

## Response ID ANON-HSR6-7VJV-G

Submitted to **Reform of the Gender Recognition Act**  
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### Your Details

#### About you

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#### Are you responding as an individual or an organisation?

Organisation

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### About the Consultation

#### Additional information (as published in the consultation document)

#### Questions 1 and 2 - Experiences of Trans Respondents

**Question 1: If you are a trans person, have you previously applied, or are you currently applying, for a Gender Recognition Certificate?**

Not Answered

**If yes, please tell us about your experience of the process. If no, please tell us why you have not applied?:**

Not Answered

**Question 2: If you are a trans person, please tell us what having Gender Recognition Certificate means, or would mean, to you.**

**If you are a trans person, please tell us what having Gender Recognition Certificate means, or would mean, to you.:**

#### Questions 3 and 4 - Medical Reports

**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.:**

EqualITeach's stance on this question is in accord with the common message expressed by the UK's leading LGBT charities.

Requiring a GRC applicant to rely on medical authorities to confirm their trans identity denies trans individuals the right to self-determination. Maintaining this requirement would imply that the government does not see trans people as credible authorities over their own gender identities. It would frame medical and political bodies as the gatekeepers of legal access to trans status.

The right to personal and communal self-determination is fundamental in the move towards trans equality. The realisation of this right is incommensurable with the criterion in question.

Furthermore, as the Minister for Women and Equalities has recognised, a diagnostic requirement pathologises trans identities. This practice echoes the deeply regrettable period of UK history in which LGB identities were legally conceptualised as mental disorders to be 'cured' by inhumane medical interventions.

EqualiTeach would encourage the government to learn the lessons of the past and act upon its conviction that being trans 'is a fact of everyday life and human diversity' (Minister for Women and Equalities, 2018). Removing any diagnostic requirements from the gender recognition process would go a long way towards deconstructing the dangerous notion that being trans is a mental illness.

**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.:**

It is EqualiTeach's understanding that jettisoning the requirement for a diagnosis of gender dysphoria disorder from the gender recognition process would nullify the requirement for a secondary medical report also.

The full purpose of this secondary report is unclear. LGBT charities have condemned it as a test to determine whether an individual is 'trans enough' (Stonewall), and EqualiTeach would add its voice to this line of criticism.

EqualiTeach understands that the government is looking for safeguards to ensure the gender recognition process is not misused and undermined; but safeguards which do not frame trans bodies as objects of scrutiny, such as statutory declarations and reflection periods, serve this purpose equally as well as medical reports without being intrusive.

Furthermore, requiring medical reports of GRC applicants risks privileging the medical and surgical aspects of transitioning over the social and legal dimensions. This practice risks fostering a culture in which trans individuals who have undertaken medical interventions are considered 'more trans' or 'more authentically trans' than trans individuals who have not undergone, or who have no intention of undergoing, hormonal or surgical treatment.

Most trans experiences are not reflected in a 'medicalised' view of being trans (Stonewall). In light of this, EqualiTeach worries that the requirement in question stems from a narrow, dichotomised understanding of gender and of what it means to be trans. We are concerned that this requirement privileges applicants who seek to 'pass' as their acquired gender over trans individuals who have a more nuanced relationship to gender and trans people with non-binary gender identities. We worry that this requirement, again, unduly puts political and medical bodies in the position of policing what 'being trans' means.

In light of this analysis, the criterion in question can be said to undo as much as the GRA04 achieves with regards to trans inclusion. It is EqualiTeach's position that this exclusionary streak can have no place in the future of the GRA, especially if the government is serious about its interest in legally inaugurating non-binary gender identities in the near future.

Lastly, EqualiTeach would echo the common argument that sourcing medical reports is overly burdensome. EqualiTeach believes that this practice scrutinises legitimate applicants far too intensely. We would like to see fewer hoops for legitimate applicants to jump through and energy being instead directed at warding off potential abusers of the process.

**Question 5 - Evidence**

**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. :**

EqualiTeach would reiterate the concerns that the Women and Equalities Minister has recognised. Collecting two years' worth of evidence can rightly be charged as an overly burdensome and—when documents are sensitive—an overly intrusive requirement. This criterion also undermines the current minimum age limit for applicants. Younger trans individuals who have begun socially transitioning before the age of 18 will likely not be able to prove this via documentation such as bank statements, driving licenses, etc. In these cases, the minimum age limit in practice would rise to 20 years of age—an incongruously high limit compared to other legal thresholds in the UK, and one that interferes with young trans individuals' ability to confidently launch their adult lives as their acquired gender.

