

A COMPARISON OF CHANGES TO THE HOUSE OF COMMONS BRIEFING PAPER ON “GENDER RECOGNITION AND THE RIGHTS OF TRANSGENDER PEOPLE” MADE ON THE 16th JULY 2020

Please note that these are my own comments on an original post by: <https://www.transiness.com/post/uk-government-documents-and-nhs-advice-changed-and-it-s-not-good-for-safeguarding-trans-children>

Gilchrist, S. (2020): “A Comparison Of Changes To The House Of Commons Briefing Paper On “Gender Recognition And The Rights Of Transgender People” Made On The 16th July 2020”: <http://www.tgdr.co.uk/documents/SuM0720a-BriefingComparisonDocument.pdf>

I would like to bring to your attention changes to the House of Commons briefing paper: Number 08969, 16 July 2020 "Gender recognition and the rights of transgender people".

I attach a comparison document highlighting these changes. Major sections were removed relating to trans children, with no reference to the revisions.

In this comparison documents presented by Transiness I compare key sections of the new document with that of the old.

Reference to schools has been omitted in the summary (see old page 3)

You will see that in the new version of the paper all references to the protection of transgender children in schools, section 5:2 has been left out

On Page 4 the complete section on Protection and provisions for transgender children in schools has also been left out

On Page 27 the section in the Equality Act in Schools 2010 (England) has also been omitted

In the sections below I also comment on puberty blockers, safe space provisions and the so-called “self-identification debate”

I am also concerned about the way selected information is used in Section 7 on the “Self-Identification Debate”. It is or should be accepted that the origin of Transgender conditions is not agreed. For Transgender people, the major problem arises because groups like Woman’s Place Transgender Trend etc. try to convince their own members and enforce a diagnosis of transgender conditions which does not match in any way the experiences of transgender people and dismiss any other view as being the output of transgender activists and irresponsible research. Therefore these groups take the view that the origins relate to a disruption of development which may have an underlying sexual motivation. That is contradicted both by the experiences of trans people which indicates that identification and rejection drive these conditions instead. This position is supported by a worldwide consensus of medical professional institutions which regards both gender and sexually variant identities and behaviour as naturally expected variations of the human condition, which are intrinsic to the personality created, that arise very early in development and cannot be changed either by the individual concerned or by the predations of others in subsequent life. A problem with these different approaches is that what is regarded as compassion by one side is almost inevitably seen as oppression by the other (and vice versa)

If a briefing paper is to be a true briefing paper, it should encompass all views and not be a partisan document reflecting the views of only one side. In this briefing paper I see no evidence of any point of view other than that put forward by Woman’s Place, Transgender Trend etc, both of which claim to present an objective and the only legitimate view of the science. Nor do I see any reference to the papers and documents which point out the inadequacies, inaccuracies and misrepresentations in the documents that claim to be objective in the science that they present. It is hardly surprising that transgender people are angry, but this has nothing to do with access or protections of women’s safe spaces. It is an attempt to force a dogma pursued by one group on another. These matters are so serious that surely this is an area where responsibility and objectivity must be applied to any briefing paper that is presented. I am generally happy with the briefing paper as it was in its previous revisions. On 22 April 2020, Liz Truss, Minister for Women and Equalities, gave evidence to the Women and Equalities Select Committee, and set out her priorities for the Government Equalities Office. Among other things, she said that an aim was to make sure that transgender adults are free to live their lives as they wish without fear of persecution, whilst maintaining the proper checks and balances in the system. The revisions in the current document surely remove all the recommendations which would enable that to happen. In its present form I see the briefing paper as a purely partisan document instead.

For my point of view, it seems to be that this creates questions that should be raised in parliament, and I would be grateful if you consider this as a possible approach

You can find further information on the following documents which describe my own research:

Gilchrist, S. (2020a): "Responsibility in Transgender Disputes": <http://www.tgdr.co.uk/documents/248P-Responsibiity.pdf> This document will be available shortly:

Gilchrist, S. (2019): "Divisions: Self-Declaration and Gender Variant People": <http://www.tgdr.co.uk/documents/243P-DivisionsSelfDeclaration.pdf>

Gilchrist, S. (2019): "The Development of Transgender Behaviour and Identities in Early Life": <http://www.tgdr.co.uk/documents/243P-BehaviourSelfIdentity.pdf>

Gilchrist, S. (2019): "Interpreting Science and Challenges to Gender Identity Research" <http://www.tgdr.co.uk/documents/243P-InterpretationsSelfDeclaration.pdf> (Draft)

Gilchrist, S. (2018): "The Safeguarding of Transgender Children": <http://www.tgdr.co.uk/documents/241P-SafeguardingTransgenderChildrenDoc.pdf>

Gilchrist, S. (2018b): "Transgender People and Women's Concerns": <http://www.tgdr.co.uk/documents/243P-TransgenderSocialIssues.pdf>

ilchrist, S. (2017j): "Religious and Secular Scapegoating of Transgender People: and its impact on the Christian Church": <http://www.tgdr.co.uk/documents/238P-SecularScapegoating.pdf>

You can find a complete list of my work at <http://www.tgdr.co.uk/articles/bibliography.htm>

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Summary

Introduction

The Gender Recognition Act 2004 (GRA) enables transgender adults to apply to the Gender Recognition Panel to receive a Gender Recognition Certificate (GRC). Successful applicants, who are granted a full GRC, are, from the date of issue, considered in law to be of their acquired gender. Separate law and guidance protect people, including pupils in schools, against discrimination on the basis of "gender reassignment".

