

## **LGBT Youth 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.:**

LGBT Youth Scotland's response to the Gender Recognition Act (GRA) Reform Bill Consultation is informed by 30 years' experience of supporting and advocating on behalf of trans young people across Scotland, and through our research 'Life in Scotland for LGBT Young People' which is published every five years. Throughout January 2020 we consulted with around 200 LGBT young people across Scotland on their views on the GRA Reform Bill through workshops and online consultation.

LGBT Youth Scotland broadly welcomes the draft GRA Reform Bill and supports the proposed move to a self-declaration model of gender recognition and to removing the requirement for medical certification. We know through our experience working with young LGBT people that this aligns with their wishes and therefore what we asked for in our 2016 Manifesto. Whilst we support the progressive vision of reducing the time a person must live in their 'acquired gender' for 3 months instead of two years, LGBT Youth Scotland and the majority of the young people we engaged with feel that there should be no waiting time.

We are aware of no strong justification for an arbitrary three-month period to be put in place in Scotland. Nor we aware of this being in place in other countries. If the Scottish Government is aspiring to match world leading legislation concerning self-declaration, LGBT Youth Scotland proposes that the 3-month requirement be excluded from the Bill.

Trans people are able to update their other identity documents (passport, driver's licence, etc) at the start of their social transition (or when they start living in their true gender) and this three month requirement would mean there was a period where their documentation has conflicting information. This puts trans people at risk of being outed (i.e. their trans status being disclosed) which is both a real risk to their safety and a source of anxiety. This particularly affects young trans people who are more likely to have to use their birth certificates as a form of identification particularly when starting in a new education establishment, moving to a new house, opening bank accounts, etc.

See our full response to Question 4 which addresses a rights-based approach where we set out how the draft bill could be improved to ensure it is in line with the UNCRC and Yogyakarta Principles – in short, for young people to be able to achieve their rights there should be no requirement for them to be asked if they have lived in their 'acquired' gender for three months.

Research with Young People

Around 90% of the young people we consulted with either felt that reducing the lived experience requirement from 2 years to 3 months was "good" or "ok but could be better".

Specifically, young people also called for improvements to the Bill including shortening or eliminating the lived experience requirement. Many felt that this requirement misunderstands the experience of being trans because gender identity is a individual journey and young people are likely to have been living in their true gender for a long time before applying for a Gender Recognition Certificate (GRC). Young people therefore felt that setting an arbitrary time is not appropriate as it should be up to the individual to make their own decision:

"It could be better because a person's gender identity can be different for everyone, a person could have known that they were transgender for years and have only just been transitioning so it wouldn't be that fair to make them wait for 3 months for that decision"

- Trans young person, Glasgow

"'Are you sure' is not a question that needs to be asked - we struggle with our gender identity long before we ever come out or start transitioning, which requires a lot of introspection

- Trans young person, online

Some young people also pointed out that this requirement was inconsistent with making other statutory declarations such as a change of name:

"I think it's much better than the GRA legislation as it stands but it is in my opinion a pointless requirement. You don't need to wait any amount of time to change other forms of identification, like passports and drivers' licences that have much more effect on your day to day life."

- Trans young person, online

Finally, young trans people report that this three-month period could put them at risk: "If... you need that birth certificate (eg for work) it could be quite dangerous in those 3 months while you're waiting – it could out you. Transphobia is a big problem in the UK"

- Trans young person, Edinburgh

A minority young people were in favour of the 3-month lived experience requirement, speaking of the importance of self-reflection and taking time to understand their gender:

"Allows a chance to understand gender before making a large decision (but more appropriate than the previous 2 years)"

– Trans young person, Edinburgh

However, the consultation results also indicate that this response was apparent when young people thought that changes to birth certificates were permanent and

irreversible. Obtaining a Gender Recognition Certificate is a significant and serious decision, but the current system and the proposed Bill does allow for applicants to reverse the decision in some circumstances.

