

GRA Answers:

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

You only need to fill this in if you are (binary or non-binary) trans. This questions relates to personal experience.

QUESTION 2 - If you are a trans person, please tell us what having a Gender Recognition Certificate means or would mean to you?

You only need to fill this in if you are (binary or non-binary) trans. You can use this question to explain any difficulties you have faced without a Gender Recognition Certificate, the difference that legal recognition would make to you in affirming your identity and going about your life, or to comment on anything about the current process which may have put you off applying for a Gender Recognition Certificate (Stonewall – <https://www.stonewall.org.uk/gender-recognition-act>)

QUESTION 3 - do you think there should be a requirement in the future of a diagnosis of gender dysphoria?

Tick NO

Lots of trans people face barriers in accessing a diagnosis.

This is because doctors are often ignorant about dysphoria. For example, they often link a diagnosis to irrelevant questions about sexual partners or childhood toy preferences.

Not all trans people experience gender dysphoria as understood in a medical sense.

Changing gender markers should be simple, easy and based solely on self declaration.

A diagnosis of gender dysphoria positions being trans as a medical condition, which is dehumanising and demeaning and puts many trans people off applying

QUESTION 4: Do you also think there should be a requirement for a report detailing treatment received? Please answer YES or NO. Please explain the reasons for your answer

Tick NO

Requiring medical treatment reports as part of the process of applying for a Gender Recognition Act reinforces a medicalised view of being trans, which does not reflect most trans people's experience.

It should not be up to a medical professional to decide whether someone is 'trans enough'.

It is another intrusive and dehumanising factor about the current process that puts people off applying.

QUESTION 5: 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? Please answer YES or NO. Please explain the reasons for your answer.

I disagree with the current system that trans people have to provide evidence of living in their 'acquired gender' for two years as part of the process for applying for a Gender Recognition Certificate.

This is another example of trans people having to prove that they are 'trans enough', which is dehumanising and puts trans people off applying.

Instead, I would like to see a simple administrative process based on self-determination in line with best practice in other countries, such as Ireland, Malta, Argentina and Norway. With self-determination, a trans person does not need to be diagnosed with a medical condition or prove themselves as 'trans enough'.

QUESTION 6A: Do you think this requirement [statutory declaration] should be retained, regardless of what other changes are made to the gender recognition system?

TICK NO

Gender is not necessarily static. This does not invalidate the gender a person identifies with at this particular point in their lives. This may also be another factor preventing trans people from applying, as nobody can be certain that they will have a fixed gender identity indefinitely.

There are precedents for serious legal contracts (such as marriage) which are not expected to last forever, the GRC should be handled in a similar way.

QUESTION 6C: If you answered no to 6A, do you think there should be any other type of safeguard to show seriousness of intent?

Short answer: No

It is highly unlikely that this process will be abused by people who do not truly identify with a gender different from that assigned at birth. There are no practical benefits from taking advantage of a self identification system to change gender markers.

Making this process more arduous by adding barriers makes it more difficult for an already vulnerable population to access necessary services.

QUESTION 7: The Government is keen to understand more about the spousal consent provisions for married persons in the GRA. Do you agree with the current provisions? Please answer YES or NO. Please explain the reasons for your answer.

Tick NO

I disagree with the premise that if a trans person is married, the current law allows their spouse to block their application for gender recognition.

This denies trans people in this situation the right to determine their own gender identity.

Instead, I would like to see a system that enables a trans person to get a gender recognition certificate without needing the permission of their spouse.

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

Yes

QUESTION 8C: What other financial costs do trans individuals face when applying for a gender recognition certificate and what is the impact of these costs?

In order to get a GRC, trans people must be formally diagnosed with "gender dysphoria". This involves a psychological evaluation. Given the untenable waiting times for GICs in this country, many trans people are forced to opt for private healthcare. This can cost up to £500.

The cost of a deed poll can be free, although many trans people opt to obtain a deed poll through an organisation which charges upwards of £30.

Replacing items such as passports and driver's license prior to name change can add £72.50 and £50 respectively.

Items which alter gender presentation and lessen dysphoria are often expensive: binders (~£30), packers (>£50), gaffs (>£15), breast forms (>£100), makeup, wigs and wardrobe changes.

Alongside these costs (for the above reasons), many trans people who choose to undertake a medical transition opt for private healthcare. For hormone replacement therapy (HRT) this costs £50 for blood tests and then £65 per month for hormones. Those who transition through the NHS are still required to pay a monthly £8.80 for hormones.

