

Mermaids' Response to 'The Elections Bill: Call for evidence' Inquiry

We use 'trans' as an umbrella term for those who are transgender, non-binary, genderqueer, genderfluid, agender, are of non-Western gender identities, and those who have a trans history.

Mermaids (Registered charity no.1160575) has been supporting trans children, young people up to the age of 19 (inclusive) and their families since 1995.

Mermaids is grateful for the opportunity to respond to this Inquiry within this context. Mermaids would welcome the opportunity to give oral evidence to this inquiry should that be of assistance to the Committee.

Our Response

Introduction

1. Our understanding is that the UK Government's plans to introduce a mandatory requirement for voters to provide photo identification documents (ID).
2. This is a cause of significant concern for many marginalised communities, including the trans community as there is a high risk possibility that it, if introduced, will act to indirectly disenfranchise many trans people in the UK.
3. This concern arises from that fact that although many trans people will have *some* form of ID, many will not have *representative* ID. By this we mean ID which states their correct gender identity and/or name and includes a photo that comfortably reflects their expression at any one time.
4. This will mean that the voter ID process will indirectly require many trans people to 'out' themselves in order to vote which can cause significant distress for the individual. Ultimately many trans people will be faced with a question: do I 'out' myself in order to vote, or not vote at all, to protect my privacy? This question, either way, infringes on an individual's rights, namely, an individual's right to privacy, as well as the right to vote.
5. Furthermore, insisting on a trans person using ID that may not be representative increases the risk of them being victim to discrimination and harassment. This will also discourage many trans people from choosing to use their vote.
6. It is vital to consider the fact that currently the UK does not legally recognise non-binary people, and therefore non-binary people are unable to access official ID which aligns with their gender identity. Therefore, non-binary people will not be able to vote as themselves, which may act to deter non-binary people of voting age to not utilise their vote.
7. Statistics [show](#) that electoral fraud in the UK is almost non-existent and therefore does not outweigh the adverse impact the voter ID process will have on marginalised voters, such as trans people, people of colour and others who will be disproportionately impacted.
8. In the next two sections of our response, we will be providing more context, expanding on the point raised above.
9. We provide the Committee with our recommendations at the end of our response.

Context

10. *Lack of Access to Representative ID*

- 10.1. There are a number of reasons why trans people are unable to and/or face difficulty in accessing *representative* ID. As explained above, although many trans people will have some form of ID, this ID will most often not be in their correct gender marker or name.

- 10.1.1. Mermaids conducted a short survey in response to this inquiry, to hear directly from trans young people (aged 16-25) about their experiences in accessing representative ID:
 - 10.1.1.1. Around **70 per cent** of respondents said they do not currently have a representative form of ID;
 - 10.1.1.2. Around **70 per cent** of respondents said they had difficulties previously in accessing ID (either representative or non-representative) due to the fees required.
 - 10.1.1.3. Around **30 per cent** of respondents said they *had* been treated differently, or harassed/bullied when presenting ID in the past. Around **60 per cent** said they felt they may have been treated differently or harassed/bullied.
- 10.2. If we consider the particular difficulties in changing a person's gender marker on official forms of ID, the legal gender recognition (LGR) process in the UK, prescribed within the Gender Recognition Act (GRA) 2004 which allows some trans individuals to apply for a new birth certificate with their correct gender marker, and therefore *legally* change their gender, is inaccessible for many people due to the binary, bureaucratic and medicalised model currently used. For example, the process laid out in the GRA requires that the applicant:
 - 10.2.1. Be 18 years old and above;
 - 10.2.2. Be able to identify within the gender binary, which [over half](#) of the trans population in the UK do not;
 - 10.2.3. Be able to 'prove' their identity to a panel of strangers they never meet;
 - 10.2.4. Be able to evidence their identity by way of medical reports;
 - 10.2.5. Have the consent of their spouse or civil partner
 - 10.2.6. To have had the opportunity of living as themselves for 2 years at least; and
 - 10.2.7. To have organised and paid for a statutory declaration.
- 10.3. To change the gender marker on a passport requires, for those without a Gender Recognition Certificate (GRC), a letter from a medical professional confirming their 'change of gender is likely to be permanent', and evidence of a change of name. Unfortunately, not every trans person has a supportive GP, nor do they necessarily have the money to pay for a change in detail. Add to this a process that is again heavily medicalised, it again becomes clear that many trans people will not have a Passport they are comfortable to use for identification purposes.
- 10.4. Many trans young people we support have difficulty in changing their name and/or gender marker on various forms of ID due to medical gatekeeping, no financial means and/or a lack of support.
 - 10.4.1. As we've explained above, the processes available to change someone's gender marker are often medicalised. For many trans people this means they are unable to access those processes because of the current inaccessibility of gender-affirmative healthcare. The healthcare system for trans people in the UK is heavily centralised and overstretched which produces extensive waiting times before accessing care. Trans people wait years to access the healthcare (including mental health support) they need via the NHS.
 - 10.4.2. The often medicalised process in order to access representative ID ultimately means that many trans people have to wait years before they're able to properly update their ID.
 - 10.4.3. A lack of support from family or relatives can mean that some trans people are unable to financially access ID as many young people are financially dependent on their families. There is also a lack of support, often stemming from a lack of awareness and outright

