



Understanding: The Women and Equalities Select Committee's

“**Reform** of the Gender Recognition **Act**” Inquiry



Introduction

This is a guide to help inform people should they wish to respond to the Women and Equalities Select Committee's inquiry.

It is drafted in a way to guide and support the reader to feel equipped and empowered to respond, in their own words, to the current inquiry, which has a deadline of **27 November 2020**.

Please note this guidance is in font Bree Sarif Size 10. Please contact 0808 801 0400 or email info@mermaidsuk.org.uk should you need it reading out to you, or need a copy in larger font



You can find the link to the inquiry here: [Reform of the Gender Recognition Act 2004 Inquiry](#)

The deadline to submit evidence by is 27th November 2020

BACKGROUND INFORMATION

Already know the background? Jump to 'HOW TO GIVE EVIDENCE' and Question Guidance from Page 4!

What is the inquiry?

- The [Women and Equalities Select Committee](#) (**'WESC'** or **'the Committee'**) is asking the public to offer their thoughts on **the Government's response to the GRA reform** consultation for England and Wales. It also wants to know if more needs to be done to support the trans, non-binary and gender-diverse communities.
- The purpose of the inquiry is to examine the work of the Government Equalities Office. The information obtained can be used to hold the Government to account.

What is the Women and Equalities Select Committee?

- The Women and Equalities Select Committee is a cross-party committee of MPs appointed to scrutinise the Government on equality matters.
- The Committee examines the work of the Government Equalities Office (**'GEO'**).
- It holds the Government to account on equality law and policy, including the Equality Act 2010 and cross-Government activity on equalities.



How is this inquiry different from the GRA Consultation for England and Wales?

- The Gender Recognition Act **2004 public consultation ('GRA Consultation') for England and Wales** brought by the Government Equalities Office (which is different to the Women and Equalities Select Committee) ran from July to October 2018 **in response to the Committee's [Transgender Equality](#)** report which was published in 2016.
- The GRA Consultation was a way for the Government Equalities Office to hear from the wider public on what they felt the GRA reforms should include.
- The Government Equalities Office's Consultation was responded to by over 100,000 individuals and organisations and the Government Equalities Office [committed to making](#) only a few small, yet positive, reforms to the GRA 2004 in September 2020. See our full response to the Government Equalities Office's **response**, [HERE](#).
- This inquiry is the Women and Equalities Select Committee asking the public their opinion on the Government Equalities Office's work. (Confusing, we know!)



How Can I 'Give Evidence'?

- **You can submit your 'evidence' (i.e. your answers to the questions)** via the Government website [HERE](#).
- Your evidence is the written responses to these questions.
- There are 16 questions you can respond to.
- You can respond to as many or as few questions as you like.
- **You don't have to live in England or Wales to respond** to the questions.
- Should you wish to respond, please see [this link](#) which sets out how to format your response.
- Ten of these questions focus exclusively on the Gender Recognition Act 2004 (**'SECTION 1'**).
- The remaining six are much broader in scope (although two are still related to the GRA) (**'SECTION 2'**).
- We, below, provide guidance in relation to what you may wish to address in a response to each question.
- We always encourage people to provide their own, personal lived experience to a submission should they feel comfortable and safe in doing so.
- Please ensure you write your submission anonymously should you not wish you/anyone mentioned to be identifiable. Written submissions from anyone aged under 18 will be automatically anonymised.

The Questions

SECTION 1

Question 1: *Will the Government's proposed changes meet its aim of making the process "kinder and more straight forward"?*

- See the 'proposed changes' [HERE](#)
- In short, the Government announced that it would be moving the process of applying for a **Gender Recognition Certificate (GRC) online and the fee will be reduced from £140 to "a nominal amount"**.



- **YOUR SUBMISSION:** Here, you can write about whether you think these proposals are adequate and whether you think more can be done to reform **the GRA to make it 'kinder and more straight forward'**.

Question 2: *Should a fee for obtaining a Gender Recognition Certificate be removed or retained? Are there other financial burdens on applicants that could be removed or retained?*

- The Government has announced the fee will be reduced **from £140 to a "nominal amount"**.
- There has **been no clarification to date on what 'nominal amount' means specifically**.
- **YOUR SUBMISSION:** Here, you can write about whether you think there should be a fee to the application at all. If you think there should be, how much do you think it should be? What should **'nominal' look like to you? You can also offer** your thoughts on other financial difficulties that can arise as a result of the GRA process and whether reform could help with these.

