

Forth Valley Rape Crisis Centre

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.:

We do not support the proposal that applications should be required to live in or as their acquired gender for a 3 month period prior to applying for a Gender Recognition certification. Requiring applicants to live in their acquired gender while they are legally recognised as otherwise invites situations where they are forced to be 'out'. It also presumes that there is a marked difference in how an individual presents before, during and after this 3 month period and suggests an arbitrary date from when transition begins. We do not believe this reflects the reality of trans people's lives. Additionally, there is no such requirement to do this for any other form of ID. Furthermore, we are aware that hate crime against trans people is often perpetrated as sexual violence and believe that removing this requirement would remove an unnecessary period of heightened risk where trans people are not in full control of where and when they choose to be out. The proposed requirement limits trans people's control over their lives and removing it would allow a less instructive and more dignified, straightforward process.

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 do not support the proposal of a required 3 month period of reflection prior to obtaining a GRC. In our work with trans people and organisations that promote trans equality, we know that the decision to obtain a GRC often comes after much consideration and reflection-often over years- and we see no need to assign a further arbitrary time period to this.

This requirement also undermines trans people's , need self governance and agency. It implies that trans people, as a marginalised group, need prompting to self reflect and/or require additional time and process to know themselves and their identity. A core part of our feminist ethos and history is resisting paternalistic approaches to people of marginalised gender identities in favour of promoting and protecting their agency, freedom and rights; in keeping with this we support the removal of this requirement.

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 the 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.

I 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 its 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.:

We would support the addition of Non Binary people to be legally recognised as part of this bill. The draft bill in its current form only benefits some members of the trans community and fails to include Non Binary people. Non Binary people not being able to obtain legal recognition would leave them with inconsistencies in their documentation and further, invalidate their identity in day to day life. Non Binary people should have the same recognition as trans men and women and should not be excluded from any further of the rights of the trans community. Denying their existence is both discriminatory and could cause distress and practical difficulty in their lives.

We support non binary survivors through all of our services at Forth Valley Rape Crisis Centre and would welcome legal recognition to take the same approach. We believe that non binary people should be entitled to the same fundamental right to have their identities recognised as everyone else.

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 people's 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 a 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 means 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 person's 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 prefers 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.

Additionally, we believe that trans migrants who have migrated to the UK and are unable to acquire a birth certificate from their birth countries should be able to acquire and use a Gender Recognition certificate as an alternative to a birth certificate to prevent them from being discriminated for not having a birth certificate by those authorities that require a birth certificate.

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

Yes

If yes, please outline these comments.:

Forth Valley Rape Crisis Centre 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. 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.