The price for undergoing private surgery can be exorbitant. One of the most common gender reassignment surgeries, 'female-to-male' top surgery, typically costs around £6,000, plus pre- and post-appointment fees, travel and accommodation expenses.

Trans people are disproportionately likely to be poor, unemployed or homeless and may not be able to pay for any of these processes or products. This does not make them any less trans. The GRC should be free on principle. Any costs associated with this process prohibit large proportion of trans people from applying.

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

Tick NO

To date there have been no successful convictions under section 22 of the GRA. This is due to two major flaws:
There is a 6 month time limit following the offense in which the prosecution must be laid. However, many people do not learn of the offense for many months.
Police officers do not recognise the seriousness of the Offense. Being outed as trans presents a serious safety risk as well as a risk to personal and professional relationships. This is often taken too lightly.
Anyone who seeks to acquire this protected information should be required to prove, more robustly, that they genuinely require it.

QUESTION: 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.

Tick boxes as appropriate. Boxes are: Age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex and sexual orientation.

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

NB: There are nine 'protected characteristics' – including age, disability, pregnancy and maternity, race, religion and sexual orientation – which are listed in the Equality Act 2010. This Act protects people from being discriminated against on the basis of any of these characteristics. Stonewall are urging people to use this question to raise the issue that trans people aged under 18 cannot apply for a Gender Recognition Certificate. Trans young people and their parents say this can be incredibly damaging, leading to young people being outed or misgendered. We believe 16 and 17 year-olds should have the same access to recognition, helping those starting full-time work or further education in their true gender. And we want to see a recognition process for under-16s incorporating parental consent. Stonewall (and us!) recommend young trans people and their families share their experiences of the barriers currently faced due to this lack of recognition (Stonewall – <https://www.stonewall.org.uk/gender-recognition-act>).

Please use the information above to answer this question based on personal experience

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?

Short answer: No

Where necessary to ensure safe and fair competition in gender-affected sports, sports governing bodies can set their own restrictions on participation by trans people regardless of legal gender recognition status.
However, The International Olympic Committee changed their guidelines regarding transgender athletes in 2015, removing the requirement for legal recognition of a trans person's gender identity, reflecting the difficulty of this medical and bureaucratic process- This renders the process by which a person obtains a GRC (or whether they do at all) irrelevant.

QUESTION 13A: 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?

Tick No

It is the Equality Act 2010, not the Gender Recognition Act 2004, that provides trans people with legal protection from discrimination and addresses access to single-sex services. The Equality Act 2010 protected characteristic of gender reassignment applies from the moment a person proposes to undergo any part of a process of transition. No medical diagnosis is needed.

Trans people, regardless of stage of transition, have always been lawfully able to use whichever toilet they wish in the UK without showing any ID. Cubicles mean it is not proportionate to restrict trans access.

The Equality Act 2010 provides an exemption for single-sex services allowing them to treat a trans person differently from other service users providing this is a proportionate response to achieve a legitimate aim. Gender Recognition Act reform will not change this exemption.

Violence against women services already have robust risk-management and safeguarding policies in place, for example to be able to identify and prevent any lesbian female perpetrator of violence from being able to access a service where her abused female partner is staying.

Such services regularly reject non-trans women who are unsafe to include within group work and/or shared refuge accommodation due to antisocial behaviour, criminal history, drug addiction or severe mental illness.

Possession of a gender recognition certificate does not circumvent in any way these risk management procedures and exclusion would still be possible.

A number of services allow trans women to use their services on a self-declaration basis. No problems have been reported - Unison GRA briefing pack (2018)

QUESTION 13B: If you provide a single or separate sex service, do you feel confident in interpreting the Equality Act 2010 with regard to these exemptions?

Tick if applicable

See above for details

QUESTION 13C: If you are a trans person who has experienced domestic abuse or sexual assault, were you able to access support?

This question asks you to draw on personal experiences

QUESTION 13D: If you answered 'yes' to (C), was this support adequate?

See above

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?

Tick: No

The occupational requirement exception is applicable in particular job roles for reasons of "privacy" and "decency" such as working in a single sex changing room (citizensadvice.org.uk) or a women's refuge where staff are required to be the same sex as the occupants. There are no plans to amend this exemption nor change the implementation of this exemption. It is completely unaffected by the proposed reforms to the GRA 2004.