Overall LGBT Youth Scotland's believes that the lived experience requirement is unnecessary as the obligation to sign a statutory declaration that this change is permanent in front of a Notary Public or Justice of the Peace gives enough weight to the seriousness of the decision. We believe young people with the capacity to make decisions are capable of understanding the seriousness of obtaining a GRC and that certainly any young person over the age of 16 should be able to make this decision. In our experience of working with trans people up to the age of 25, is the norm for a trans person to apply for a GRC only after being sure of their gender identity and it is therefore unnecessary for the Scottish Government to enforce this. The statutory declaration will require applicants to swear that they intend to 'live in their gender until death' means that people are highly unlikely to apply if they are uncertain.

**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.:**

LGBT Youth Scotland welcomes the progress that the draft bill presents – it aligns with what young LGBT people tell us they want and we called for such progressive reform through our manifesto in 2016 – however, we feel it would be more progressive if the reflection period was removed and would support Scottish Governments desire to be an example of international best practice.

The statutory declaration is a serious oath that young people would not undertake without deep contemplation. Young people that use our services tell us that when they come to apply for a Gender Recognition Certificate (GRC) , they have already been reflecting for a period that far exceeds three months, hence they feel that reflection period is arbitrary and unnecessary. Whilst some may argue that the introduction of a reflection period and the requirement to live in your 'acquired gender' for 3 months would allow for contemplation and amplify the seriousness of this decision, LGBT Youth Scotland feel that the introduction of Section 14 into the Act – 'offences' in which a false declaration or application would be an offence will offer enough cause for applicants to take this decision very seriously. The severity of the punishment for a false declaration of up to two years and a fine will also ensure that young trans people have a strong understanding of the implications of the process.

However, as it already is an offence with the same associated punishment to deliberately undertake a false declaration, we see no benefit to introducing a specific offence associated with legislation that only relates to trans people.

See our answer to Question 4 for our rights-based approach discussion, ultimately we believe that for young trans people's rights to be achieved in line with the

UNCRC and Yogyakarta Principles, the Bill should not have a three-month reflection period.

#### Research with Young People.

The vast majority (82%) of trans young people from our youth groups and online survey thought that the three-month reflection period post application was too long or unnecessary. Again, many young people pointed out that applying for a GRC is currently one of the last things that trans people do in their transition, and many feel that they have had ample time to reflect on the consequences and impacts of gaining documentation that matches their lived gender. Many also pointed out that they have been aware of the incongruence between their gender and documentation since they were very young and waiting until they are 16 would already afford them years of reflection and ample opportunity to assess the impacts. Many young people felt that the reflection period after statutory declaration did not respect their decision, effectively contriving Article 12 of the UNCRC (respect the views of the child).

"If they were to lower the age to 16 and I applied now, I don't see what waiting 3 more months is going to do. I've known this is who I am since I was 10. I've known for definite for 6 years now – that doesn't just go away overnight."  
- Trans young person, Edinburgh

"You are who you say you are and that's your right. The 3 month reflection period invalidates this."  
-Trans young person, Edinburgh

"Transitioning isn't an 'I just woke up like this' thing - it's a process and has already taken time"  
– Trans young person, Glasgow

"It would be incredibly frustrating waiting another 3 months. It feels like you've gone through this whole process and then the Government is saying 'are you sure you're trans?' - it feels invalidating."  
– Young person, West Lothian

Finally, young people raised concerns about the impact this would have on trans people transitioning at the end of life who may not have time to wait a total of 6 months for a GRC. A trans person could potentially be recorded as the wrong gender at death, particularly if they have unsupportive family:

"What if you want it because you are dying and you don't have time to wait 6 months?" – Young person, Glasgow

For the reasons outlined above, LGBT Youth Scotland supports the progressive vision in the draft bill, but calls for the removal of the three month reflection period.

### **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.:**

In our response to the 2018 Review of the Gender Recognition Act (2004), LGBT Youth Scotland set out that we believe that people aged 16 and 17 should be able to apply for legal gender recognition, and that this was in line with other rights accessible at the age of 16 in Scots law, such as the ability to enter into marriage or civil partnership; recording a name change or voting in Scottish elections.

We are pleased to see significant support from two thirds (66%) of respondents from Scotland for lowering the age to 16 for application of Gender Recognition Certificate (GRC) in Question 5 of the analysis of responses to the 2018 consultation (The Scottish Government proposes that people aged 16 and 17 should be able to apply for and obtain legal recognition of their acquired gender. Do you agree or disagree?).

