Government makes partial and therefore misleading interpretations of the articles of the UNCRC that are cited. This is because the third edition of the UNICEF Implementation Handbook for the UNCRC is being used, which in many ways undermines the plain text of the UNCRC. In this respect the Scottish Government is continuing along the same path as it trod in the previous consultation.

The CRWIA's partial interpretation of Article 3 speaks of children aged 16 and 17 being able to 'change their legal sex', which gives away what is going on. The CRWIA reinterprets Article 5 to downplay parental rights. In fact the text of the article says that states must respect parental rights 'in a manner consistent with the evolving capacities of the child'. Most doctors in the UK, and clinicians such as Susan Evans, do not think that children have the capacity to consent to puberty blockers.

Article 6 is tacitly reinterpreted such that 'development' of children is justified in taking a transgender direction, when in fact this undermines normal adolescent development. Presupposing transgender development rather than development according to one's sex at puberty implies that puberty is a disorder that needs to be corrected. It is not. It is a healthy and fully necessary part of human development for both sexes.

The reinterpretation of Article 7 could be used to force parents to accept gender recognition of 16-17 year old children, due to 'the right to know and be cared for by his or her parents', which is cited.

The reinterpretation of Article 8 says that the Implementation Handbook says that gender identity is an aspect of a child's identity to which the child has a right, but ignores sex.

Article 12 says the child has a right to their views to be listened to and taken seriously, but the CRWIA's partial reading of this ignores the clause 'being given due weight in accordance with the age and maturity of the child'.

Article 13 is reinterpreted to argue that children have a right to receive information about gender identity and the provisions of the law. What we need to say is that children have a right and a need to receive FULL information on transgender treatments.

Article 16 is reinterpreted to argue that 'transgender children' should have their correspondence kept confidential. This article is about surveillance. It seems to reinterpret the principles on surveillance to oppose the individual child to parents rather than to the state. This is reminiscent of the Scottish Government's failed Named Person Scheme.

Article 17 is reinterpreted to argue that the Scottish Government could take 'separate actions...in relation to the supply of information to meet the needs of individual transgender children and young people.' Article 17 is all about mass media and education. This means that the Scottish Government is signalling that it could take control of media in Scotland to provide propaganda, and restrict media that is opposed to this on grounds that children have a right to a gender identity under articles 8 and 6. Thus this reinterpretation of Article 17 could become grounds for an attack on freedom of speech and freedom to receive information and access healthcare.

Article 18 is reinterpreted to focus in providing 'advice and support' to parents. Given our analysis of the previously cited articles this gives ground for serious concern.

Annex J: Draft Equality Impact Assessment Record: Stage 2

Age

This section of the table shows what is already well-known, which is that the age of those applying for gender recognition has been declining. This brings more pressure on parents and siblings.

The Swedish sample of 6 older trans people is so small as to be unrepresentative and therefore unhelpful for making large-scale policy decisions. The idea that the policy will promote good relations among and between different age groups is unconvincing, as older people are less likely to approve of the proposed self-determination model. Instead it is likely to worsen relations, particularly within families, between the generations.

Disability

The policy may have a negative impact on advancing equality of opportunity for disabled people, as those who undergo the easier route to gender recognition will only encounter more problems due to the level of public opposition to the plans. The Scottish Government consultation only cites the fact that 60% of respondents to the previous consultation on this favoured these plans, when in fact public opinion polls

show most Scottish people to be opposed. It is also telling that the consultation document makes no mention of the views of the wider disabled population in Scotland or those who have medical and caring responsibilities for these people. In some cases because of NHS Scotland's treatment protocol for gender dysphoria, people may go down the path of gender recognition without having had any diagnosis of an intellectual disability.

The table in Section 2 ends by admitting that the Scottish Government is 'not aware of any studies discussing the influence of ASD diagnoses on treatment outcomes for gender dysphoria'. This illustrates perfectly the problem of following the trend for depathologising gender dysphoria, namely to ignore other psychiatric and psychological diagnoses made on individuals referred in the design of follow-up studies. This is a major public health problem, as well as a problem of undermining disabled people's right to access healthcare. It must also affect any Scottish policies on informed consent for treatment for gender dysphoria.

Gender reassignment

The UK government's LGBT survey is quoted revealing that only a small minority of transgender people do not want to share their medical information as part of the process of gender recognition (11% of male-to-female transgender people and 7% of female-to-male transgender people). Not wanting to share medical information as part of a civil procedure that may or may not involve serious medical complications in the future is a very bad reason to cite as part of a case for moving to a self-determination model of gender recognition. Most transgender people seem willing to share medical information, which shows how the current system is preferable.

Pregnancy and Maternity

It is completely unacceptable that the Scottish Government has not even conducted any equality impact assessment on the effect of its proposals on pregnant women and mothers. The reality is that in western society we already see a trend whereby female-to-male transgender people are keeping their wombs and declaring themselves to be 'pregnant men', and campaigning to be recognised as 'fathers'. When such a trend is enshrined in policy and legislation on the basis of transgender rights, it automatically opens the door to discrimination against pregnant women and mothers. The reason is that public bodies are then constrained to change their language to speak of 'pregnant people' in order to avoid being sued, thus providing misleading and false medical information to the general public. This has serious long-term public health implications. It also goes against freedom of conscience as it forces everybody to lie about who can become pregnant and be a mother, including constraining women in some cases to refer to themselves as 'pregnant people' (Article 9 of the ECHR).

Religion or Belief

The Impact Assessment seems to assume that the concerns of religious bodies as they operate internally is the only serious one here. It is not. This also reveals a mindset of limiting religious freedom to freedom of worship and to disregard all the evidence and principles showing its extent and scope. The UK government has

admitted that transgenderism is a belief, in its own consultation on the Gender Recognition Act. Yet the Scottish Government shows no awareness of this.

Support for transgender self-determination without medical checks is a belief, and there is arguably a case for assessing it as such in law and public policy. It is a belief that clearly clashes with other more established and comprehensive beliefs. The Scottish Government's proposals would clearly enshrine this belief in a person's absolute unquestionable right to gender self-determination in the public sector in Scotland, thus setting up massive conflict with anybody whose religion or belief opposes this, whether intentionally or functionally, or is deemed by employers or the courts to do so(in the event of litigation).

We note that the Scottish Government repeats that 'other religious or belief bodies may, of course, support the concept of legal gender recognition', as if this is widespread when in fact it isn't.

Sex

It is not true that there is lack of evidence that 'including trans women in women-only services and spaces has negative impacts.' There is the scandal of allowing male-to-female transgender sex offenders into the women's prison estate in England. The problem of male-born people being allowed into single-sex spaces designated for women is that women who are already impacted by trauma due to sexual abuse by men are further retraumatised.

Given that the Scottish Government has established a working group on sex and gender in data (p. 187), it should have published the remit of that group and any relevant findings before publishing this consultation. As it is, this looks very much like lip-service is being paid to concerns about safeguarding single-sex services and spaces.

We note the irony of the Scottish Government admitted on p. 187 that the policy is not designed for 'promoting good relations between men and women'!