



UCU Scotland response to Gender Recognition Reform (Scotland) Bill

The University and College Union (UCU) is the largest trade union in the post-16 education sector in the UK, representing over 120,000 academic and related members across the UK, and is the largest union in the higher education sector in Scotland.

UCU welcomes the Scottish Government's Gender Recognition Reform (Scotland) Bill, and below responds to the key issues / questions set out in the Equality, Human Rights and Civil Justice Committee consultation:

- *the removal of the requirement for a medical diagnosis of gender dysphoria and supporting medical evidence*

UCU welcomes the Scottish Government bill including the removal of the requirement for medical intervention. This would bring Scotland in line with countries such as Ireland that have moved away from a medical model in favour of one based on self-determination.

- *provisions enabling applicants to make a statutory declaration that they have lived in the acquired gender for a minimum of three months (rather than the current period of two years) and that they intend to live permanently in their acquired gender*

The reduction from 2 years to 3 months is a step forward. Many trans people will have spent many years considering the impact of declaring their gender in the first place, so any time-based requirement to live openly in their gender prior to being able to legally change appears arbitrary.

The term 'acquired' is challenged by many trans people who see the process as one of confirming gender rather than conforming to the one that corresponds with the sex assigned at birth. The term 'confirmed gender' is often used by trans people.

Any requirement to evidence the living in the 'acquired' gender may give power to organisations to define what is legitimate evidence. During the time of living in the 'acquired' gender some trans people may feel it is safer for them to choose a certain clothing option at work to prevent transphobia from colleagues or members of the public. This may be particularly the case when a workplace

stipulates clear binary gendered clothing instructions. What constitutes evidence of living in a gender is open to personal choice and preference. It is also culturally, socially and historically specific.

- *whether applications should be made to the Registrar General for Scotland instead of the Gender Recognition Panel, a UK Tribunal*

Reducing the bureaucracy involved in the process of obtaining a gender recognition certificate is welcome. This is achieved by removing the gender recognition panel and by providing for applications to be made to the Registrar General.

The UK LGBT survey (2017) found that 48% of trans women and 33% of trans men who did not apply for a gender recognition certificate were put off by the bureaucracy involved.

- *proposals that applications are to be determined by the Registrar General after a further period of reflection of at least three months*

Reaching the point of making the application may be difficult enough from some trans people. Mental health issues for trans people, particularly in relation to not having gender recognised, were noted in the impact assessments contained within the Scottish Government consultation document about Gender Recognition Act reform. Mental health may be further negatively impacted by there being an enforced waiting time after the application has been considered by the Registrar General.

This additional waiting period adds to the amount of time spent waiting that trans people have to do, including waiting periods for appointments in gender identity clinics, which is not an issue addressed by this bill but does need serious review and action.

- *whether the minimum age for applicants for obtaining a Gender Recognition Certificate should be reduced from 18 to 16*

Parity with other areas where self-determination is allowed at 16 is a good starting point. However, the needs of young people do need to be addressed too. While this bill does not affect young trans people accessing medical services, the absence of social recognition can mean that young trans people will continue to suffer bullying and discrimination. There are successful models for younger people to gain a gender recognition certificate with parental consent in other countries.

- *if you have any comments on the provisions for interim Gender Recognition Certificates*

The bill keeps in place the 2014 amendments that removed spousal veto. This is achieved by providing a mechanism for changing an interim recognition certificate to a full one where granting of the full certificate is not dependent on spousal consent. This is welcome.

- *if you have any comments on the provisions for confirmatory Gender Recognition Certificates for applicants who have overseas gender recognition*

It is important that the process for people with overseas gender recognition is free from undue bureaucracy to enable people to have their gender legally recognised in Scotland. It is good that this has been considered and provisions have been made to hopefully achieve this objective.

- *if you have any comments on the offences of knowingly making a false application or including false information*

Declaring trans gender identity and going through the process of acquiring legal gender recognition is not an easy process. People seeking to have their gender legally recognised will not have come to this decision lightly.

- *if you have any comments on the removal of powers to introduce a fee*

Removal of the cost of getting a gender recognition certificate is most welcome as this is seen as a barrier at present.

- *if the Bill's intended policy outcomes could be delivered through other means such as using existing legislation or in another way?*

This is a very particular process and there is no other legislation that covers this process of certifying legal gender recognition.

- *if you have any suggestions for how this Bill could be amended. If so, please provide details*

The binary framework of the bill is demonstrated by 8A1 'a person of either gender may apply ... for a gender recognition certificate on the basis of living in the other gender'. This framework excludes non-binary people from getting a gender recognition certificate. This is a missed opportunity to recognise the increasing number of people who are not identifying with binary gender categorisation.

- *any other comments on the Bill*

Non-binary gender recognition is not covered by this bill, which is a missed opportunity. However, noting the provision in the consultation document about a non-binary working group is a step in the right direction. UCU would welcome information about this and is interested in being involved.

University and College Union Scotland

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