We are aware that the Scottish Government's analysis highlighted that some respondents who disagreed with lowering the age had conflated the two very separate issues of the legal process for obtaining a GRC and the medical procedures that some trans people choose to have: "1 in 9 ... 'it was suggested that 16- or 17-year olds may not yet be able to fully think through the longer-term implications of what they are doing, particularly in terms of the health impacts that any medical intervention may have' [1] . It is important to be clear that the legal process for obtaining a GRC is not dependent on some medical procedures that may be associated with transition. Indeed, the draft bill would mean that medical evidence would no longer be required in order to obtain a GRC. There is no requirement or correct process for people to follow when transitioning. Under the current proposal some trans people may choose to apply for a GRC and have medical procedures, some may choose one or the other, or some trans people choose neither.

Other concerns in regards to the mental health of young people applying for GRCs have been raised through the previous consultation process. Our research [2] shows that young trans people who undertook our Life in Scotland survey have considerable mental health : issues, which is in alignment with the findings of the Scottish Government that trans people are more likely to have mental health needs more often than the people who are not trans. Our research showed:

- 74% of trans young people said they experienced depression
- 63% of trans young people experienced suicidal thoughts or behaviours
- 59% of trans young people said they self-harmed

Wider evidence also suggests that trans people are more likely to have poor mental health than the people who are not trans, as outlined in the papers the Scottish Government released alongside this draft bill consultation.

Young people we work with tell us that being able to have matching documentation will reduce their anxiety and positively impact on their mental health, particularly at significant times in their lives such as starting a new job, moving on to further education or starting in employment.

LGBT Youth Scotland is disappointed to see no progress for young people under the age of 16 in the draft bill. We share the views of Clan Child Law and the

Children and the Scottish Children's Law Centre which consider the UNCRC Principles and existing Scottish legislative practice that people over 12 are deemed to have legal capacity to make decisions in certain circumstances – and that this principle could apply to the implementation of the GRA. We and the young people we work with and advocate on behalf of firmly believe that this is the case for application of a GRC. This is also in line with best practice as advocated through the Yogyakarta Principles (see our response to Question 4 for a fuller rights-based discussion of the draft bill).

LGBT Youth Scotland believes that a practical solution to this would be to allow parents and carers to apply on behalf of their child, recognising both children and young people rights as well as the rights of parents, and importantly taking into account the child's capacity to make decisions at all ages. With the ultimate goal of making decisions that are in the best interests of the child or young person. In our response to the 2018 consultation on GRA reform, we therefore stated preference for under 16-year olds to be able to apply for a GRC with parental / guardian consent – and where this is not available or if, for example, there is disagreement between parents, an option of mediation and assessment of capacity should be made to determine if the young person understands the implications of their decision.

See our response to Question 4 for our rights-based discussion. LGBT Youth Scotland believes that for young people's rights to be realised, they should be able to request a GRC at the age of 16, and there should be an option for young people who are under the age of 16.

#### Consultation with young people

Almost all (97%) respondents from our LGBT and trans specific groups, as well as those surveyed online to guide our response to this consultation thought that the age where a person can apply for a GRC should be lowered to 16 – this is consistent with our previous findings.

Several themes were raised by young people in our consultation work on this question. Most prevalent was that young people have often been aware of and living in their true gender for years by the time they reach 16. Young people also made the point that being able to sign a statutory declaration to change their birth certificate is in alignment with other rights they are afforded at 16. They felt that being able to have consistent documentation at an age where they are likely to be making significant life changes such as applying to for college or university or entering the workforce would reduce the risk of being outed and reduce any risks to their safety. Finally, young people stated that having the right to gender recognition would have a positive impact on their mental health:

"There are lots of people who are under 18 and trans and I don't see why people should have to wait potentially years after they've come out to change their birth certificate"

- Trans young person, Glasgow

"At the age of 16, people can already vote in Scottish elections, have children, get married and change their names – and getting their legal gender changed

would help immensely when applying for college or university or for jobs."

- Trans young person, online survey

"If people of this age can make other 'life changing' decisions like marrying and having children then why can't they know this aspect of who they are as a person?"

- Trans young person, Glasgow

"At 16 I was certain, articulate, and capable in my knowledge of my gender and my rights. I had a significant amount of anxiety about applying for university and student loans, as the applications made a point of saying 'use the sex on your birth certificate'. I wasn't comfortable doing this, and so feared being 'found out' and punished. This was totally unnecessary stress, especially as I was literally applying to take on thousands of pounds of student loans - arguably a commitment with much bigger, long-reaching consequence"

- Trans young person, online

"If I could apply at 16, I wouldn't have this fear looming over me that I might have to produce my birth certificate...The thought of potentially outing myself by giving my birth certificate terrifies me."

- Trans young person, Edinburgh

"I think it would lower depression rates. It would give that certainty, that validation."

-Young person, Edinburgh

Young people under 16

More than 80% of young people from our LGBT, trans specific and online trans respondents to our survey said that there should be an option available to young people under the age of 16.

"I've been out as trans for over a year – it will be about 2 years by the time I'm 16."

- Trans young person, West Lothian

"Dysphoria doesn't wait until you are 16"

- Trans young person, Glasgow

"Why is age a factor? I think it's stupid that just because you're under a certain age, that doesn't mean that you're gender identity is invalid...I know trans people that have known since they were 3 and have openly expressed this. Even if you're going to make it so you're 13, you have to be a teenager, that's much more reasonable for people who have known for ages. Trans teens and trans kids exist and it's unfair to invalidate them [by not letting them apply for a GRC]."

- Trans young person, Edinburgh

In summary, LGBT Youth Scotland supports lowering the age a person can apply for a GRC to 16, and would like to see the introduction of an option for people under the age of 16, which is in line with Scots law, age of capacity and the Yogyakarta Principles as well as the UNCRC. Again, see Question 4 for further information on a rights-based approach to this bill.

In our response to the previous consultation, we advocated for Option 3, Parental Application as the most appropriate option – with the additional caveat that there should be the opportunity for applications by a capable child where said child lacks support from an adult or authority with parental rights and responsibilities, and that there should be access to free advocacy to support them to submit the application.

References:

[1] Review of the Gender Recognition Act 2004: Analysis of Responses to the Public Consultation Exercise, Section 3, Paragraph 21

[2] Lough Dennell, BL, Anderson, G and McDonnell, D (2018) Life in Scotland for LGBT Young People. LGBT Youth Scotland.

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

Yes

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

Recognition of non-binary people

LGBT Youth Scotland strongly believes that gender recognition should be extended to non-binary people. Young trans and / or non-binary people attending our services were extremely disappointed and distressed when the Scottish Government Cabinet Secretary announced that there would be no inclusion recognition of non-binary people within the current proposed Bill through this reform of the GRA process.

LGBT Youth Scotland shares this disappointment and we are particularly concerned that this may disproportionately affect young people, given that 50.8% of trans respondents aged 16-17 and 58% of trans respondents age 18-24 identified as non-binary in the UK Government's 2018 National LGBT Survey [3].

The Scottish Government made a commitment to reform the GRA in-line with international best practice, outlined within the SNPs Scottish Election Manifesto in 2016. A growing number of jurisdictions around the world provide legal recognition of non-binary people, and the Yogyakarta Principles call on legal recognition that provides more options than simply male and female. In consultation with trans young people we strongly believe that this is best international practice. In lieu of this, we do welcome the formation of the non-binary working group and we look forward to working with a young person from our Gender Recognition Youth Commission, who aims to represent the views of LGBT Youth Scotland and the wider community.

Consultation with Young People

96% of the young people we consulted with were in favour of non-binary recognition. When we asked young people their views, it was clear that non-binary people feel let down by the Scottish Government. They pointed out that lack of recognition will negatively impact their day-to-day lives, their mental health, their safety and acceptance within wider society. The passionate comments volunteered by young people in this section are a testament to their strength of feeling about this issue.



