

## Free Church of Scotland

### Questions

#### **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.:**

A requirement that someone must only live in their acquired gender for 3 months before applying for a GRC doesn't reflect the magnitude and seriousness with which a decision to change gender should be taken.

Undergoing a change of gender has potentially life changing consequences in a whole range of areas. Certain medical interventions will lead to infertility and there has been insufficient research into the long-term effects of medical intervention.

We are now beginning to see a number of cases emerge in the public square where people have regretted a change in gender and some have begun the difficult process of de-transitioning. A common complaint is a lack of support or counselling when they first presented with gender dysphoria. As such there are positive reasons for people to be offered counselling and other medical support before making this life changing decision; however a referral, initial consultation, and further treatment will take a lot longer than 3 months.

3 months seems to be an arbitrary period and is far too short a time to allow for a genuine understanding of what it means to live as a different gender. As an example, it is far less time than the average engagement before people get married. There is no information put forward as to why 3 months has been chosen.

There are also practical issues as to what the evidence or criteria is that someone has been living in their acquired gender for 3 months. It is probable that living in conformity to gender stereotypes will be necessary in order to provide evidence that someone is living as their acquired gender. Gender stereotypes can be incredibly harmful to people and should not be encouraged like this.

We also believe that reducing the time period to 3 months will increase the number of people undergoing the process. Given we are now seeing more examples of regrets and de-transitioning it is likely that increasing the number of people who transition will increase the number who de-transition with associated costs and difficulties.

There has not been enough research into this area and we believe changes to this area of law should be put on hold until more research is available.

#### **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 stated in relation to question 1, 3 months is not long enough for someone to properly reflect on these issues. There is a growing number of de-transitioners who deeply regret changing sex. The idea of a reflection period shows that the government recognises some of the dangers of allowing a change of gender to occur too quickly but we would suggest these dangers need more consideration and research.

We note that this is essentially a self-reflection period and we do not think that is helpful. The government's own consultation document shows that many of those suffering from gender dysphoria also suffer from a variety of mental health issues, indicating that medical help may be necessary. Medical staff will seek to treat the person in a holistic manner and so their involvement is essential.

Moreover, the lack of medical involvement may lead to those considering a change of gender not getting access to appropriate information on all of the issues that are associated with changing gender – including issues relating to de-transitioning.

We also think removing medical intervention at the stage of applying for a GRC will have other unintended consequences. For example if someone only consults a doctor about possible surgical or hormonal intervention after they have already received a GRC will the doctor be able to give unbiased advice on the patients options which might include challenging the patient's belief that they are in the wrong gender? Or will the doctor be forced to affirm the GRC and offer major medical interventions despite any professional misgivings.

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

No

**If you wish, please give reasons for your view.:**

This is the most troubling and sensitive aspect of the proposed changes. Allowing under 18s to legally change gender potentially opens them up to irreversible medical intervention when we do not know the long term consequences of such intervention, especially on the developing person. There are concerns about the safety of puberty blockers, drugs given to young people in order to suppress their natural hormones and what the effect truly is if someone stops taking them in terms of bone density and other irreversible changes.

Teenagers are already massively affected by hormonal changes and are primed to take risks and not consider the long term consequences. This is why in other areas such as smoking and alcohol consumption the Scottish Government rightly takes steps to protect young people.

Peer pressure and a desire to belong to a community also pushes young people to explore gender issues as the source of other problems. Especially, when young people are also experiencing other mental health issues the idea of finally finding people within the Trans-community who understand you is incredibly appealing but it may not be the best help for the young person in the long run. Proposals to allow those under 18 to change their gender also has the possibility of bringing young people into conflict with their parents and could undermine this vital relationship.

16-18 year olds are treated as vulnerable people in a number of areas. For example, under the Age of Legal Capacity (Scotland) Act 1991 a 16 year old can enter a contract but only of the type typically entered into by those their age and providing the terms are not unreasonable. And until they are 21 they are entitled to apply for a contract made between 16 and 18 to be set aside as a prejudicial transaction. All of this shows we do consider additional protections in law for those under 18 to be reasonable. Therefore, to allow a 16 year old to make a potentially life changing decision to change their gender seems to contradict established practice in other areas.

