



Scottish LGBT+ Sector submission to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IE SOGI) in advance of his country visit to the United Kingdom of Great Britain and Northern Ireland

This is a joint response from several organisations which represent the LGBT+ community in Scotland: [LGBT Health and Wellbeing](#), [LGBT Youth Scotland](#), [LEAP Sports Scotland](#), [Stonewall Scotland](#), [Time for Inclusive Education](#) (TIE), [Equality Network](#), and [Scottish Trans](#).

We greatly appreciate the IESOGI taking the time to visit, especially at a time when many in our community feel that we are “moving backwards” in terms of public opinion on, and support of progressive legislation for, LGBT+ people.

While many of the issues covered below are UK-wide, we have tried to provide as much information and context as possible that is specific to the experiences of LGBT+ people in Scotland.

Priority issues and concerns

The UK Government’s block of the Gender Recognition Reform (Scotland) (GRR) Bill

Last December, the Scottish Parliament passed the [GRR Bill](#) with overwhelming cross-party support. The Bill would reform the process of legal gender recognition in Scotland, moving from [a bureaucratic method with high evidence requirements](#) (including a psychiatric diagnosis of gender dysphoria) to a [simple system of self-declaration](#). GRR would bring Scotland closer in line with best practice on legal gender recognition as underpinned by international human rights standards, and extend legal gender recognition to 16 and 17 year olds.

In January, the UK Government used an order under Section 35 of the Scotland Act 1998 to prevent the Bill from gaining royal assent, essentially leaving reform in legislative limbo. The block came with little prior communication from the UK Government about their issues with the Bill, and few opportunities for productive engagement since. One of the [main justifications for the block](#) was that having a different system for obtaining legal gender recognition in Scotland to the rest of the UK is undesirable, despite gender recognition being devolved to the Scottish Parliament, and some differences in the regimes already existing.

The unprecedented use of the Section 35 order also casts a doubt over any future progressive LGBT+ legislation passed at the Scottish Parliament which is not also agreed upon by Westminster, particularly any legislation which seeks to advance the rights of trans people.

Trans healthcare

A huge issue affecting the trans community across the UK is a lack of timely access to gender affirming healthcare. This is the result of both a lack of adequate funding for gender identity services, and an outdated service delivery model overly reliant on psychiatrists and psychologists in specialised Gender Identity Clinics (GICs). Internationally, modernised models use multi-disciplinary teams with greater involvement of primary care and local healthcare providers. The [Sandyford Clinic in Glasgow](#) has one of the longest waiting times for a GIC in the UK, with adults currently waiting almost five years for their first appointment and young people around four years, both well over the National Health Service's (NHS) target of 18 weeks between referral and treatment.

In 2021, the Scottish Government [pledged £9million over three years to transform specialist gender identity care](#), including plans to reduce waiting times, support those still waiting, and trial new approaches to delivering these services. However, waiting times continue to increase, and trans people are [faced with the difficult decision](#) of whether to spend years on an NHS waiting list, or hundreds of pounds to access private healthcare.

In the wake of the [interim Cass report](#) last year and the scheduled [closing of the Tavistock GIC](#) in England, trans people are also very concerned about the future of gender affirming care available on the NHS, especially for trans young people.

Increase in anti-LGBT+ hate crime

A [report from Police Scotland](#) shows that recorded hate crimes against trans people in Scotland rose by 68% in 2022 compared to the previous year, and hate crimes based on sexual orientation by 10%. We know that many in our community do not report hate crimes due to a lack of confidence in the police, and therefore the levels of hate experienced by the community is likely to be even higher than reported. Last year LGBT Youth Scotland found that [just 17% of young people](#) surveyed would feel confident in reporting a hate crime to the police.

This rise in hate crime comes amid a 'culture war' in which trans people have suffered intense demonisation. We are seeing increasing anti-LGBT+ sentiment in the media, online, and from celebrities and politicians, translating into a real fear of engaging in public life for the LGBT+ community in Scotland.

Currently, the Scottish Government are developing their new Hate Crime Strategy following [an updated Hate Crime Act in 2021](#). This new Act updates the definition of "transgender identity" and adds a "stirring up of hatred" offence to all characteristics.

The new strategy has been developed in collaboration with LGBT+ organisations, and carefully considers lived experience. Publication is expected later this month.