In particular, young people stated that excluding non-binary people from the draft GRA reform bill sent a message that they do not exist and that their identities are not valid. This arguably contravenes Article 8 of the UNCRC, which is concerned with a child's right to preserve their identity. Many pointed out that they deserve the same rights as binary trans people (trans men and trans women) to legal recognition.

"I was extremely disappointed to see the proposal of gender recognition for non-binary people be dropped between the prior consultation and now. As a non-binary person, there is no way for my legal documentation to match my gender. There will be no way for me to accurately record my gender on the next census. My community and I have effectively been rendered legally non-existent. Without the ability to demonstrate how many non-binary people there are living in Scotland, it's made so much harder to access funding, show the need for more support and services etc. The Scottish government can't claim to support the LGBT community while denying the existence of a significant part of it."

- Non-binary young person, Online

"I'm a straight cis 15 year old girl ... I still recognise non-binary people as who they are - they are people. If they're not allowed to apply for a GRC, it probably makes them feel like they're not valid. It shouldn't. I'd hate to feel not valid for just being who I am and it's not right. [The Scottish Government] have the power to change so many people's lives, so why don't you just do it?"

- Young person, Edinburgh

"It is important for non-binary people to be recognised as they may not be able to currently access services as they cannot fill in forms as they do not have their gender. It also causes mental health concerns as a person's identity is not recognised as valid"

- Young person, Dundee

Many said they had hoped that non-binary recognition would foster acceptance of non-binary identities in wider society, which would not only improve the lives of non-binary people, but also make it easier for non-binary people to accept and live in their true gender. They pointed out that this had very practical implications on their day to day lives, including when applying for jobs and college / university or accessing services. Finally, they expressed their concern that the decision to remove non-binary recognition from GRA reforms could open non-binary people up to further stigma and discrimination.

"When I went to the NHS they wouldn't accept my gender. I wrote a letter saying I don't identify as either but they didn't do anything"

- Young non-binary person, Forth Valley

"It's important to recognise that non-binary people have valid identities and deserve access to the same gender-affirming opportunities as binary trans people. Leaving non-binary identities out basically says that they aren't valid or important enough to be included which is a harmful ideology to put forward, especially to people who are so often told that their gender identity doesn't exist."

- Trans young person, Glasgow

### Cost of Applying for a GRC

Young people have specifically asked for the issue of cost of obtaining a GRC to be reviewed through the reform of this bill. Currently an application for a GRC costs £140. This is particularly burdensome for young trans people as they are typically in education or starting out in full-time work – a time in life when finances are particularly stretched.

This can mean that the cost is prohibitive for many young people applying. We know from our research [4] that 31% of trans young people cite lack of financial options as a barrier to reaching goals, and 58% of trans young people state that availability of jobs is another barrier. Whilst these questions were not specifically in relation to the GRA process, it is indicative of finances available to young trans people.

From our online survey for this consultation, 95% of respondents said that the cost was too high and / or there should be no charge for applying. Whilst most respondents (55%) said there should be no charge, there was a reasonable number of people who felt that it would be acceptable for there to be some charge to cover administrative expenses – as is the case when applying for a new driver's license or passport.

### Young People's Views on Cost:

"Places even more pressure and limitations on those of us with financial troubles. Poor people can be trans too."

- Trans young person, online survey

"Transgender people have higher rates of homelessness and poverty anyway. £140 is quite a lot of money... I'd suggest £50 at maximum cost, perhaps less"

- Trans young person, online survey

"There should be no cost on being yourself"

- young person, online survey

### Toxicity of Discussing Trans Issues

Whilst transphobia is not a new phenomenon, it is noteworthy that conversations around GRA reform combined with the mostly unregulated online 'debate' on the issues affecting trans people have combined to form a space whereby misinformation and targeted harassment are able to spread and gain momentum.

Young people we work with are keen to see the progress that is offered through the draft bill, but they are equally aware of the time pressures associated with getting legislation through the parliamentary process. Young people and LGBT Youth Scotland hope this reform can be progressed in this parliamentary session.

The level of abuse and online harassment that young people see every day through social and some traditional media outlets is unprecedented and impacting on their daily lives. Quick resolution would be beneficial, and the message that the proposed bill sends out about the progressive and welcoming attitude of Scotland would be significant and impactful. See our previous discussion about the reported mental health issues young trans people face in our response to Question 3.

