

Portobello Against Misogyny

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 oppose the principle of self-declaration of sex. Sex is clearly defined in law, and women, as a group, have fought for and won rights and protections on the basis of sex. Unregulated access to the legal fiction of sex change, and to changing birth certification on that basis, puts everyone but especially women and girls at risk.

Legislation now allows for same-sex marriage, and the state pension age has been equalised, so the original need for legal sex change no longer exists. We think the Scottish Government needs to be upfront about why it considers that the GRA needs to be retained in any form.

The proposals open up the possibility of legal sex change to a much wider group of people than originally intended. We think this is deserving of far greater debate than has happened. No rationale has been given, and we do not accept that the current GRC process is demeaning or intrusive: evidence discussed in a paper summarised here suggests that "the process is adequately, efficiently and professionally serving the population it was designed for".

<https://medium.com/@MForstater/long-slow-demeaning-intrusive-and-distressing-or-swift-professional-and-efficient-e100f2fb41f8>

We are not convinced by the requirement to "live in the acquired gender". There is no explanation of what this would entail. The phrase is vague and obfuscating and should not be enshrined in law. It cannot be a substitute for proper medical evidence, collected over time, to ascertain that individuals have a medical need to live as though they were of the opposite sex. Three months is far too short to establish such a need.

Self-identification puts everyone at risk. Without a requirement for medical evidence, an individual seeking to change their legal sex may thereby have no objective professional with whom to talk about their intentions and any other underlying causes. And without gatekeeping, women are at risk from men who may seek to abuse the system.

Since self-identification is the basis for the proposals, we think the Bill should be rejected in full.

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 oppose the principle of reducing the time taken overall to obtain a GRC. We think that medical evidence is essential, and that evidence needs to be collected over time, with at least two professionals involved. As already stated, this protects both the individual seeking a legal change of sex, and the wider public (especially women and girls).

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.:

There has recently been a massive increase in child and adolescent referrals to Gender Identity Services, and the rise is unexplained. Dr David Bell, speaking in the Scottish Parliament on March 5th 2020, said that for political and ideological reasons, children and adolescents with complex difficulties are typically affirmed in their belief that they have somehow been born in the wrong sex, and other associated difficulties are not investigated, or investigated less thoroughly than they should be. He discussed evidence that children and young people are put on a path to medical intervention which will have serious long-term consequences (such as vaginal atrophy when females take testosterone) at an age when they cannot possibly understand or anticipate those consequences.

Reducing the age at which adolescents can apply for a GRC to 16 is likely to exacerbate this problem. The children and adolescents currently presenting at gender identity clinics will be the first to be eligible to apply for a GRC should the proposals become law. They are likely to have been uncritically affirmed in their belief that they should be of the opposite sex. They are also disproportionately likely to be experiencing other social and emotional difficulties, or be on the autistic spectrum, or be lesbian or gay. We need far more research and a better understanding of this complex group of young people before we consider changing the law to make a GRC available to younger adolescents.

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

Yes

If yes, please outline these comments.:

We believe the Bill should be rejected in its entirety. The Scottish Government has asserted that it is a minor administrative change that will make life easier for trans people without affecting anyone else. We disagree. The Bill is underpinned by a new, unproven view of what it is to be a man or a woman. It is driven by an ideology which we consider deeply regressive and misogynist.

Legalising gender recognition on the basis of self-declaration would institutionalise the principle that gender identity (one's inner sense of maleness or femaleness) is the determinant of sex, rather than the other way round. Such principles are now commonly promoted in workplace training by publicly-funded groups such as Scottish Trans Alliance. They draw on regressive stereotypes about what it is to be (or "live as") a man or a woman. One of the most commonly-used slogans by those who promote ideology based on such principles is "Trans women are women: this is not a debate". What they mean by this is that any male-bodied person who declares themselves to be a woman is indeed a woman, that they are instantly entitled to women's sex-based rights and protections, and that voicing any concerns about this perspective is transphobic bigotry which must be shouted down.

It is unclear from the discussion paper how far along this ideological route the Scottish Government has travelled. Whilst there are obvious dangers in using 'slippery slope' arguments, we believe they are relevant here. The original GRA was intended as a pragmatic response to particular anomalies experienced by a small, clearly-defined group of people with an objectively assessed medical need to transition. The Scottish Government now proposes to amend the provisions of the Act so that it provides an entitlement to legal sex change for anyone who subjectively feels that they need to live in the opposite sex. It has not discussed

this change in purpose, and has pretended it does not exist by presenting the current consultation as a minor administrative matter. This does not inspire trust that the current proposals will be the last. The consultation paper refers to the Yogyakarta Principles, which (in a section not quoted by the Scottish Government) calls for the end of any recording of sex. If this is where the Scottish Government is heading, it would mean the end of any rights pertaining to women on the basis of sex.

We live in a sexist society. If we cannot name sex, we cannot see or address sexism. If we cannot talk about women as a sex class, unambiguously, knowing who we mean, we cannot campaign for or achieve women's rights and progress. This is misogyny in action. The proposed Bill is rooted in an ideology that enables men to appropriate women's rights whilst appearing progressive. It is not progressive. It should be rejected.

In its place, the Scottish Government should launch an evidence-based enquiry into the single-sex exemptions which are increasingly misunderstood, and not being applied. Once the Scottish Government has a better understanding of how the single-sex exemptions are working, it can look again at gender recognition reform, with no options off the table, with the joint intention of protecting trans and gender non-conforming people, and protecting women.

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

Yes

If yes, please outline these comments.:

The draft Impact Assessments are not fit for purpose. They lack rigour and do not properly examine the adverse impacts for women, for lesbian and gay people, and for children.