



LGBTIQ+ Greens
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GENDER RECOGNITION ACT CONSULTATION RESPONSE

The LGBTIQ+ Greens are pleased to release the following model answers to the Government's consultation into reforms of the Gender Recognition Act 2004. We have included model answers and talking points to all questions which are not person-specific.

WHAT IS THE GENDER RECOGNITION ACT?

The gender recognition act is the legislation which defines the process and eligibility for obtaining a gender recognition certificate in England and Wales.

WHAT IS THIS CONSULTATION?

This consultation seeks your views on how best to reform the process of changing one's legal gender. The consultation focuses on the Gender Recognition Act 2004. We are not proposing any amendments to the Equality Act 2010.

This consultation does not consider the question of whether trans people exist, whether they have the right to legally change their gender, or whether it is right for a person of any age to identify with another gender, or with no gender. Trans and non-binary people are members of our society and should be treated with respect. Trans people already have the right to legally change their gender, and there is no suggestion of this right being removed. This consultation simply asks how best Government might make the existing process under the Gender Recognition Act a better service for those trans and non-binary people who wish to use it.

WHAT IS THE DEADLINE?

The deadline to respond to the consultation is the 19th October 2018 at 11pm.

WHY IS THIS IMPORTANT?

This consultation is a great opportunity to change the law around trans identities and how trans people are treated by UK legislation. It is an opportunity to achieve recognition for non-binary gender identities, and to scrap the medicalisation of trans people seeking legal recognition of their gender. It is important to get as many responses as possible which support our key aims, which are in line with Green Party policy and the wishes of the trans community.

Question 3: Do you think there should be a requirement in the future for a diagnosis of gender dysphoria?

No

Please explain the reasons for your answer

Gatekeeping access to recognition of a person's gender identity removes autonomy from individuals, and shuts out those who cannot – for whatever reason – access the required medical services. For example, there is no GIC in Wales, and those in England can be hard to travel to and secure appointments at. It adds unnecessary delay and mental stress to the process.

Question 4: Do you also think there should be a requirement for a report detailing treatment received?

No

Please explain the reasons for your answer.

There are people who cannot access, or attempt to access and are denied, medical treatment. There are also those who would like to access treatment but cannot do so safely. There are also people who will have accessed treatment but do not have access to records of it, whether due to the cost of obtaining medical reports or due to social or housing situations which make it unsafe to attempt to access and store details of medical treatment, for example in the case of precariously homed individuals or those in abusive relationships.

Question 5: (A) Do you agree that an applicant should have to provide evidence that they have lived in their acquired gender for a period of time before applying?

No

Please explain the reasons for your answer.

This forces people to perform their gender identity in a way they may not feel comfortable doing, and trans people are often criticised for acting as a stereotype of their identified gender. It can be unsafe for people to 'socially transition' due to their family, housing, or employment situation, and the routine harassment and abuse that trans individuals – or those perceived as being trans, and especially trans women – face. Furthermore, living in any particular way does not necessarily indicate or reflect a person's gender identity; there is no universal way of 'proving' a person's gender upon observing the way they choose to live. In order to 'prove' something requires some universal metrics by which a thing can be verified, however there is no universal experiences of living as any gender.

(D) If you answered no to (A), should there be a period of reflection between making the application and being awarded a Gender Recognition Certificate?

No, the process should be as streamlined and simple as possible, and it is incredibly unlikely that trans people will change their mind after any arbitrary waiting period. There is also no requirement for a similar period of reflection for other changes such as name changes, and so this singles out trans people as being uniquely unqualified to make decisions about themselves.

Question 6: (A) Do you think this requirement should be retained, regardless of what other changes are made to the gender recognition system?

No

Please explain the reasons for your answer.

There are recorded cases of people being unable to obtain a witness to their statutory declaration, and this adds a cost to the process. Many who are able to witness statutory declarations are unsure of the process with regards to gender identity specifically – and this has caused confusion and unnecessary stress for those seeking legal affirmation of their gender identity. It also adds ways in which trans people can be controlled and monitored, and where people think that a trans person is not correctly performing as the gender they identify with this can lead to an attempt to punish gender non-conformity. There is also no correct way to live as non-binary, and so the statutory declaration is incompatible with recognising non-binary gender identities.

(C) If you answered no to (A), do you think there should be any other type of safeguard to show seriousness of intent?

No. There is no evidence to suggest that people will seek legal recognition of their gender identity with anything other than a seriousness of intent.

Question 7: The Government is keen to understand more about the spousal consent provisions for married persons in the Gender Recognition Act. Do you agree with the current provisions?

No

Please explain the reasons for your answer. If you think the provisions should change, how do you think they should be altered?

The current provisions allow for a spouse to control their partners legally recognised gender identity, or threaten separation. This can lead to abusive power dynamics,

and is actively dangerous for vulnerable trans people who face losing their housing and support networks if they continue to seek legal recognition of their gender.