Question 3: *Should the requirement for a diagnosis of gender dysphoria be removed?*

- Currently, the process for obtaining a Gender Recognition Certificate (GRC) requires the applicant to evidence a diagnosis of gender dysphoria.
- To prove gender dysphoria, reports must be submitted from two registered medical practitioners, and at least one of the practitioners must practice in the field of gender dysphoria (alternatively, a registered psychologist practising in this field can also submit a report).
- **YOUR SUBMISSION:** Here, you can write about whether you think it is right that trans people should have to fulfil such medical requirements in order to obtain legal gender recognition.

Question 4: *Should there be changes to the requirement for individuals to have lived in their acquired gender for at least two years?*

- **Currently, the GRA requires a trans person to provide evidence that proves they 'have lived in their acquired gender' for at least two years.**
- This means that a trans person must send evidence to show that they have been living as either a man or a woman at least two years.
- Common examples of items you can include are: Passport; Driving licence (both counterpart and photo ID parts); Payslips or HM Revenue & Customs (HMRC) documents such as a P60 or P45; Utility Bills; Bank statements; Letters from employers, colleges, universities, doctors or other professional organisation; Student loan documents; Academic certificates or documentation. (This is not a definitive list.)



- **YOUR SUBMISSION:** Here, you can write about whether you think this requirement is a good thing or not, together with your reasons why.

Question 5: *What is your view of the statutory declaration and should any changes have been made to it?*

- **Currently, the process under the GRA requires a trans person to submit a ‘statutory declaration’ of their intention to live in their acquired gender ‘until death’.**
- A statutory declaration is a form statement made affirming that something is true to the best knowledge of the person making the declaration. It has to be signed in the presence of a solicitor, Commissioner for Oaths or notary public, usually for a fee.
- **YOUR SUBMISSION:** Here, you can write about whether you think the requirement of a statutory declaration is a good thing or not and your reasons why.

Question 6: *Does the spousal consent provision in the Act need reforming? If so, how? If it needs reforming or removal, is anything else needed to protect any rights of the spouse or civil partner?*

- Broadly, currently a married/civil-partnered trans person who wants to obtain a Gender Recognition Certificate must either obtain the consent of their spouse, or end their marriage/civil partnership. This provision is often called the, **‘spousal veto’**.
- **YOUR SUBMISSION:** Here, you can write about whether you think this requirement is a good thing or not and your reasons why.

Question 7: *Should the age limit at which people can apply for a Gender Recognition Certificate (GRC) be lowered?*

- Currently, you must be 18 and over to apply for a GRC.
- This excludes all binary-trans people under the age of 18 from being able to get legal recognition of their gender identity, despite the fact that many 16 and 17 year olds can obtain passports and driving licences with the correct gender marker on.
- **YOUR SUBMISSION:** Here, you can write about whether you think the current age limit is a good thing or not and your reasons why.

Question 8: *What impact will these proposed changes have on those people applying for a Gender Recognition Certificate, and on trans people more generally?*

- **The ‘proposed changes’ are the changes referred to in the GEO’s [response](#)** (see Question 1).



- **YOUR SUBMISSION:** Here, you can write about what, if any, impact the proposed changes will have on those who may want to apply for a Gender Recognition Certificate. It also gives you an opportunity more broadly to explain whether you think the changes would impact trans people more generally.

Question 9: *What else should the Government have included in its proposals, if anything?*

- **The 'proposals' are the changes referred to in the GEO's [response](#)** (see Question 1).
- **YOUR SUBMISSION:** Here, you can write about what else you think the Government could have included in proposed changes to GRA, if anything. If you can, explain why these are important to you.