However, it is discriminatory to require applicants for certain jobs to be cisgender and undermines the validity of the gender identity of trans women. It is also inappropriate that the current iteration of the GOR (EA2010) doesn't call for certain roles in trans-specific refuges/services to be filled by trans people (Scottish Transgender Alliance, 2015).

The HoC Women's and Equality Select Committee Transgender Enquiry (2016) recommended that "...the occupational requirements provision and/or the single-sex/separate services provision shall not apply in relation to discrimination against a person whose acquired gender has been recognised under the GRA 2004." and I believe that the EA 2010 should be amended in line with this recommendation.

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?

Tick: No

The EA 2010 will not be affected by any changes made to the GRA 2004. Trans people will continue to be excluded from single-sex communal accommodations as a "proportionate means of achieving a legitimate aim" regardless of whether they have obtained a GRC.

I believe that, though implementation of the communal accommodation exception will be unaffected, this clause places trans women (in particular) in serious danger. Trans women are more than twice as likely as cis women to experience domestic

violence (Stonewall and YouGov 2018). By excluding trans women from women's shelters, trans women are forced into unsuitable accommodation and once again placed at risk of harm. Many women-only organisations already support trans women in their refuges and have done for many years (Supporting trans women in domestic and sexual violence services, Stonewall). These services believe that risk assessments and safeguarding prevent violent men and women from accessing their spaces. This exception is obsolete and largely goes unused. It should be replaced with a personalised, client-centred approach based on self-identification.

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?

Tick: No

Trans women are banned from close combat roles under the combat effectiveness exemption (EA 2010) regardless of whether they have applied for or been granted a GRC or undergo medical transition, in line with roles closed to cis women. Trans men are not prohibited from joining specialisations closed to women subject to fulfilling physical entry requirements, not whether they have been granted a GRC. (Policy for the recruitment and management of transexual personnel in the armed forces, 2014)

Streamlining and demedicalising the process of obtaining a GRC will have no impact on the exemption of trans women from roles closed to cis women.

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?

Tick No

Because the religious freedom to refuse marriage pertains to people who those that authorise or solemnise marriages "reasonably believe" have undergone legally recognised "gender reassignment" the amount of people who have, in fact, obtained a GRC is irrelevant.

Making it less arduous to obtain an GRC will not increase/decrease the amount of visibly trans people, nor will it reduce the prejudice of those that authorise or solemnise marriage.

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?

Tick: No

As there are no employer insurance policies that specifically differ for those with gender reassignment as a protected characteristic it seems unlikely that changes to the GRA 2004 will have any effect on this.

This section relates to paragraph 20, schedule 9 of the EA 2010, which refers to "transexual person" and "gender reassignment" as blanket terms, it does not specify whether subjects have obtained the GRC or not, it seems as though an increase in the proportion of trans people who have obtained a GRC will be inconsequential.

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?

Tick: No

I have answered no to every question speculating the effects of updating the GRA 2004 on the EA 2010. I do not believe that a less bureaucratic, medicalised, costly and time consuming process for obtain a GRC will have any impact upon the EA 2010 or any other area of law or public service.

The one impact of making it easier for trans people to change their legal gender is that more trans people will be able to access the services they need and are entitled to.

Not only is having a GRC irrelevant to most areas of law, it is also ignored by many single-sex services as those involved understand the difficulty in obtaining a GRC and as such it is rarely used as a measure of a person's gender.

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

Tick: Yes!

The concept of binary gender is outdated. Many trans people who do chose to medically transition feel as though they fall outside of the binary in reality, however they are forced to conform to binary expectations in order to access healthcare and other services. In this way, administrative binary gender is a method of gatekeeping.

In line with the recommendations of the Scottish Trans Equality Networks' report on Non-binary Experiences in the UK: The Gender Recognition Act (2004) must be reformed so that people are able to be legally recognised as non-binary on their birth certificates.

The Gender Recognition Act (2004) must be reformed to remove the psychiatric diagnosis and medical evidence requirements currently in place, and move to a system of self-determination.

Many doctors are unaware of and inexperienced with non-binary gender identities. Doctors should be removed from this process as there is no common understanding of what it means to be non-binary, and as such it cannot be diagnosed. Several countries have already instituted this change without negative effects.

Reforms to the Gender Recognition Act (2004) must be undertaken in a way that is inclusive of intersex people.