Question 8: (A) Do you think the fee should be removed from the process of applying for legal gender recognition?

Yes

(C) What other financial costs do trans individuals face when applying for a gender recognition certificate and what is the impact of these costs?

There are costs involved in accessing medical records, including 'administrative' or 'time lost' costs where individuals have to take time off of paid employment in order to seek out these documents. There are also costs involved in seeking statutory declarations, and the costs involved in accessing GIC services to obtain a diagnosis of gender dysphoria. There are costs involved in socially transitioning for two years, and obtaining and storing evidence of this, including the risk of loss of employment, the risk of loss of housing, and other social costs which can have a financial impact such as the loss of friends and familial support.

Question 9: Do you think the privacy and disclosure of information provisions in section 22 of the Gender Recognition Act are adequate?

No

If no, how do you think it should be changed?

There should be an increased punishment for cases where information has been shared maliciously, in order to attack an individual with the intention of bringing them emotional, psychological, or actual harm, including where trans people are outed to employers or others in the hopes of them losing that employment. It should be easier to bring a complaint, and the time limit should be increased, as it may take longer than six months to realise that this provision has been breached.

Question 11: Is there anything you want to tell us about how the current process of applying for a GRC affects those who have a protected characteristic?

It can disproportionately shut out disabled applicants who may not be able to access services and documents due to their care situation or because they rely on others. Younger applicants can be prevented from seeking a gender recognition certificate

due to threat of estrangement from family, who they are more likely to rely on for financial support.

Question 12: Do you think that the participation of trans people in sport, as governed by the Equality Act 2010, will be affected by changing the Gender Recognition Act?

No

Please give reasons for your answer.

Many sporting governing bodies already set rules for the involvement of trans sportspeople.

Question 13: (A) Do you think that the operation of the single-sex and separate-sex service exceptions in relation to gender reassignment in the Equality Act 2010 will be affected by changing the Gender Recognition Act?

No

Please give reasons for your answer.

These services do not currently rely on provision of a gender recognition certificate or other legal proof of gender. Binary trans people currently have access to spaces for their identified gender.

Question 14: Do you think that the operation of the occupational requirement exception in relation to gender reassignment in the Equality Act 2010 will be affected by changing the Gender Recognition Act?

No

Please give reasons for your answer.

There is nothing to suggest that easier access to gender recognition certificates will result in employers making materially different decisions around the occupational requirement exception.

Question 15: Do you think that the operation of the communal accommodation exception in relation to gender reassignment in the Equality Act 2010 will be affected by changing the Gender Recognition Act?

No

Please give reasons for your answer.

There is nothing to suggest that easier access to gender recognition certificates will result in providers making materially different decisions around the accommodation exception.

Question 16: Do you think that the operation of the armed forces exception as it relates to trans people in the Equality Act 2010 will be affected by changing the Gender Recognition Act?

No

Please give reasons for your answer.

There is no reason to believe that having or not having a gender recognition certificate will impact an individual's combat readiness.

Question 17: Do you think that the operation of the marriage exception as it relates to trans people in the Equality Act 2010 will be affected by changing the Gender Recognition Act?

Yes

Please give reasons for your answer.

There is a risk that an increase in the ease with which an individual can make use of the GRA to obtain legal recognition of their gender identity may result in those who solemnise marriages gatekeeping their services more strictly. However, this is rooted in prejudice and should not prevent changes to the GRA being made, as it is more beneficial to have ease of access to legal recognition of one's gender than the risk of gatekeeping from religious figures.

Question 18: Do you think that the operation of the insurance exception as it relates to trans people in the Equality Act 2010 will be affected by changing the Gender Recognition Act?

No

Please give reasons for your answer.

There is no evidence that this is currently the case or that an increase in the availability of gender recognition certificates will lead to it being the case.

Question 19: Do you think that changes to the Gender Recognition Act will impact on areas of law and public services other than the Equality Act 2010?

No

Please give reasons for your answer.

Most public services already rely on self-identified gender in the handling of interactions with the public, customers, patients, etc.

Question 20: Do you think that there need to be changes to the Gender Recognition Act to accommodate individuals who identify as non-binary?

Yes

Please give reasons for your answer.

It is important to extend legal recognition to all trans people, and this will be a great relief of dysphoria for many non-binary people. Non-binary people are unrepresented in almost all areas of UK law and state institutions. Allowing non-binary people to be legally recognised would a good way for institutions and laws to move forward in recognising and providing opportunities for non-binary people.

Question 22: Do you have any further comments about the Gender Recognition Act 2004?

Yes

If you answered yes, please add your comments.

It is good to see the consultation into reform of the Gender Recognition Act taking place, and that the Government is open to the validity of non-binary gender identities and shows commitment to removing transphobia from our society.