

Response ID ANON-ETBC-GKFP-6

Submitted to **Review of the Gender Recognition Act 2004**

Submitted on **2018-02-12 13:19:33**

The Gender Recognition Act 2004

1 The initial view of Scottish Government is that applicants for legal gender recognition should no longer need to produce medical evidence or evidence that they have lived in their acquired gender for a defined period. The Scottish Government proposes to bring forward legislation to introduce a self-declaratory system for legal gender recognition instead.

Agree

If you want, you can give reasons for your answer, or make comments. :

YouthLink Scotland welcomes this proposal by the Scottish Government and believe it would bring Scotland in line with international best practice. It is our belief that individuals are best placed to make decisions about their gender and lives. This proposal removes legal, medical and financial burdens and values self-determination.

YouthLink Scotland's response to this consultation is informed by the advice and expertise of our member organisation, LGBT Youth Scotland and their partners: Stonewall Scotland, Scottish Trans Alliance and the Equality Network.

2 Should applicants to the proposed gender recognition system in Scotland have to provide a statutory declaration confirming they know what they are doing and intend to live in their acquired gender until death?

Don't know

If you want, you can give reasons for your answer or make comments.:

3 Should there be a limit on the number of times a person can get legal gender recognition?

Don't know

If you want, you can give reasons for your answer or make comments.:

4 If the Scottish Government takes forward legislation to adopt a self-declaration system for legal gender recognition, should this arrangement be open:

C. Don't know

If you want, you can give reasons for your answer or make comments.:

5 The Scottish Government proposes that people aged 16 and 17 should be able to apply for and obtain legal recognition of their acquired gender. Do you agree or disagree?

Agree

If you want, you can give reasons for your answer or add comments.:

YouthLink Scotland strongly advocates for these proposals to be extended and inclusive of young people aged 16 and 17. It is important that young people can have their gender identity legally recognised before they move from adolescence in to adulthood. For young people moving in to a new home, in to study or work from the age of 16, it is important that they can begin this phase of their lives with legal recognition of their acquired gender. YouthLink Scotland is aware of campaigns to include non-binary gender identity in to the UCAS application process - this is just one example of an unnecessary barrier to accessing education that trans and non-binary young people may face.

6 Which of the identified options for children under 16 do you most favour?

Option 3 – parental application

If you want, you can give reasons for your answer, add comments, or describe your preferred option if none of the options given reflects your views.:

YouthLink Scotland supports the proposal of making routes available to children under 16 to apply for GRC. YouthLink Scotland supports both options 3 and option 5. We do not support the court process route as this is burdensome and may exclude young people due to their inability to pay for legal representation. We support option 3 and believe and know that for some young people this would be a supportive route towards having their gender identity recognised. However we also support option 5 - and believe that in line with the UNCRC young people under the age of 16 can and do have the capacity and maturity to make decisions which impact on their lives - we believe this route should also be available particularly if there were circumstances where their was parental disagreement about supporting an application. The judgement of whether a young person was deemed mature enough should be taken by a trusted adult in a professional role - we would advocate that this could also include youth workers, teachers and social workers. Professionals where the young person may already have established and trusted relationships.

Marriage and Civil Partnership

7 Should it be possible to apply for and obtain legal gender recognition without any need for spousal consent?

Not Answered

If you want, you can give reasons for your answer or add comments.:

8 Civil partnership is only available to same sex couples. This means that the civil partners cannot remain in their civil partnership if one of them wishes to obtain a full Gender Recognition Certificate.

Not Answered

If you want, you can give reasons for your answer or add comments.:

9 Should legal gender recognition stop being a ground of divorce or dissolution?

Not Answered

If you want, you can give reasons for your answer or add comments.:

Other aspects of the 2004 Act

10 Are any changes to section 22 (prohibition on disclosure of information) necessary?

Not Answered

If you answered Yes, describe the changes you consider are needed.:

11 Should a person who has been recognised in their acquired gender under the law of another jurisdiction be automatically recognised in Scotland without having to make an application?

Yes

If you want, you can give reasons for your answer or add comments.:

Non-binary people

12 Should Scotland take action to recognise non-binary people?

Yes

If you answered No, and if you want, you can give reasons for your answer.:

13 If you answered Yes to Question 12, which of the identified options to give recognition to non-binary people do you support? You can select more than one option.

Option 1: Changes to administrative forms, Option 3: Limited document changes, Option 4: Full recognition using proposed self-declaration system, Option 6: Amendment of the Equality Act 2010

If you want, you can give reasons for your answer, add comments or, if you think none of Options 1 to 6 is suitable, describe your preferred option.:

Non-binary people's identities are valid and it is vital that there are steps taken to ensure they are better recognised and included in society and in all forms of public life. We believe that progressing the options highlighted above would make progress to achieving this.

14 At paragraph 7.26. and in Annex J we have identified the consequential legal impacts if non-binary people could obtain legal gender recognition using the proposed self-declaration system.

Not Answered

If you answered Yes, describe the impacts you have identified.:

Conclusion

15 Do you have any comments about, or evidence relevant to:

Yes

If you answered Yes, add your comments or evidence.:

YouthLink welcomes the inclusion of the CRWIA. We would note that the information contained in Annex E should have clearly stated that these are assigned or acquired rights IN ADDITION to those given at birth by the UN Convention on the Rights of the Child. It could be argued that the age at which those rights which are set out in Annex E are arbitrary. It is more sound argument to consider the rights of the child as set out by the UN committee which are interdependent, interrelated, inalienable, indivisible. The CRWIA makes a sound assessment of the impact of this proposal on children's rights.

16 Do you have any further comments about the review of the Gender Recognition Act 2004?

Yes

If you answered Yes, add your comments.:

YouthLink Scotland welcomes the Scottish Government's commitment to update this area of legislation and to endeavour to create change in complex areas which will require cooperation across Parliaments.

YouthLink Scotland welcomes the engagement that the Scottish Government have taken with young people to date, including those working with LGBT Youth Scotland - and hope you continue to inform and involve young people throughout this legislative process.

About You

What is your name?

Name:

Susan Hunter

What is your email address?

Email:

shunter@youthlinkscotland.org

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

YouthLink Scotland

If you are responding as an organisation and want to tell us more about your organisation's purpose and its aims and objectives, you can do so here.

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YouthLink Scotland is the national agency for youth work. We are a membership organisation, representing over 100 regional and national youth organisations from both the voluntary and statutory sectors. We champion the role and value of youth work and represent the interests and aspirations of our sector. Youth work is part of the wider grouping of informal and non-formal learning which is known as Community Learning and Development.

Scotland's youth work sector is as rich and diverse as the nation itself. Our sector has a workforce in excess of 75,000 – including over 70,000 adult volunteers.

We reach in excess of 380,000 young people in youth work opportunities each week. Youth work has three essential and definitive features:

- Young people choose to participate
- Youth work must build from where young people are
- Youth work recognises the young person and the youth worker as partners in a learning process

Where are you resident?

Scotland

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Please enter comments here.: