

## **HIV Scotland and National AIDS Trust**

### **CONSULTATION RESPONSE TO GENDER RECOGNITION REFORM (SCOTLAND) BILL**

HIV Scotland and the National AIDS Trust (NAT) welcomes the Scottish Government's continued commitment to reform of the Gender Recognition Act to a more straightforward process of self-declaration. The current gender recognition process creates unnecessary obstacles, and facilitates fear of stigmatisation and reduced attendance at crucial sexual and reproductive services.

It is imperative that the Government remove these barriers to the wellbeing of trans and non-binary people as soon as possible. Therefore, we do not agree that applicants must live in their acquired gender for three months before applying for a GRC, nor with the proposal that applicants must go through a period of reflection for at least three months before obtaining a GRC. There is no evidence that this arbitrary waiting period is necessary, but we do know that it would create both unnecessary distress and extra administrative work; it also implies that trans people cannot be trusted to make important decisions about their lives.

With regards to extending self-declaration to 16-17-year-olds, the current system is inconsistent with other rights this group enjoys in Scotland, such as marriage and voting. It would be beneficial for young people to be able to apply for legal gender recognition before moving into further education or employment. Additionally, this would afford young trans people in employment the same protections as older people with a GRC, such as ensuring that their right to work documents do not disclose their trans identity to employers without consent.

We also urge the Scottish Government to consider the inclusion of non-binary people in the development of a system of self-determination. This will ensure that Scotland continues as a world leader in LGBTQ+ rights. We would highlight the findings of recent research we carried out into trans and non-binary people's access to sexual health services, in partnership with Scottish Trans Alliance. The results are currently unpublished, but our preliminary findings show that non-binary people reported markedly poorer experiences of accessing sexual health services, partly because their non-binary identity was often not respected and validated by staff. Were the Bill to extend legal gender recognition to non-binary people, this would show that the Scottish Government recognises and validates non-binary identities. We would expect that this would set a standard within public services, which would improve the lives of non-binary people and their access to essential services.

Trans and non-binary people are disproportionately affected by poor sexual health. Globally, trans women are 49 times more likely to be HIV positive than the general population. We know from evidence that people who are marginalised in society face barriers to accessing sexual health services, including fear and stigma.<sup>1</sup> The trans people we work with tell us that fear of misgendering and a lack of compassionate support prevents them from accessing basic sexual health services, including

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<sup>1</sup> See, for example, NAT (National AIDS Trust), Trans people and HIV  
<https://www.nat.org.uk/sites/default/files/publications/NAT%20Trans%20Evidence%20Review%20V3%20Digital.pdf>

contraception and STI prevention. GRA reform is a key step in addressing the marginalisation of trans and non-binary communities, by allowing people to more easily gain legal recognition of their gender identity. It would enable better access to sexual health services and assist our organisation's work to reduce HIV transmissions.

Our recent research found that 53% of trans people feel that their gender has affected their experience of accessing treatment for a reproductive health condition, and 54% of trans people are dissatisfied by the treatment received for such conditions. Much of this stems from misgendering by clinicians, and the assumption that services such as cervical screening are 'female only'. Our inquiry heard that many trans and non-binary people have negative experiences of the healthcare system, but others have never accessed services due to a perception that their experience will be overwhelmingly negative. As one of our contributors said, "I just didn't want to put myself in that situation."

We know that trans people find the current application process invasive, embarrassing, and complex. A quick and accessible approach to applying for gender recognition, based upon principles of self-determination, would make a significant and positive difference to their lives. Making gender recognition feasible by reducing the financial, logistical, and emotional burdens can play a part in supporting positive gender affirmation among trans individuals. GRA reform would aid in publicly legitimising trans people and their requests for access to appropriate education, healthcare, employment and so forth. It would also empower trans communities with consequent benefits across a range of factors related to health and wellbeing, and beyond.