EqualiTeach would expand on the point recognised by the Minister for Women and Equalities that 'reducing or removing the two-year requirement could make it easier for trans people to more quickly become accepted in society' (Minister for Women and Equalities, 2018). The two-year requirement needlessly prolongs applicants' socio-legal transition. EqualiTeach would argue that this enforced limbo leaves applicants unnecessarily vulnerable to discrimination. A streamlined, shortened gender recognition process would allow an applicant's socio-legal transition to be less gradual and more immediate. EqualiTeach speculates that this shift would leave trans individuals less vulnerable to discrimination; we wonder also if applicants would not feel more emboldened and supported by the gender recognition process were this shift enacted.

**(B) If you answered yes to (A), do you think the current evidential options are appropriate, or could they be amended?:**

Not Answered

**(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?:**

EqualiTeach favours the reflection period model over the two-year requirement. We envision that a reflection period could complement a statutory declaration requirement (and the legal penalty that would be incurred by breaking a statutory declaration perhaps warrants a short-lived reflection mechanism).

We do not think that a reflection period longer than the six-month model employed by Denmark and Belgium is justified by the above argument, however. If the

government were to discuss deviating from the Danish model, EqualiTeach would suggest that the six-month requirement should be reduced, not extended.

## Question 6 - Statutory Declaration

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

Yes

**Please explain the reasons for your answer.:**

EqualiTeach is unaware of any weighty arguments against a statutory declaration. We see a statutory declaration as a criterion aimed towards warding off potential abusers of the system, rather than one directed at making legitimate applicants jump through unnecessary hoops, and we are in favour of it for that reason.

A trans individual who is certain of their decision to apply for a GRC will not think twice before signing a statutory declaration, whereas an applicant without seriousness of intent will be adequately deterred.

No

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

EqualiTeach has little to comment on this point. We would simply remark that the phrase 'until death' engenders a tautology, given that the implication 'until death' is already contained with the phrase 'live permanently'.

The wording 'until death' is thus largely superfluous and should perhaps be discarded (if not for this reason, then for being needlessly sinister).

## Question 7 - Spousal Consent

**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 list of plausible situations in which the spousal consent provision could either significantly delay a GRC application, force an applicant into an extremely unpleasant situation, or be used by a spouse to entrap, blackmail, or abuse a GRC applicant is far too lengthy to be ignored.

A watered-down provision requiring a GRC applicant to inform their spouse of their application status risks fewer harmful or abusive situations, it is true, but scenarios in which even this watered-down provision could be weaponised by an abusive spouse are by no means beyond imagining.

EqualiTeach do not agree that the encounter between a GRC applicant and their spouse should be subjected to general legislation at all. That encounter is for each couple to work out privately.

As far as we can see, the only situation that warrants legislative comment is a civil partnership in which one partner is seeking a GRC. In this instance, under current law, the gender recognition process would require said civil partnership to be turned into a marriage, a situation which would obviously require both parties' consent. This is the only situation in which another legal contract obstructs the progress of a GRC application. Interim GRCs, if they are to be maintained at all, should be reserved solely for these situations, as a document of recognition that an applicant's GRC application will be successful once the situation with their civil partnership is adequately resolved.

EqualiTeach do not understand Interim GRCs to be necessary for marriage situations, heterosexual or homosexual. If a spouse wants to annul a marriage based on one party's application for a GRC, they should simply be permitted to do so: an active GRC application should be recognised as legal grounds for annulment. On top of this, an applicant should not have to wait for a marriage to be officially dissolved before their application can be successful, for seeing as both heterosexual and homosexual marriages are legal, there is no legally impossible situation to be avoided in these circumstances.

Were provisions to be shifted in this way, the onus to annul would be on the unhappy party, as is the case in all other scenarios. Current provisions, however, readily permit situations in which happy parties are forced to initiate dissolution proceedings. This state of affairs seemingly protects the discontented spouse's officially 'straight' status above all else, a situation that EqualiTeach, in agreement with Liberal Democrat Sarah Brown, must charge as being homophobic.