The process of applying for a Gender Recognition Certificate must be free.

The process of applying for a Gender Recognition Certificate must be made more accessible.

In addition this report recommends the following changes be made to the EA 2010 in order to include non-binary people:

The Equality Act (2010) should be reformed so that the protected characteristic 'gender reassignment' is renamed 'gender identity', and the people who share this protected characteristic are known as 'transgender people' rather than 'transsexual people'.

The new protected characteristic should provide protections to people based on both their gender identity and gender expression.

The UK Passport Agency should start issuing gender 'X' passports for those of non-binary genders.

The Driver and Vehicle Licencing Agency should start issuing gender neutral driving licences.

Marriage law should be reformed to reflect the fact that people who are not men or women may be entering into marriages.

The Marriage (Same Sex Couples) Act (2013) should be reformed

to remove the 'spousal veto' which requires spousal consent for a person in a marriage to gain a Gender Recognition Certificate.

Reproductive and family law should be reformed to ensure that all trans people have access to rights in these areas.

The Census should include an option to record your gender as non-binary.

Non-binary people should be able to fully participate in all aspects of society in line with their gender identity. The option of legal recognition is an important part of this.

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

Tick: answer as applicable

QUESTION 21(B): As outlined in question 3, the Government wants to understand whether there should be any requirement in the future for a report detailing a diagnosis of gender dysphoria and any requirement for a report detailing treatment received.

Would removing these requirements be beneficial to you?

Intersex people who are not transgender but who require a GRC to have their legal gender changed do not experience gender dysphoria, and as such this requirement prevents people from attaining a GRC.

Intersex people who are transgender often have experiences that are very different from their non-intersex peers, meaning that they may have a different experience of dysphoria or euphoria, and so forth. Regardless, as mentioned above, dysphoria should not be a medical diagnosis, and it needs to be recognised that some transgender people are non-dysphoric.

QUESTION 21 (C) What other changes do you think are necessary to the GRA in order to benefit intersex people?

A recognition in the language used throughout the GRC application process that some intersex people need to use the GRC system in order to have their gender legally recognised - whether they are transgender or not.
A recognition in the language used throughout the GRC application process that sex is not a strict binary and that there are intersex individuals who have different sexual characteristics to what is considered typical.
Removal of financial barriers to accessing a GRC, as above.

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

I believe that this consultation widely misses the mark and has squandered the opportunity to hear, first hand, the experiences of trans people. Rather than focus on how policy is implemented and the real life impact of these arduous, outdated, overly-medicalised policies on the lives of a marginalised group, this survey demands time and labour from said marginalised group in order to answer questions that require both an in depth knowledge of the GRA 2004 and the EA 2010. Not all trans people are politicians. Not all trans people are lawyers. Trans people are simply trying to live their lives in a way that is safe and as free from dysphoria and discrimination as possible. Many of the questions in this survey are a matter of fact, not opinion: They should not be up for debate. That these questions are included leaves a real question mark over the motive of this consultation. Many of the questions offer yet another platform for the scaremongering that has been seen in recent months from radical exclusionists who believe that trans women are not women. Trans equality and women's equality are not in opposition. Safeguarding measures put in place by single sex services exist for good reason and will not be affected by any alterations to the process of obtaining a GRC.

The weak position of the government throughout, seeking to understand initial views rather than making concrete proposals, (especially in relation to the legal recognition of non-binary gender) has left room for the government to backtrack. Intersex and non-binary people should not have to chose one of two sexes on their legal documentation. Society has moved on from outdated concepts of binary sex and gender and now the legislation must catch up. EDM660 (2015) called for the gender marker X to be added to passports, that we are still debating this three years later is baffling. It is time to move on.

Further, this consultation is set out in such a way as to be difficult to comprehend, long, and arduous to complete. This is ultimately an act of elitism; trans people are more likely to have dropped out of school or not completed education, and this consultation is complex and not in simple English. It relies on the participant to have a large amount of education and linguistic ability; it would be very difficult to complete if your first language was not English, if you had little or no post-GCSE education, if you were using a screen-reader or similarly slow alternative access to communication, or simply if you didn't have the time to devote to it.

Further Resources

<http://genderedintelligence.co.uk/gra>

<https://www.stonewall.org.uk/our-work/blog/we-need-urgent-reform-gra>

Criticism of GRA consultation period/survey: <https://twitter.com/HarryGiles/status/1014432039372840960>