hostility, from wider society which results in further inaccessibility in obtaining representative ID for trans youth.

10.4.4. One young person explained they hadn't been able to access representative ID because:

'It costs money to change some forms of ID and changing gender markers are hard to do because you have to be far in transition', with another trans young person saying that 'Family acceptance has been tricky', and has therefore presented a barrier to accessing ID (Mermaids Survey response, August 2021).

10.5. At Mermaids, we receive a large number of enquiries on the difficulty of legally changing a person's name, which is meant to be a simple process. It's reasonable to expect similar difficulties to arise when trans people apply for the proposed Voter Card from their local authority. We believe this will be a potential barrier which will discourage more people from voting.

10.5.1. As one young person explained:

'My council have been very unhelpful and continuously refuse to take calls and appointments to discuss the changes with me. It is literally impossible.' (Mermaids survey response, August 2021)

11. No Access to Representative ID for Non-binary people

11.1. The UK does not currently legally recognise non-binary people, and therefore, there is currently no form of official, representative ID for non-binary individuals. This means that non-binary people, in order to vote, would have to misgender themselves and risk 'outing' themselves.

11.2. Non-binary people are those who do not identify as exclusively male or female. This is despite the fact that the [National LGBT Survey](#) found that half of trans respondents were non-binary, the same year that the government '[tentatively](#)' estimated that the trans population is between 200,000 and 500,000 people.

11.3. Non-binary people are not provided for within the GRA, and continue to be denied access to representative gender markers on passports. This means that many non-binary people do not have a form of identification that they are comfortable using. This is likely to result in a population of non-binary people not voting.

11.3.1. One young person said that:

'If the government were to require ID to vote, there should be necessary precautions to ensure that there is a neutral gender marker, and that they are easy to access in terms of price' (Mermaids survey response, August 2021).

11.3.2. Another respondent shared with us that they 'totally disagree[d]' with the idea of having to provide ID in order to vote. They further explained:

'[W]hy should someone have to know my sex for me to have a right to speak my opinion or even put a tick in a box to support others. My sex is totally irrelevant to all of this. As a non-binary young person, when I am of an age to vote, I don't want to be embarrassed or put off voting all because of the way I identify, there are enough struggles living as non-binary young person to add this into the mix.'

11.3.3. Another young person explained how:

'Providing ID to vote is discriminatory against working class people who can't afford it, and trans people who would feel embarrassed and humiliated having to present ID in the incorrect gender and/or name.'

12. **The Risk of Being 'Outed'**

- 12.1. There is a risk for those trans individuals who do not possess representative ID that they may be 'outed', especially if their gender expression is not perceived by others to align with their gender marker.
- 12.2. Having to 'out' themselves can cause trans people significant distress, and can place them in situations where they may be likely to face forms of discrimination or harassment. There is a hostile environment in the UK around trans people, which has been exacerbated by the open hostility and misrepresentation of trans lives in mainstream media.
 - 12.2.1. We know that transphobic hate crime is a serious problem in the UK; Galop's report on transphobic hate crime ([2020](#)) found that: 80 per cent of trans people have experienced hate crime in the last 12 months; 25 per cent of trans people have experienced physical assault or threat of physical assault; and 70 per cent of victims felt that the police could not help them.
- 12.3. If we consider the US context, in which a majority of the states require ID in order to vote, the [2015 US Trans Survey](#) found that a third of the people who showed ID which didn't match their gender presentation faced negative results such as harassment or even assault ([Guardian 2020](#)).
- 12.4. We believe it would be unacceptable to insist that trans people may have to put themselves in uncomfortable, and potentially unsafe situations in order to exercise their democratic right to vote.
- 12.5. If the individual is not 'outed', there is a risk that they will not be able to vote as their true selves. This can cause those with gender dysphoria to experience immense distress, and would deny others to feel the gender euphoria that may arise in being able to vote in their true gender.
- 12.6. It is entirely reasonable to expect that many trans people will decide not to vote at all to avoid putting themselves in an uncomfortable or unsafe situation, or to avoid feeling distress at being forced to vote under their gender assigned at birth and not their true gender.
- 12.7. Furthermore, even when trans people do show up to vote, with ID in hand, they may be turned away by officials if their presentation is not seen to align with their gender marker on their ID. As Gendered Intelligence and the Electoral Commission [explain](#), this can be for a number of reasons. For example:
 - 12.7.1. During trans people's transition, their appearance can often change, and due to lack of access to funds, they may be unable to update their ID accordingly. Trans people are less likely, (when compared to cis people), to be in employment due to the unfortunate presence of workplace discrimination and harassment (12 per cent of trans people have been physically attacked by colleagues or customers in the last year. Half of trans and non-binary people have hidden or disguised the fact that they are LGBT at work because they were afraid of discrimination – [Stonewall 2018](#)) and therefore are less likely to be able to afford photo ID, especially if they have to update photo ID often.
 - 12.7.2. Trans people often alter their appearance when leaving the house for their own safety and wellbeing (40 per cent of trans people adjust the way they dress because they fear discrimination or harassment. This number increases significantly to 52 per cent of non-binary people - [Stonewall 2018](#)). Therefore, someone's photo ID may portray a different

gender expression to what the official perceives, and may turn them away because of this.

13. If we consider trans people who also have another marginalised identity, they may be even more unlikely to have representative ID. The Electoral Commission's Evaluation in 2019 of the pilot Voter ID requirement found that those aged 18-34 were less likely to have heard about the pilots, and that similarly those from BAME backgrounds were less likely to have been aware of the ID requirement.
14. The disproportionate impact the Voter ID requirement will have across marginalised is best exemplified by the coalition of 18 leading civil society organisations who have [called for](#) these plans to be dropped. The groups included LGBTQ+ groups, Stonewall, LGBT Foundation, Gendered Intelligence, race equity groups such as Operation Black Vote, Runnymede and other organisations such as Traveller Movement, Migrants' Rights Network, Liberty.

15. ***Negligible rates of Electoral Fraud***

15.1. Whilst we understand that it's important for the government to act to ensure electoral fraud does not take place, statistics across the board have shown that electoral fraud occurs at negligible rates.

15.1.1. For example, Big Brother Watch, a civil liberties campaign group, [found](#) that 'voter impersonation is rare. Following the 2017 elections, which saw 44.6 million votes cast and the highest voter turnout at a general election for 20 years, there was only one conviction resulting from 28 allegations of in-person voter fraud'.

15.1.2. The Electoral Commission [found](#), in the 2019 general election, out of some 595 cases of alleged electoral fraud recorded by the policy, only 4 led to a conviction and a single person was given a police caution.

15.2. Therefore, it is clear that there is a clear risk that the purported benefits of a Voter ID requirement do not act to counterbalance the adverse impact the process will have on those marginalised communities. The statistics would suggest that a mandatory voter ID requirement would be a disproportionate response and on balance, create more problems than it would solve.

Our Recommendations

16. **We recommend that the mandatory Voter ID clause of the Election Bill 2021 be removed to ensure already marginalised groups are not further disenfranchised.**

17. **If mandatory voter ID is pursued, we recommend:**

17.1. **Gender-neutral ID;** and that

17.2. **The Voter ID application is based on the principle of self-determination:** a process based on self-determination would not include any medical requirements, nor an evidential requirement of lived experience, recognising that a trans person's gender identity is self-defined and is not to be determined by anyone other than the individual.

18. Mermaids would be keen to organise a roundtable with the Committee and trans young voters so that you can hear directly from them, should the Committee wish to explore assess this particular prospective impact.

31st August 2021

For more information, please contact:

Daminee Budhi (she/her), Legal and Policy Officer
Policy@mermaidsuk.org.uk