Ending conversion practices

In 2021, following a [petition to the Scottish Parliament](#), the Parliament's Equalities, Human Rights and Civil Justice Committee [took evidence from the LGBT+, human rights and faith sectors](#) on how the Scottish Government could end conversion practices.

In 2022, the Scottish Government [formed an Expert Advisory Group](#) which [produced guiding principles and recommendations](#) on what a potential bill to end conversion practices in Scotland should include. The group also [produced a report on experiences of conversion within communities of colour and minority ethnic faith communities](#) to ensure that diverse experiences of conversion were understood. These reports focused on the need for effective civil and criminal measures, education, awareness, and support for survivors and those at risk of conversion practices.

We currently await the final consultation on the Scottish Government's policy position on conversion and aspects of the new bill, but the date for this consultation is uncertain due to delays and complicated by the election of a new First Minister.

LGBT+ human rights

The Scottish Government [intend to introduce a Scottish Human Rights Bill](#) which will incorporate several international human rights treaties into Scottish legislation. LGBT+ people have no explicit protections within these treaties, and so we are working alongside the Civil Society Working Group to explore options that would ensure the adequate protections of LGBT+ people in Scotland without these explicit protections elsewhere.

This work is complicated by the UK Government's recent section 35 order, their previous blocking of Scottish incorporation of the UNCRC, and their own "Bill of Rights" which seeks to reduce the protections citizens enjoy from international treaties. We would be keen to hear your insight on how other countries have protected LGBT+ people within domestic law, and how this may inform the process here.

Intersex/VSC rights

Work on the human rights of people who are intersex/ have variations of sex characteristics (I/VSC) is limited in Scotland, and much more needs to be done. In 2018 the Scottish Government [committed to delivering a consultation on the experiences of those with an I/VSC](#), but this has never materialised. Similarly, they also committed to give careful consideration to I/VSC within plans for inclusive

education in new [relationships, sexual health and parenthood education guidance](#), but this too has not appeared despite being intended for summer last year.

While we have seen positive I/VSC inclusion in hate crime legislation in Scotland, we have seen no other developments to improve the lives or protect the human rights of those with an I/VSC. We also anticipate some issues in the implementation of this inclusion within hate crime as reporting is based on the perception of the perpetrator, not the actual identity of the victim, and we do not expect that many perpetrators would knowingly “perceive” an individual as having an I/VSC.

LGBT+ mental health

We know that many LGBT+ people in Scotland experience poor mental health, with discrimination often being a causal factor. In December last year, 59% of surveyed LGBT+ people who accessed services from LGBT Health and Wellbeing noted that self-harm is an issue for them personally, with this figure rising to 95% for people with an I/VSC or who are asylum seekers. [77% of young people](#) surveyed by LGBT Youth Scotland last year said they experienced anxiety, and 54% depression. Public Health Scotland’s [recent LGBT Health Needs Assessment](#) also found that 73% of respondents said they felt isolated from friends and family.

Following extensive engagement, the Scottish Government’s Mental Health directorate is [currently developing a new Mental Health and Wellbeing Strategy for Scotland](#), due for publication soon. This new strategy has equalities, human rights and intersectional lived experiences at its core, and considers those who are disproportionately affected by poor mental health and the long term effects of minority stress. The Mental Health directorate is also developing a new [Suicide Prevention Strategy and Self Harm Strategy](#), and a new programme called [Time, Space, Compassion](#) which seeks to improve the experience of services for those in acute crisis. The LGBT+ sector and those with lived experience have been heavily involved in these strategies.

Trans people in custody

The Scottish Prison Service (SPS) is reviewing its [policy on the management of trans people in custody](#). In recent months, there has been a sustained public and media focus on the treatment of trans people in prisons, and the UK Government [recently changed its policy](#) to require ministerial sign off before a trans woman who has not had genital surgery can be held in the female estate.

Our view is that decisions on where trans people in custody are housed should be determined by an individual risk assessment that focuses on the facts of each case. This should consider everyone’s safety, including the safety of the trans person themselves. We are concerned that the intense media and political focus on individual cases of sexually violent trans people risks further stigmatising the trans community in Scotland, and influencing the outcome of the review of the SPS policy. This could result in an increased risk to the safety and wellbeing of trans people in custody.

Inclusive education

LGBT+ Inclusive Education proactively addresses prejudice and bullying by incorporating the lives and experiences of LGBT+ people within teaching and learning at school. This can prevent stereotypes and stigma from arising, and allows young people to see themselves and their families reflected in their learning. In 2018, the Scottish Government accepted [33 policy recommendations made by education stakeholders](#) and became the first country in the world to adopt this approach.