At the time it was enacted, the GRA was regarded as world-leading. Although most applicants for legal recognition must provide evidence of a medical diagnosis of [gender dysphoria](#), there is no requirement for them to have undergone gender reassignment surgery or hormone treatment. However, some people now consider the GRA outdated. There have been calls, including by the House of Commons Women and Equalities Committee, for a system of legal recognition based on self-identification of gender.

The UK Government and the Scottish Government have conducted separate consultations on reforming the process for achieving legal gender recognition in England and Wales and Scotland respectively.

This briefing paper considers the current law relating to legal gender recognition; the medical diagnosis of gender dysphoria; the current protections from discrimination, [including in schools](#); the consultations on reform of the GRA; and the "self-identification debate".

A note on terms used in this briefing paper

In this briefing paper:

- The term "transsexual person(s)" (which is now a predominantly historical term) is used in the context of references to the Equality Act 2010 and reflects the vocabulary used in that Act. Otherwise the term used is "transgender person(s)/people";
- The term "acquired gender" reflects the term used in the GRA. The [House of Commons Women and Equalities Committee found](#) that many people now prefer the term "affirmed gender".

Gender dysphoria

Gender dysphoria is a term used to describe a sense of unease that a person may have because of a mismatch between their biological sex and their gender identity. Treatment for gender dysphoria aims to help people live the way they want to, in their preferred gender identity or as non-binary.

Gender dysphoria or gender identity services are specialised services that are directly commissioned by NHS England. There are three components of the gender dysphoria pathway, each of which works to a separate service specification:

- a therapeutic service for children and young people up to 18 years of age, and their families; including a linked paediatric endocrinology service for hormone therapy;
- Gender Dysphoria Clinics from 17-years of age, offering assessment, diagnosis, overall care coordination, hormone treatments, voice and communication therapies and talking therapies; and
- certain surgical interventions of the chest and genitals for adults.

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Protection from discrimination

Equality Act 2010

The Equality Act 2010 prohibits discrimination, for example in employment or the provision of public services, on the basis of protected characteristics, one of which is gender reassignment. However, this Act allows providers to offer single-sex services that exclude transgender people if it is proportionate to do so and it achieves a legitimate aim.

Protections and provisions for transgender pupils in schools

In England, Wales and Scotland, the Equality Act 2010 prohibits discrimination against transgender children in all schools. The UK Department for Education (DfE) [guidance on the Act](#) says protections apply to those who are undergoing, have undergone, or are proposing to undergo, a gender reassignment process. In Northern Ireland, [guidance](#) issued by the Education Authority says the European Convention on Human Rights may offer some protections for transgender pupils.

In 2014, the Equality and Human Rights Commission (EHRC) published [guidance on the Equality Act 2010 and how it applies to schools in England and Scotland](#). The UK Government and the EHRC have committed to publishing updates of their respective guidance.

Education is a devolved issue. Across the UK, schools are subject to safeguarding duties to protect pupil wellbeing and are required to have anti-bullying policies. Decisions on uniform, provisions for shared sanitary and changing facilities and mixed sport are primarily made by schools themselves, within their respective statutory framework.

Several organisations have published good practice guidance. For example, the DfE cites [Schools transgender guidance](#) by Cornwall County Council and the Welsh Government recommends [Transgender guidance issued for Wrexham schools](#) as good practice. In 2017, the NASUWT Teachers' Union published guides for [England, Wales, Scotland and Northern Ireland](#).

Gender recognition reform

Consultation on reform of the GRA

In July 2018, the UK Government published [a consultation on reform of the GRA](#). This consultation, which ended on 22 October 2018, concerned the legal gender recognition system in England and Wales only.

The Government stated that the focus of the consultation was the process for achieving legal recognition and the removal of the requirement for a medical diagnosis was one option on which views were sought. The Government also said that it does not intend to make any amendments to the existing exceptions in the Equality Act 2010 associated with the 'gender reassignment' protected characteristic. Recognising that concerns had been raised about the potential implications of reform of the GRA, the Government confirmed that, where it is a proportionate means of meeting a legitimate aim, it would still be possible to exclude transgender people from single and separate-sex services.

The consultation received more than 100,000 responses. The Government has not yet published its response but has said that it will do so this summer.