## Question 8 - The Cost of Legal Gender Recognition

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

No

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?:**

To briefly elaborate on (B): EqualiTeach's position is that a fee for the process should remain, but that said fee should be transparently tethered to the cost of reproducing a birth certificate. A trans individual seeking a GRC should be asked to pay for a new birth certificate in the same sense that they might be required to pay to replace a lost driving licence.

The gender recognition process should be streamlined so as to remove any potential costs incurred by medical record requirements.

Trans people should not have to pay for the existence of a general recognition panel—this should be a tax-funded service.

### **Question 9 - Privacy and Disclosure of Information (Section 22)**

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

Not Answered

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

### **Questions 10 and 11 Impact of Legal Gender Recognition Process (Protected Characteristics)**

**Question 10: If you are someone who either has, or would want to undergo legal gender transition, and you have one or more of the protected characteristics, which protected characteristics apply to you? You may tick more than one box.**

Please give us more information about how your protected characteristic has affected your views on the GRC application process.:

**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?**

Enter your answer below.:

### **Introduction to Wider Considerations of Impact (Equality Act)**

More information (as published in the consultation document)

### **Question 12 - Impact on Sport (Equality Act)**

**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?**

Not Answered

Please give reasons for your answer.:

### **Question 13 - Impact on Single-sex and Separate-sex Service (Equality Act)**

**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?**

Not Answered

Please give reasons for your answer.:

Not Answered

Please give reasons for your answer.:

Not Answered

Please give reasons for your answer.:

Not Answered

### **Question 14 - Impact on Occupational Requirements (Equality Act)**

**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?**

Not Answered

Please give reasons for your answer.:

### **Question 15 - Impact on Communal Accommodation (Equality Act)**

**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?**

Not Answered

**Please give reasons for your answer.:**

### **Question 16 - Impact on the Armed Forces (Equality Act)**

**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?**

Not Answered

**Please give reasons for your answer.:**

### **Question 17 - Impact on Authorising or Solemnising Marriages (Equality Act)**

**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?**

Not Answered

**Please give reasons for your answer.:**

### **Question 18 - Impact on Insurance Operation (Equality Act)**

**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?**

Not Answered

**Please give reasons for your answer.:**

### **Question 19 - Impact on Other Public Services (beyond the Equality Act)**

**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?**

Not Answered

**Please give reasons for your answer. :**

### **Question 20 - Non-binary Gender Identities**

**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

**If you would like to, please expand more upon your answer.:**

As the government's LGBT survey has demonstrated, non-binary people exist—and in large numbers. Non-binary people, as well as trans people, are a simple fact of everyday life and human diversity; they deserve legal recognition of their gender identities.

Were the term 'non-binary' inaugurated as a third legal gender identity, all gender identities that exist beyond the man-woman binary would be legally recognised and catered for. Were the gender recognition process streamlined in the fashion suggested above, 'non-binary' could simply be included as a third acquired gender which applicants could seek to procure.

EqualiTeach understands the complex web of repercussions such a move would engender. We would remind the government, however, that gender identity and sex are two different axes of identification. Deciding to base future laws and public-service provisions upon this distinction might illuminate a helpful path for legislators to follow through the challenge of re-imagining gendered laws and services.

Alternatively, the government might see fit to take this opportunity to question the rationale behind certain gendered laws and services. Do traditional gendered legal entitlements such as the State Pension age stand up to contemporary scrutiny?

A gratuitous degree of gendered laws and services results in the differences between men and women being grossly inflated throughout our culture. When gender roles, responsibilities and values are enshrined in law, a culture of gender separation is affirmed; in turn, individuals find their life opportunities needlessly limited, and the stage is set for gendered violence to become normalised.

It is EqualITeach's position that legally inaugurating a third gender identity in UK law would mark a huge step forward in the battle against gender inequality.

**Question 21: Experiences of Intersex Respondents**

**Question 21: (A) Do you have a variation in your sex characteristics?**

Not Answered

**(B) Would removing these requirements be beneficial to you?:**

**(C) What other changes do you think are necessary to the GRA in order to benefit intersex people? :**

**Question 22 - Any further comments?**

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

Not Answered

**If you answered yes, please add your comments.:**

**Consent for publishing your response**

**Can we publish your response?**

Publish my response, including my name

Yes