In 2021, the Scottish Government began implementing LGBT+ Inclusive Education, including the launch of the platform [lgbteducation.scot](#) which hosts teaching resources and guidance for teachers, parents and carers. This was developed by [Time for Inclusive Education](#) (TIE), which also delivers a national two stage professional learning course for teachers on behalf of the Scottish Government. Other organisations such as [LGBT Youth Scotland](#) and [Stonewall Scotland](#) are also involved in work delivering inclusive education and representing the interest of LGBT+ young people.

To date, 27 of 33 policy recommendations have been wholly or partly delivered and there is a national expectation that all local authority managed schools are incorporating LGBT+ themes within their curriculum. Work to deliver outstanding recommendations is underway, and evaluation of initial implementation shows positive outcomes for teachers and learners in schools.

Schools in Scotland now have more resources and opportunities available to them to improve the educational experience for LGBT+ young people, and are supported by the Scottish Government in this. Within a cultural climate where LGBT people+ are faced with disinformation and prejudice, it is important that this work is maintained nationally. LGBT+ school pupils still report experiences of prejudice and bullying, and so the implementation of LGBT+ Inclusive Education must continue at pace in order to support all schools to effectively embed it into their own approach.

Sports

The UK's Sports Councils published their [Guidance for Transgender Inclusion for Domestic Sport](#) in September 2021. As a direct result, Sports Governing Bodies are reviewing their gender participation policies, often arriving at [trans exclusionary conclusions based on no or little evidence](#). These exclusionary policies are detrimental to the participation of trans people in sport, as well as the wider LGBT+ community who are already [facing barriers to participation](#).

The [LGBT+ Health Needs Assessment](#) found that large sections of LGBT+ people wished to participate in physical activity, but did not do so. [LEAP Sports](#) contributed to the 2019 [Outsport report](#) which outlined that 82% of LGBT+ people have witnessed or experienced homophobia or transphobia in sport in the last 12 months, with 40+% of trans people who disclosed negative experiences in sport having experienced physical abuse or violence. Based on the evidence, furthering inclusion

and participation of LGBT+ people in sport must be the priority, rather than a question of eligibility as prescribed by the [SCEG guidance](#). LEAP continues to work with partners towards this goal.

Suggestions of civil society actors and/or Government officials to meet during the country visit

As Scottish LGBT+ organisations, we would be more than happy to organise a roundtable session with the IESOGI to discuss some of the issues covered above, or any that arise during his visit. We would be able to host this in person in Glasgow or Edinburgh, or online if that is preferable.

We could also provide opportunities for the IESOGI to meet with LGBT+ people living in Scotland in small groups. If there are any particular issues or Scottish LGBT+ perspectives that the IESOGI would like to hear from, we would be happy to facilitate this.

By the time of the IESOGI's visit, Scotland will have a new First Minister, and if they are available during his visit we would strongly recommend that the IESOGI meets with them, or their Cabinet Secretary for Social Justice, or Minister for Equalities.

Candidates' views on gender recognition reform and LGBT+ rights more broadly have already been a prominent feature of the initial debate in the race for the next First Minister, with many in the community concerned about the majority of candidates taking an anti-GRR stance. Results will be announced on March 27th.

We hope that whichever candidate is successful would be happy to meet to discuss their vision for advancing LGBT+ rights in Scotland in the future, and continuing the crucial work of the current SNP-Green Government.

We have also asked candidates to confirm their support for five existing LGBT+ commitments of the SNP-Green Government, which you [can read more about here](#).

Recent analytical reports or surveys

Savanta (2022) [BBC Scotland Gender Recognition Act Poll – 17 February](#)

Public Health Scotland (2022) [Health needs assessment of lesbian, gay, bisexual, transgender and non-binary people](#)

Equality Network (2021) [LGBTI Equality Manifesto '21-'26](#)

LGBT Youth Scotland

(2022) [Life in Scotland report](#)

(2023) [Life in Scotland Education report](#)

Scottish Government

(2023) [Police recorded hate crime](#)

(2022) [Expert Advisory Group on Ending Conversion Practices: report and recommendations](#)

(2022) [Non-binary Equality Working Group: report and recommendations](#) & [Scottish Government response](#)

For any further information or enquiries please contact [redacted]