

Hands Off Scotland

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.:

The term “acquired gender” is not defined in the consultation and is therefore meaningless. Notwithstanding the lack of definition of “acquired gender” the proposal in the Bill does not demand the applicant present evidence of this requirement which could then be tested and assessed as the applicant is only required to make a statutory declaration of living in this undefined “acquired gender”.

Indeed the government does not offer evidence of its understanding of gender although ministers have previously stated that they understand that sex and gender are different things. Given that the difference between sex and gender is accepted by ministers, it is wrong that “living in the acquired gender” can be used to change sex.

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.:

The length of time for reflection should be more than three months because it should include enough time for a full medical assessment. I believe that the current process which requires a diagnosis of gender dysphoria and safeguarding provided by the Gender Recognition Panel should be retained. See full response in answer to Q4

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.:

I oppose the Bill’s proposal to lower the age at which one can gain a legal sex change from 18 to 16. I believe lowering the age will result in more children embarking on a path towards medical transition as it is hard to see how this can be refused if a young person has changed their legal sex. While I believe that transgender people should be protected, I oppose the bill’s effect of broadening the definition of transgender beyond people with dysphoria to anyone who self

identifies as the opposite sex. I believe this sends out a damaging message to children and young people and confuses sex with the unscientific concept of “gender identity” predicated on regressive “masculine” and “feminine” stereotypes.

This comes at a time when increasing numbers of clinicians across the world are expressing concern about the practice of automatically “affirming” children who present with gender identity concerns. The UK government has already ordered an inquiry into the sharp and unexplained increase in young girls seeking to change sex. A recent Freedom of Information request suggests the rise may be even sharper in Scotland. A number of clinicians at UK gender identity clinics have resigned because of their concerns about pressure from trans activist groups to affirm children. These clinicians have expressed concern in the media and in internal reports that young gay people may be identifying as trans because of pressure from homophobic society, including, in some cases, their families.

This coincides with growing anecdotal evidence of young women, mainly lesbians, experiencing “transition regret”, often after irreversible hormone treatment and breast removal. This has already been documented in Sweden and here in the UK, where such young women have formed their own detrans network.

The network includes a Scottish woman who has now spoken at length of her regret in the media and warned against the effect of the Gender Recognition Reform Bill on young people.

I note that the draft Equality Impact Assessment in the consultation cites research from Sweden showing low rates of detransition. I would point out that this research covers the period 1960-2010 before the current surge of young women identifying as male (and subsequently expressing regret) and before the rise of social media. The government has a moral obligation to keep pace with recent developments and to put child welfare front and centre of policy making.

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

Yes

If yes, please outline these comments.:

I oppose the Gender Recognition Reform Bill because it makes sex a matter of self declaration. I believe the medical safeguards should remain in place for those requesting “gender recognition” and I believe the gender recognition panel, or some equivalent of the gender recognition panel should continue to have a role in assessing applications. I believe the proposed system of self declaration is open to abuse by predatory men. It may also cause problems for people with mental health problems, autism and gender dysphoria, who will not get the treatment and support they need. The Bill confuses sex with regressive gender stereotypes and sends a message which risks accelerating the current rise in children and young people seeking to medically and surgically transition. I believe the language of the Bill and the consultation document accompanying it is misleading because it repeatedly refers to “gender recognition” when its effect will be to change legal

sex and give the applicant a new birth certificate in that sex. The government needs to make the difference between sex and gender identity clear.

The 2016 SNP Manifesto did not give the Government a mandate to introduce the self-identification of sex. The manifesto was 76 pages long but carried just a single sentence (page 21) which said : “We will review and reform gender recognition law, so it’s in line with international best practice for people who are Transgender or Intersex.” There was no indication in the manifesto of what this meant and most party members were unaware of what was proposed in their name. It did not outline a process of sex self declaration without medical checks or gate-keeping as is proposed in this Bill.

I am unconvinced by the government’s claims to maintain the sex based exemptions in the Equality Act 2010 which protect women’s rights to privacy, dignity safety and fairness by allowing single sex spaces and services such as changing rooms, hospital wards, intimate care, counselling and access to sport. The government and its agencies already fail to implement the Equality Act exemptions, including in prisons and hospitals.