Question 10: *Does the Scottish Government's proposed Bill offer a more suitable alternative to reforming the Gender Recognition Act 2004?*

- **The Scottish Government's proposed [Bill](#)** (the Gender Recognition Reform (Scotland) Bill) proposes the following:
 1. **to reduce the requirement of 'living in your acquired gender' from 2 years to 3 months**, with an additional reflection period of 3 months, so overall reducing the current requirement to 6 months;
 2. to lower the age a person can obtain a GRC from 18 to 16 years old;
 3. to abolish the current requirements for medical evidence to be submitted to a Gender Recognition Panel, and instead relies on a **system of 'statutory declaration'** (see question 5).
- The Bill does not extend access to obtaining a GRC to those under the age of 16, or to non-binary individuals, who continue to be excluded from accessing legal gender recognition.
- Further information around the Scottish Government Reform Bill proposals can be found [here](#).
- **YOUR SUBMISSION:** Here, you can write about whether you think the Scottish proposals are better than the ones within the **GEO's [response](#)**, for England and Wales. Give reasons where you can.

SECTION 2

Question 11: *Why is the number of people applying for GRCs so low compared to the number of people identifying as transgender?*

- The [National LGBT Survey](#) (2018) published found that only 12% of trans respondent who had **'started or finished transitioning' had a Gender Recognition Certificate (GRC)**.



- **YOUR SUBMISSION:** Here, you can write about why you think so few trans people are applying for a GRC.

Question 12: *Are there challenges in the way the Gender Recognition Act 2004 and the Equality Act 2010 interact? For example, in terms of the different language and terminology used across both pieces of legislation.*

- **'Gender Reassignment' is a protected characteristic under the [Equality Act 2010](#)**, which is the main piece of legislation that protects **those with a 'protected characteristic'** from unlawful discrimination.
- **Under the Equality Act**, *“A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex”.*
- The [Gender Recognition Act 2004](#) is the piece of legislation that covers the process by which trans people can change the gender marker on their birth certificate to match their gender identity, subject to a certain criteria.
- The protections provided **for those with the protected characteristic of 'gender reassignment'** under the Equality Act 2010 are not dependent upon the individual having changed the gender marker on their birth certificate.
- **YOUR SUBMISSION:** Here, you can write about whether you think the GRA 2004 and the Equality Act 2010 interact and if you do, whether you think this interaction brings challenges. You can also refer to specific pieces of language either or both Acts use.

Question 13: *Are the provisions in the Equality Act for the provision of single-sex and separate-sex spaces and facilities in some circumstances clear and useable for service providers and service users? If not, is reform or further guidance needed?*

- The Equality Act 2010 protects trans individuals from unlawful discrimination, harassment **and victimisation (on the basis that they have the protected characteristic of 'gender reassignment')**.
- The Equality Act 2010 also allows certain service providers to legally discriminate against a **trans individual if such a decision can be shown to be a 'proportionate means of achieving a legitimate aim'**.
- **YOUR SUBMISSION:** Here, you can write about whether you think the protections in the Equality Act 2010 are sufficient and whether you think further guidance is required to explain the current protections.



Question 14: *Does the Equality Act adequately protect trans people? If not, what reforms, if any, are needed?*

- **The Equality Act 2010 protects** “A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex” **from** unlawful discrimination, harassment and victimisation (on the **basis that they have the protected characteristic of ‘gender reassignment’**) in environments such as the work place, school, when accessing a public/private service etc.
- You will see that an individual does not have to have a Gender Recognition Certificate or to have gone through any form of medical intervention to be protected by the Act. Further, a person does not have to be 18 years old to be protected.
- **YOUR SUBMISSION:** Here, you can write about whether you think the Equality Act 2010 provides enough protection for all trans people, in its current form. See the full section [HERE](#).

Question 15: *What issues do trans people have in accessing support services, including health and social care services, domestic violence and sexual violence services?*

- **YOUR SUBMISSION:** Here, you can provide the Committee with an insight into the issues trans people face in daily life when accessing, or attempting to access, support services. This may include reference to access to healthcare, including public services and facilities, domestic violence and sexual violence services.

Question 16: *Are legal reforms needed to better support the rights of gender-fluid and non-binary people? If so, how?*

- Non-binary and gender-fluid people are currently excluded from accessing legal gender recognition in the Gender Recognition Act 2004. **There is also only a ‘male’ or ‘female’ option on** passports and driving licences.
- **YOUR SUBMISSION:** Here, you can write about whether you think there are further reforms that could happen to ensure non-binary and gender-fluid people feel their rights are supported in wider society. Explain with reasons, where possible.

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