If they later regret their decision and undergo de-transitioning will compensation be available to young people? We all have a duty to protect young people in our society who are vulnerable and the proposals to reduce the age to 16 do not achieve this.

#### **4 Do you have any other comments on the provisions of the draft Bill?**

Yes

##### **If yes, please outline these comments.:**

As stated above the removal of medical intervention from the process has a number of unintended consequences. It is not easy to separate gender dysphoria from other medical conditions and a holistic approach is needed. Proper counselling and support should be offered to those struggling with gender issues.

Also, the impact on sport has not been properly explored and researched.

Furthermore, we note many issues surrounding appropriate language usage with confusions around the definitions of sex and gender. Even within the government's consultation documentation, the terms are sometimes used interchangeably and at other times they seem to refer to separate things.

We also note the Scottish Government says that the Equality Act exceptions will protect single-sex spaces – especially Women's safe spaces for women who have previously been subject to abuse. However, we still believe the erosion of safe spaces is a real problem. The potential protections in the Equality Act are complex and confusing. There is a risk that many people in practice will not understand the exemptions and so will feel they have no option but to allow those self-identifying as another gender to enter their spaces.

While it is true the law may give protection – often people do not understand the law and so don't make use of the exemptions. For example, Health and Safety concerns are often cited as a reason not to undertake certain activities whereas a proper risk assessment would mean the activities could be carried out in a safe way.

Accordingly, allowing a self-declaring model is likely to have harmful effects on women even if there are legal protections in place because not everyone will understand the exemptions. We also note that a space employing the restrictions might have trouble securing funding relating to trans-inclusion and so there may be financial motivations to stop people making the correct use of exemptions.

And in any event where a women's only group decides to open their doors to trans-women that will always only be the decision of the leaders of the group and many individual women who are uncomfortable with that decision may simply choose not to access the service themselves and so they may be excluded from the help they need. We must do more to protect potential victims of abuse.

Another issue with the proposed offense is that if it is an offence to make a false declaration and someone later changes their mind and considers de-transitioning they may worry about the threat of prosecution for their previous statement.

## **5 Do you have any comments on the draft Impact Assessments?**

Yes

### **If yes, please outline these comments.:**

In relation to the Child Rights and Wellbeing impact assessment there are a number of issues connected to mental health that have been raised. There seems to be an assumption that mental health issues are related to discrimination with no evidence to support this. We believe more must be done to help young people suffering from mental health issues and more research is needed into the causes of mental health problems, especially among young people.

There is little evidence in general that gender recognition is actually improving people's lives and wellbeing. Accordingly, we believe more needs to be done in terms of research and in particular looking at alternatives to changing gender – particularly what support can be given to those struggling with these issues.

The Equality Impact Assessment raises a number of important issues which require further thoughts and research. In particular we are concerned about the potential for conflicting equality rights. Some protected characteristics may come into conflict with other protected characteristics. This has been seen in relation to women's rights vs trans rights and in relation to religious rights vs LGBT rights. Various minority groups increasing feel under pressure.

We are worried there is an increasing tendency in society to suppress freedom of speech in connection with gender issues. We note you state "A vigorous but

respectful debate is a hallmark of a mature democracy.” This has not always seemed to be the case. De-platforming is taking place in a number of contexts because people indicate reservations about gender transitioning for a variety of reasons. Protection is needed to allow honest and genuine debate into the wider issues surrounding gender.

This has also prevented clear statistics and research into de-transitioning which is needed to better understand these issues.

We have seen a lot of aggression expressed to those who hold differing views in these areas. A lot of online abuse has been seen as well. As already stated, as Christians we believe everyone is created in the image of God and so has inherent worth and dignity. Accordingly, whether we agree with one another or not we should be able to treat each other respectfully while also being able to disagree with one another. Healthy disagreement and debate are essential factors if our society is to pursue truth.