I am concerned that a far larger number of people will, if the bill becomes law, be able to take advantage of the Gender Recognition Act’s privacy protections and conceal their past identity and history. This protection already exists but if the bill becomes law it will be extended to a larger group of people – rising from 30 to 400 a year according to the government. These people will not have gone through medical diagnosis, assessment or treatment and will not be subject to any gate-keeping. This is of particular concern with male-to-female transitioners. While it is known that most transwomen are not offenders, male offending rates are far higher than those of women and there is no evidence that males who identify as female depart from male offending patterns. There is no evidence regarding whether transwomen mirror or depart from male patterns of offending depending on whether they have surgically, medically or socially transitioned. This research has not been conducted. However the bill expands the definition to transwomen and transgender to take in a far wider group of people, many of whom will not have made a medical or surgical transition. I believe it is irresponsible for the government to say offenders and others whose past behaviour may prevent them working with vulnerable groups can be trusted to self-report their changed sex and new identity to Disclosure Scotland.

The government fails to define “international best practise” and I note that in fact very few countries have introduced sex self identification, around the world. I further note that those countries which do have sex self ID include some with a poor record on women’s rights. No evaluation has been carried out by the Scottish Government on the effect of self ID in practise in any of these countries. I note the report by Dentons that much legal change in this area around the world has been conducted “under the radar” deliberately avoiding public debate and seeking to influence the youth wings of political parties. I believe this is undemocratic.

The current gender recognition law in the UK and Scotland is fully compliant with the European Court of Human Rights so this change is not needed.

I am concerned that the government still seems determined to incorporate the “Yogyakarta Principles” into Scots Law. These have no legal standing and were compiled by lobbyists. The YP aim to eradicate all sex markers in personal documentation. This would be disastrous for women and girls as so much of the discrimination and violence they face (FGM, rape, harassment, maternal mortality, period poverty, pregnancy discrimination) is a result of their sex. I am concerned that this is already happening in Scotland, where data, including on crime, is recorded based on gender identity not sex and urge the Scottish Government to follow the advice of Caroline Criado Perez (www.carolinecriadoperez.com/books) and leading academics calling for sex disaggregated data in order to meet the needs of women. I believe the bill, if it became law, would make this more difficult.

I welcome the opportunity to contribute to the consultation, though have concerns about the way data will be gathered and assessed. I am also concerned at the imbalance of power between the nascent, grassroots movement of women who oppose this reform, including SNP Women’s Pledge, and the stakeholders who wish to see it happen.

The lobbyists who are campaigning for change receive millions of pounds in government grant and have easy access to politicians and officials. Some are partners in policy making. Women who oppose the reform are very much “out in the cold”. They campaign in their spare time, between jobs, parenting and caring responsibilities. Their only resource is from their own pocket or through crowd funding. Apart from token gestures, they are largely denied access to decision makers. They are silenced with threats of violence and the demonization of their perfectly reasonable concerns, which are dismissed as bigoted. Some fear losing their jobs if they speak out. I believe this will have a negative impact on the outcome of this consultation.

Finally, I wish to state that I am fully in agreement with the submission to this consultation from the SNP Women’s Pledge which can be found at the following link: Women’s Pledge Submission

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

Yes

If yes, please outline these comments.:

I am not convinced by the government’s Equality Impact Assessment contained in the Bill consultation which concludes that women will not be affected negatively by the proposed changes.

I believe the Equality Impact Assessment is deeply flawed, it ignores the contributions of Prison Governor ██████████ contained in the June 2019 report by Women and Girls in Scotland.

https://secureservercdn.net/160.153.137.99/hjn.a49.myftpupload.com/wp-content/uploads/2019/09/WGS_female_only_provision_report.pdf

In the report [REDACTED], who at that time was not named, described several examples of transwomen losing their temper, intimidating women and indulging in sexually explicit behaviour in the female estate. [REDACTED] has since repeated these statements in the media and at public meetings.

The EQIA also ignores the results of a consultation of 2000 self-selecting women contained in the Women and Girls in Scotland report. Most of these women said they would self-exclude from services if they could not be guaranteed single sex provision.

The Bill consultation and its draft Equality Impact Assessment choose to ignore specific well publicised cases in Scotland, the UK and elsewhere in the world where self-identified transwomen who retain male anatomy have sought to abuse single sex spaces. These include vulnerable immigrant women being taken to court in Canada for refusing to wax a transwoman's male genitalia, attacks carried out by a sex offender in a women's prison in England and attacks on young girls in supermarket toilets in Fife. There is also evidence that more sexual assaults are committed in so called "gender neutral" spaces, but this well-publicised survey was also ignored in the Equality Impact Assessment.

The Equality Impact Assessment fails to engage with the factual evidence provided through convictions in the Scottish Courts Service which show that males are responsible for 98.5% of all sexual crime (excluding prostitution associated offences). The draft Equality Impact Assessment offers no evidence to support the assertion that transwomen who have undergone no physical changes depart from male pattern offending. Ministry of Justice figures from England suggest that the proportion of male-to-female transgender prisoners incarcerated for sex offences is significantly higher than the prison population as a whole. Given that the Scottish Government and public authorities such as the NHS and the Scottish Prison Service ALREADY misinterpret the Equality Act to allow self identifying transwomen access to single sex spaces, we have no confidence that the guidance will improve if and when the Bill becomes law.

The draft Equality Impact Assessment makes no reference at all to women's desire for privacy and dignity or their human right to consent to people with male anatomy seeing them in a state of undress, for example. Given that the Equality Act gives women this legal protection, it is remiss that the Scottish Government fail to take account of it in the consultation. The only way to evaluate how women feel about their consent being sought or their privacy being compromised is to ask them. The Scottish Government have not asked women how they feel about this change. However the Women' and Girls in Scotland survey did ask 2000 women their views. An overwhelming majority said they would not feel happy about sharing intimate spaces with people born male who self-identified as female.

The EQIA takes no account of the sharp and unprecedented rise in girls transitioning and the concerns expressed by clinicians that this is a result of homophobia/lesbophobia. The same respected clinicians, including from the Tavistock Gender Identity Service, have pointed out that children's other mental health issues and adverse childhood experiences can be ignored as clinicians are pressured by lobbyists to affirm in every case. Many young girls feel

uncomfortable in their bodies and this is particularly the case given the high levels of sexual harassment they face or the pressure to present in a highly feminists/sexualised way. Young girls should be able to reject these stereotypes without feeling they are the wrong sex. The growing number of detransitioners means we have to take these concerns seriously. The EQIA does not do this. The bill's purpose of making transgender identities more accepted, while well intentioned, could have the unintended consequence of encouraging more children and young people to conflate sex, which is immutable, with an intangible "gender identity", or pursue transition as a means of addressing other underlying problems.

While ignoring fact based examples of threats to women in single sex spaces, the Scottish Government Equality Impact Assessment justifies its assertion that the proposed legal change is no threat to women by citing an academic paper by Peter Dunne of Bristol University who campaigns on gender identity issues. Dr Dunne's paper argues AGAINST all single sex provision (which the Scottish Government says is not its position) Dr Dunne's paper states that a women who sees a transwoman's body (presumably male genitals) in a changing room should be no more upset than if she sees a breast cancer survivor with a mastectomy in the changing room. This statement has caused considerable offence. The Cabinet Secretary Shirley-Anne Somerville distanced herself from this assertion in Dunne's paper when questioned in parliament. However the report is still used to justify the conclusion of the draft Equality Impact Assessment.

The draft Equality Impact Assessment also cites another paper from academics who support self identification of sex, (Eckes: The Journal of LGBT Youth 2017) which compares the uses of separate male and female toilets to segregation on the grounds of race. I believe the reliance on such contentious and one sided arguments, which did not use empirical research, completely destroys the credibility of the draft Equality Impact Assessment.