The "self-identification" debate

There are strongly held views for and against self-identification for gender recognition.

The current process for legal gender recognition has been criticised by some people for its medicalised approach. Some transgender people have argued that the requirement for a

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The "self-identification" debate

There are strongly held views for and against self-identification for gender recognition.

The current process for legal gender recognition has been criticised by some people for its medicalised approach. Some transgender people have argued that the requirement for a diagnostic psychiatric report perpetuates the assumption, which they consider to be outdated and false, that being transgender is a mental health disorder. Many transgender people also consider the process to be overly intrusive, humiliating and administratively burdensome. The fee and associated costs are seen as expensive and there is no right of appeal against the decision unless on a point of law.

Those against self-identification are concerned, for example, about creating a system which might be abused, and about the potentially negative impact for safe single-sex spaces.

Some concerns have also been raised that there has been intimidation of those organising and attending meetings to consider the Government's proposals, and that debate has been stifled.

The position in Scotland

The GRA extends across the United Kingdom. However, gender recognition is a devolved matter meaning that legislation in this area is within the competence of the Scottish Parliament.

The Scottish Government's consultation, [Review of the Gender Recognition Act 2004](#), ran from 9 November 2017 to 1 March 2018. This sought views on whether and how the GRA should be amended in relation to the law in Scotland. It set out the Scottish Government's initial view that, subject to views expressed during the consultation, Scotland should adopt a self-declaration system for legal gender recognition.

5. Gender recognition and minors

5.1 Legal gender recognition not possible for minors

Under the GRA, the minimum age limit for GRC applications is 18. In November 2018, the UK Government said it had no intention of changing this position:

The issue of children is of concern outside the walls of this Chamber. We have no intention of lowering the age at which people may legally change their gender, namely the age of 18. We recognise the increase in referrals of children and adolescents to gender-identity services for people aged under 18, so we have committed to improve our understanding of the impacts on children and adolescents of changing their gender, and to gather evidence on the issues faced by people who were born female and who transition in adolescence. We are not the only country to witness and experience the increase, and we need to understand why it is happening.⁶⁰

In June 2019, David Davies asked the Minister for Women and Equalities whether people under the age of 18 can transition gender through routes other than the GRA. Victoria Atkins replied:

The only method of legally changing gender is through the process set out in the Gender Recognition Act 2004. This involves applying for a Gender Recognition Certificate, which can then be used to obtain a new birth certificate. This process is only open to those aged 18 and over.

Medical transition is governed by the NHS, and surgery is not available to those under the age of 18. Cross-sex hormones can only be prescribed under strict clinical supervision from the age of 16.

Social transition, such as changing the name you are known by, and the pronouns you use, can be done by anyone at any age, and is often subject to a discussion between a child and their parents if it happens before age 18.⁶¹

5.2 Provisions to support transgender children in schools

Introduction

In England, Wales and Scotland, the Equality Act 2010 and the associated Public Sector Equality Duty (PSED) prohibits discrimination against transgender children in all schools, regardless of how the school is funded or managed.⁶² The Equality Act 2010 does not apply in Northern Ireland.

The UK Department for Education (DfE) defines the pupils protected under the 2010 Act:

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A further issue is the advice concerning puberty delaying medicine

The previous version of the document said

If your child has gender dysphoria and they've reached puberty, they could be treated with gonadotrophin-releasing hormone (GnRH) analogues. These are synthetic (man-made) hormones that suppress the hormones naturally produced by the body.... The effects of treatment with GnRH analogues are considered to be fully reversible, so treatment can usually be stopped at any time...

The current version says

Now there is an unevidenced citation that "little is known about the long term side effects of hormone or puberty blockers in children with gender dysphoria" as shown on the right.

Hormone therapy in children and young people

Some young people with lasting signs of gender dysphoria and who meet strict criteria may be referred to a hormone specialist (consultant endocrinologist) to see if they can take hormone blockers as they reach puberty. This is in addition to psychological support.

These hormone blockers (gonadotrophin-releasing hormone analogues) pause the physical changes of puberty, such as breast development or facial hair.

Little is known about the long-term side effects of hormone or puberty blockers in children with gender dysphoria.

Although the Gender Identity Development Service (GIDS) advises this is a physically reversible treatment if stopped, it is not known what the psychological effects may be.

It's also not known whether hormone blockers affect the development of the teenage brain or children's bones. Side effects may also include hot flushes, fatigue

Use of the Gender Recognition act and the Gender Equality Act

I note that in relation to the use of protected spaces the current document now says “We want to be absolutely clear – we are not proposing to amend the existing equality exceptions relating to single- and separate- sex services in the Equality Act. It will still be possible to exclude individuals with the protected characteristic of gender reassignment from single or separate sex services where doing so is a proportionate means of meeting a legitimate aim. The fact a trans person has legal gender recognition will form part of a service provider’s decision as to whether to provide a different, or even no service to a trans person, but having a GRC is not a complete answer”.