



Gender Recognition Reform (Scotland) Bill 2020

CONSULTATION QUESTIONS

Question 1. Do you have any comments on the proposal that applicants must live in their acquired gender for at least 3 months before applying for a GRC?

Yes

If yes, please outline these comments:

The Scottish Children's Reporter Administration (SCRA) welcomes the opportunity to respond to this consultation.

SCRA's vision of service is that: We operate within Scotland's Children's Hearings System to protect and support the country's most vulnerable and at risk children and young people identified as requiring the full protection of the law due to difficulties, challenges and risks they face.

SCRA believes that any decision around gender identity is a personal one. The public commitment an individual makes to their identity has emotional / relational / social and public dimensions which will vary from person to person; and any experience associated with questions of gender identity will be different for everyone.

With SCRA's limited experience of this issue, we believe that most transgender people have already gone through a significant period of reflection prior to making a commitment to living a life of a different gender than that assigned at birth.

Therefore, we would question whether an additional period of reflection is appropriate. We do recognise and accept that there may be people who change their mind and Scottish Government might want to consider wider public messaging which stresses decision making and support for decision making prior to an individual becoming involved in the legal process of gender reassignment. Gender reassignment should be seen as the final step in a long, well supported journey and should only occur when an individual is as certain as they can be about their lifelong gender commitment.





As we would in other areas of social policy we place considerable importance on the views and stated needs of those with experience and expertise in working with the transgender community and with young people who are questioning their own gender identity, and we would defer to their views where they differ from ours.

Question 2. Do you have any comments on the proposal that applicants must go through a period of reflection for at least 3 months before obtaining a GRC?

Yes

If yes, please outline these comments:

As detailed in our response to Question 1, SCRA believes that the key decision for transgender people is to live a full and happy life in alignment with their identity. We do, however, recognise the need for reflection, or for confirmation of the life choice, but think perhaps this could be built into the gender recognition process in a different way. For example, building a series of key questions or considerations for people or through dedicated one to one support for people on this journey – however, we believe that members of the transgender community are the people who can and should explain how reflection can and should work.

Question 3. Should the minimum age at which a person can apply for legal gender recognition be reduced from 18 to 16?

Yes

If you wish, please give reasons for your view:

SCRA holds the same view as submitted in 2018, which is that people should be able to apply for legal gender recognition at age 16 (SCRA's 2018 response can be accessed [here](#)).

Question 4. Do you have any other comments on the provisions of the draft Bill?

Yes

If yes, please outline these comments:

We understand the Scottish Government's decision not to extend the GRC proposals to those under the age of 16 at this time. We were clear in our 2018 response that (page 3):

".... we recognise that teenage years can be very difficult for some young people, and that this lifelong decision may not alleviate these difficulties. Indeed, on occasion it may add to them."





“It may be that a combination of the available options is the optimum safeguard for children and young people who would wish to apply for gender self-recognition..... which provided some appropriate scrutiny and safeguards to the decision being made by the young person.”

Our position has not altered.

We agree with the Scottish Government that there needs to be focused and supported work with young people under 16 (and indeed for those aged 16-17 years) who are questioning their gender identity and that there should be statutory national guidance to ensure that the support these young people receive is consistent and nationwide. The focus should be on inclusive practice and on eliminating the barriers that make it difficult for young transgender people to develop their identity and live their life in accordance with this, enabling them to make positive and empowering decisions around their sense of self; which can then be legally ratified as an adult.

SCRA recognises the strong link between gender identity, emotional and psychological distress and mental ill-health, and a particular correlation with self-harm and suicide. We believe that, as a matter of priority, there must be investment in social, psychological and mental health provision to support the transgender community. Young people who require support around their gender identity should be guaranteed to receive timely and robust support so that there is no delay for legal gender recognition on their 16th birthday. For transgender young people, the journey to legal gender recognition should have already been supported and appropriate processes followed to ensure legal recognition is delayed no longer than necessary to avoid further harm.

SCRA understands the focus on binary gender recognition in the proposed legislation. However, we also understand that this focus is behind the curve in relation to developing societal norms around gender fluidity and non-binary identity. We believe this legislation must recognise this huge shift in culture and the aim to achieve a more equal, diverse and inclusive society. Therefore, we suggest that there is a built-in review of this legislation to respond to developing knowledge around non-binary identity, driven by the working group which is to be established.

Question 5. Do you have any comments on the draft Impact Assessments?

No

SCRA Practice & Policy Team, 2020