## UNCRC

There are a number of Articles within the UNCRC which are relevant to this consultation, including:

Article 2 – which focuses on discrimination: although the article doesn't list trans status or history in the list of statuses, it should be considered as under the 'other status'. We know that trans young people's rights are often not realised and that they can experience significant discrimination in Scotland. From our Life in Scotland [5] research identified that:

- 96% of trans young people experience homophobic, biphobic or transphobic bullying during their time at education
- 41% of trans young people and 51% of non-binary young people in particular, said that they had experienced a hate crime or hate incident in the past year
- 26% of LGBT young people in employment had experienced verbal abuse at work (rates were similar for the transgender sample)

By improving processes for trans young people to change their legal gender, those that apply will have improved legal protection in their workplace and in education and it will send a strong message that prejudice towards trans people is not accepted in Scotland.

Article 3 – Highlights that decisions should be made that are in the best interest of the child or young person. The papers that accompany this consultation state that young trans people are more than twice as likely as non-trans people to be diagnosed with depression (50.6% compared to 20.6%) and with anxiety (26.7% compared to 10%).

As evidenced throughout our response, young people are clear that access to GRCs would have a significant impact on their day to day lives and consequently improve their mental health – for example the reduced anxiety of having matching identity documents and not having to worry about being outed.

Article 5 – Includes content on children and young people's evolving capacities. It would be in line with the UNCRC principles if the age a person can access a GRC is lowered from 18 to 16. As discussed above in answer to Question 3, this would allow for equivalence with the age at which other rights are conferred to young people in Scotland, such as voting, leaving the family home, getting married and joining in the army etc.

We also feel that it would be within the spirit of the UNCRC principles if there was a provision for people under the age of 16. LGBT Youth Scotland agrees with the Scottish Government that this is about balancing the responsibilities and rights of parents against the right of the child to make decisions. Wherever possible, the child should be listened to and their views and wishes should be given primacy, in line with the GIRFEC principles.

Article 6 – Is concerned with children's right to right to survive and the right to develop life. The sad reality is that suicide research [6] shows that 63% of trans young people experienced suicidal thoughts or behaviours and 59% of trans young people said they self-harmed. We are also aware of a significant number of completed suicides in the past 18 months.

Again, trans young people tell us that progressive reform of the GRA could significantly improve on their self-esteem and mental health. They also tell us it would make them feel more valid and accepted.

Article 8 – Focuses on the right to preserve children's identity. A child or young person's identity is made up of many different parts this includes gender identity as outlined in the implementation handbook for the implementation for the Convention. Reform of the Gender Recognition Action will clearly support trans young people to have their gender legally recognised.

Article 12 – Focuses on respecting the views of the child and it is clear that children and young people have the right to be listened to, and taken seriously. It highlights that human rights apply to children and young people, just as they do to adults.

As evidenced previously, at present young people under 18 do not have access to legal gender recognition often based on the perception that their views cannot be taken seriously, despite (in some circumstances) being old enough to make significant decisions regarding their lives. Those that were old enough to go through the process often did not feel their views were valued or respected by the current process.

Article 13 - Freedom of expression. Young people should be free to express their gender identity as they wish, we have outlined numerous benefits previously. The current social climate (particularly online) is very tough for trans young people, however progressive reform by the Scottish Government would send a strong message that trans young people are valued and respected. Our Life in Scotland research [7] showed 31% of trans young people felt that they were enough places where they could safely socialise and be open about their gender identity. Young trans people need safe spaces to explore and celebrate their gender identity.

#### Yogyakarta Principles

Self-declaration is strongly supported by international human rights frameworks, including the Yogyakarta Principles. The Yogyakarta Principles were created by international human rights experts as a guide for UN member states on international legal human rights standards on sexual orientation and gender identity.

Principle 31 states that everyone, regardless of their sex, gender, sexual orientation, gender identity or sex characteristics has the right to legal recognition and access to identity documents that are true to their self. It calls on member states to ensure access to a quick, transparent and accessible mechanism to change names and gender identity.

To be in full compliance with the Yogyakarta Principles, we recommend that the Scottish Government removes both the 3-month period where a trans person would have to declare they have lived in their 'acquired' gender and the 3-month period. To ensure accessibility, the fee for a GRC should also be removed or significantly reduced, as this would be an unfair burden on young people and those facing financial hardship.

LGBT Youth Scotland looks forward to working constructively with the Scottish Government and our partners to find a progressive path forward and the best

outcome for trans young people – and hope that legislative reform will be truly world leading good practice that we can share with colleagues around the world.

References:

[3] National LGBT Survey Research Report, Annex 3: Characteristics

[4] Lough Dennell, BL, Anderson, G and McDonnell, D (2018) Life in Scotland for LGBT Young People. LGBT Youth Scotland.

[5] Ibid

[6] Ibid

[7] Ibid

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

Yes

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

Draft Child Rights and Wellbeing Impact Assessment (CRWIA) (Annex G)  
LGBT Youth Scotland supports the CRWIA and acknowledges its development is in line with the UNCRC as noted in our answer to Question 4. We agree that the draft bill aims to recognise that lowering the age of obtaining a GRC to age 16 'is in line with the age at which children and young people acquire a number of rights' (section 3.2).

As noted in our response to Question 4, our research [8] highlights the prevalence of poor mental health, suicidal ideation and self-harm amongst trans young people. Section 4.4 of the impact assessment also identified that there is evidence that young people are more than twice as likely as non-trans people to be diagnosed with depression (50.6% compared to 20.6%) and with anxiety (26.7% compared to 10%).

Following our consultation with around 200 LGBT young people we believe that reform of the Gender Recognition Act including lowering the age of applying for a GRC to 16 could clearly assist in improving trans young people's mental health by increasing their legal protection, limiting the likelihood of being 'outed' to others and supporting their transitions into higher or further education or employment.

With regard to section 5.5 in the CRWIA, we disagree with the assertion that due to puberty children and young people may not be 'clear' about gender or sexuality. Firstly, sexuality is not a factor that should be considered in relation to this discussion of gender. Secondly, it was clear from our consultation with young people that many were very sure of their gender identity and from a very young age. Young people going through puberty are also already able to make significant decisions under Scots Law including instructing a lawyer from age 12 – this therefore does not align with this assumption.

Overall, LGBT Youth Scotland strongly supports the Scottish Government's finding that lowering the age to 16 is in line with other rights of young people such as the right to marry or enter civil partnership.

Draft Equality Impact Assessment (EQIA) (Annex J)

LGBT Youth Scotland supports the findings of the EQIA. In particular we note:

- That the Scottish Government was unable to identify any evidence that trans women are more likely than cis women to sexually assault other women in women only spaces. LGBT Youth Scotland is not aware of any evidence that would support this assertion. Young people who use our services have called upon the Scottish Government to actively promote this finding as claims to the contrary are significantly impacting on how they go about their daily lives.
- The Scottish Government is unable to find any evidence supporting link between women-only spaces being infiltrated by men falsely claiming to be trans to commit sexual offences. LGBT Youth Scotland is unable to find evidence of men falsely applying for a GRC to access women-only spaces, and young people have called upon the Scottish Government to highlight this finding.
- Sexual orientation: It has been claimed that children and young people face social pressure to come out as trans, rather than gay or lesbian. LGBT Youth Scotland is not aware of any empirical evidence that substantiates this claim. Our goal is to make Scotland the best place to grow up for lesbian, gay, bisexual, transgender and intersex young people – this means supporting all young people to explore who they are without prejudice and as well as listening to their views and taking them seriously. What is clear is that Scotland has taken many steps to ensure that people are able to live openly and comfortably in sexual orientation. However, there are still significant gaps in legal protections in regards to trans people. Social attitude surveys [9] also highlight that attitudes towards transgender identities are also significantly poorer than those related to sexual orientation.

#### References:

[8] Lough Dennell BL, Anderson, G and McDonnell, D (2018) Life in Scotland for LGBT Young People. LGBT Youth Scotland.

[9] <https://www.equalityhumanrights.com/en/publication-download/research-report-27-trans-research-review>