

Scottish Green Party

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 are not convinced of the need for the 3 month period in principle, however we recognise that the current delay before applying for a GRC is unacceptably long, and any reduction is welcome. Reducing this from 24 months to 3 months would significantly reduce an unnecessarily protracted process for people seeking a GRC.

The removal of the requirement for a psychiatric diagnosis and medical evidence is also a welcome change, which will enable trans people to make a GRC application without stressful, burdensome and unnecessary steps, which many people have described as humiliating.

We agree that altering the application process so that this is administered through the Registrar General for Scotland and not a Gender Recognition Panel is a positive move towards empowering individuals over their gender identity and not subjecting people to needless stress and investigation.

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.:

Taken together the 3 month period before applying for a GRC, the time taken to process the application and the 3 month reflection period still amount to a significant delay in the process, and we are not aware of clear evidence justifying this period of time.

Most countries currently operating a system of gender recognition comparable to that proposed by the Scottish Government do not include a requirement for this period of reflection. It does not appear that the Government has a clear rationale either for requiring a period of reflection, or for setting it at 3 months. In the absence of such a rationale, it appears arbitrary.

If a period of reflection does form part of the Bill as introduced, we would make the case for a mechanism to allow it to be waived in circumstances where there is particular urgency.

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 a reduction to 16. We are open to including those under 16 with parental consent.

16 year olds in Scotland have significant autonomy in important life choices, such as the right to vote, to give sexual consent, to enter into marriage or civil partnership, and to give consent to medical treatment. We believe that this is an appropriate age at which people should be able to seek recognition for their gender identity.

There are also reasons why a higher age threshold could leave young trans people at a significant disadvantage, if the absence of a GRC means that their birth

certificate is inconsistent with other documents which they are currently able to change, such as passports. It would be unreasonable for the law to forbid them from resolving such inconsistencies at the very time when young people are embarking on other life changes such as higher education, employment or living independently.

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

Yes

If yes, please outline these comments.:

We understand that the Scottish Government has established a working group to report on legal gender recognition for people who have a non-binary gender identity. We welcome the Government's desire to listen to the voices of non-binary people and to learn from policy internationally.

We are however disappointed that action is not being taken now to provide legal gender recognition to non-binary people. We believe that this Bill provides an opportunity to do so, and we urge the Government include such provisions.

We note that the current arrangements include a £140 fee to apply for a GRC, and we believe that this is inappropriate. We are strongly of the view that there should be no fee involved. There should be no deliberately imposed financial costs on trans people which clearly are not imposed on the rest of the population.

Our Co-Leader Patrick Harvie MSP participated in a political hustings debate organised by a range of organisations from Scotland's LGBT+ community in the run-up to the 2016 Scottish Parliament election. During that debate strong commitments were made by all parties, including by First Minister Nicola Sturgeon, regarding this Bill. These commitments gave great confidence to the community, and in particular to trans and non-binary people, that their concerns were understood and that progress would be made.

We believe that the strong impression was given to everyone present not only that legislation to improve the GRA would be passed during this parliamentary session, and that it would include recognition for non-binary people, but also that leadership would be given by all political parties.

It is deeply regrettable that a significant amount of misinformation and prejudice has been generated around this legislation, and that elected politicians have been responsible for this with apparently no consequences. We do not believe that this would have been considered acceptable in relation to a minority ethnic group, a religious group, or others with a protected characteristic.

We would urge the Government to proceed with this legislation as promised, and to ensure that people in Scotland are given clear, honest information about its true effects so that they are not left relying on the misleading claims made by those campaigning against trans people's legal equality and human rights.

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

Yes

If yes, please outline these comments.:

We note the findings of the EQIA, and chapter 5 of the consultation, which clarify that the Bill will have no negative impact on the rights of women. These issues have been discussed at length by our Women's Network, which has members and activists from across Scotland, and the proposals in the Bill have their strong support. We also welcome the support which has been shown by a range of other respected women's and feminist organisations in Scotland, many of which have

been trans-inclusive for a considerable time.

We believe that the Child Rights and Wellbeing Impact Assessment is unclear about the rationale for the Government's position on children under 16, and we would seek clarity on this.

We question whether the requirement for applicants to be ordinarily resident in Scotland could result in unfair treatment of some asylum seekers, refugees and others with unclear immigration status. We would encourage the Government to look further at this aspect.