

## Heriot-Watt University

### 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.:**

- Heriot-Watt Student Union opposes the proposed requirement for applicants to live in their acquired gender for at least three months before applying for a Gender Recognition Certificate. We believe this is an unnecessary hurdle for people to overcome and there is no evidence that this is necessary.
- Other statutory declarations do not require evidence of backdating and it is likewise not a requirement in other gender recognition systems around the world, which only require a declaration to be made in the present.
- If documented evidence is required as proof of living in the acquired gender, this may again prove difficult as trans people are more likely to be estranged without a fixed address, be unemployed or struggle to access employment because of transphobia. This makes official records difficult to obtain.
- We do not believe that living in any particular way is proof of a person's gender identity and that there are no universal metrics for doing so.
- Heriot-Watt University Student Union is a safe, inclusive space that supports its trans and gender non-conforming students on the basis of self-declaration. Every student has the right to identify however they choose, and we support their right to do it, without evidence.

#### **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.:**

- Heriot-Watt Student Union oppose the proposed requirement for applicants to go through an additional period of reflection for at least 3 months before obtaining a Gender Recognition Certificate.
- A reflection period is not common practice for other statutory declarations and is only used in two other countries with a similar system of gender recognition.
- Trans people are the experts in knowing their own gender, this proposal ignores this principle
- Not being able to legally change their gender when they are ready to do so, denies trans people dignity and respect, and may have implications for their wellbeing.
- A delay in legal recognition can put trans people in unsafe situations if they are forced to out themselves when needing to show their birth certificate which does not match their gender identity.

- At Heriot-Watt University Student Union, we do not require a period of self-reflection for anyone to identify as trans. We believe that trans people are the best people to know their own gender.

### **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.:**

- Heriot-Watt University Student union believe the minimum age should be lowered to 16 years old.
- 16 years-old is already the age at which individuals can vote, get married or join the army. So why should Gender Recognition be any different?
- This forces individuals to wait an additional two years is likely to have a negative impact on their wellbeing, particularly their mental health.
- Many of our students applying are 16/17 years old. When students apply, they are asked to disclose their gender at birth when applying to study. This can result in 16 and 17 year-old trans students starting further or higher education being required to register under the wrong gender if they are unable to access legal recognition. Trans students who have to register under the wrong gender can face significant difficulties after they graduate if their qualification is in a different name to the one they're using and they don't have a gender recognition certificate.

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

Yes

**If yes, please outline these comments.:**

- As a Union that not only supports their trans students but also all of our gender non-conforming students are disappointed that the Scottish Government has chosen not to process proceed with legal recognition for non-binary people. If the underlying principle of Gender Recognition is to allow trans people to be recognised as who they are, this principle should also apply to non-binary people.
- Non-binary recognition would end the current necessity for non-binary individuals to legally identify as either male or female.
- Within our Union, we do not ask people to define as a man or a woman. We believe in self recognition.
- It is already a criminal offense to knowingly make a false statutory declaration in Scotland under the Criminal Law (Consolidation) (Scotland) Act 1995 and therefore oppose We are opposed to the proposal within the draft Bill to introduce an additional offence specific to the context of gender recognition. Heriot-Watt University Students' Union fear this could be a deterrent, particularly for young people, who wish to change their legal gender. It is also unclear how it can be proven that someone has abused the process and equally who is harmed in the event that an individual wishes to reverse their gender recognition.

- Additionally, we have concerns that this proposed additional offence could be used to facilitate the harassment of trans people and could potentially lead to trans people being accused maliciously by anti-trans individuals or groups.

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

Yes

### **If yes, please outline these comments.:**

- As a Union, we welcome the inclusion of the Equality Impact Assessment in the consultation and its conclusion that this Bill will not have a detrimental impact on the rights of any other protected group.
- We would like to see more consideration given to the impact on pregnancy and maternity characteristics and are asking the review to consult with the Cross-Party Group on Sexual Health and Blood Borne Viruses, which recently carried out research into trans healthcare and reproductive health which NUS Scotland provided evidence to. We would encourage students' associations to include their students' experiences of this issue and where gender recognition may impact on this